

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 465 Unclaimed Court-Ordered Payments/DOC Operating Trust Fund
SPONSOR(S): Dean and Troutman
TIED BILLS: **IDEN./SIM. BILLS:** SB 1910 (s)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Corrections (Sub)</u>	_____	<u>Whittier</u>	<u>De La Paz</u>
2) <u>Public Safety & Crime Prevention</u>	_____	_____	_____
3) <u>Finance & Tax</u>	_____	_____	_____
4) <u>Public Safety Appropriations (Sub)</u>	_____	_____	_____
5) <u>Appropriations</u>	_____	_____	_____

SUMMARY ANALYSIS

As a condition of their probation, offenders must pay restitution to their victims and pay court costs. Florida law provides that the court may order the Department of Corrections to collect and disburse victim restitution and other payments from these offenders. Currently, inmates in Florida have accounts into which money that is earned by the inmate, or donated by others but earmarked for the inmate, may be deposited. Upon release from prison, the inmate is issued a check for these funds, minus monies owed for court costs, for victims' restitution, and for other administrative costs.

Many times the inmate and/or the victim, for various reasons, do not cash the checks and the funds remain in the account, unused and unable to earn interest. Occasionally money is donated without instructions regarding the recipient's identity. In some of these cases, the donor cannot be found to determine the proper recipient of the donation.

HB 465 authorizes the Department of Corrections (DOC) to deposit or transfer into the Operating Trust Fund:

- Offender overpayments that are less than \$10 at the end of the offender's supervision;
- Offender funds that are not claimed within 1 year after supervision is terminated;
- Victim restitution payments that are not claimed within 1 year after the offender's supervision is terminated to the Operating Trust Fund to fund victim programs or the automated victim and information and notification programs;
- Interest earned on balances in the Court-Ordered Payment System (COPS) bank accounts; and
- Payments that cannot be identified and are not claimed within 1 year after they are received.

The bill also repeals s. 960.0025, F.S. According to the department, no funds have ever been transferred pursuant to this section, and no request has ever been received for such a transfer.

The bill appears to have a positive, but indeterminate fiscal impact on the state. See Fiscal Comments.

NOTE: The sponsor intends to offer a strike-everything amendment to change all occurrences of "Operating Trust Fund" in the bill to "General Revenue Fund."

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0465.ps.doc
DATE: March 4, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

As a condition of their probation, offenders must pay restitution to their victims and pay court costs. Florida law provides that the court may order the Department of Corrections to collect and disburse victim restitution and other payments from these offenders and allows the department to impose a 4% administrative fee on top of these payments to offset its collection and disbursement costs.

Currently, inmates in Florida have accounts into which money that is earned by the inmate, or donated by others but earmarked for the inmate, may be deposited. Upon release from prison, the inmate is issued a check for these funds, minus monies owed for court costs, for victims' restitution, and for other administrative costs. The Department of Corrections (DOC or department) maintains an automated accounting system known as the Court-Ordered Payment System (COPS) to keep account of these funds and to issue checks.

The department estimates that approximately 3,000 checks each year are issued to offenders for less than \$10.00 and the cost of issuing each check is estimated at about \$3.71.

Many times the inmate and/or the victim, for various reasons, do not cash the checks and the funds remain in the account, unused and unable to earn interest. Occasionally money is donated without instructions regarding the recipient's identity. In some of these cases, the donor cannot be found to determine the proper recipient of the donation.

Currently, victim restitution checks that are not cashed are directed to the Attorney General's Crime Compensation Fund to be used for victim compensation purposes. According to the Attorney General's Office, claims made to the fund can be as small as \$1-\$10 for or as much as \$50,000 for a catastrophic claim where the person has over 35% disability.

HB 465 authorizes the DOC to deposit or transfer into the Operating Trust Fund¹:

- Offender overpayments that are less than \$10 at the end of the offender's supervision;
- Offender funds that are not claimed within 1 year after supervision is terminated;

¹ The sponsor intends to offer a strike everything amendment to change all occurrences of "Operating Trust Fund" in the bill to "General Revenue Fund."

- Victim restitution payments that are not claimed within 1 year after the offender's supervision is terminated to the Operating Trust Fund to fund victim programs or the automated victim and information and notification programs;
- Interest earned on balances in the COPS bank accounts; and
- Payments that cannot be identified and are not claimed within 1 year after they are received.

The department states that the unclaimed funds will be maintained in an interest-bearing account for one year after the end of supervision to allow victims an opportunity to claim funds. The interest earned will be transferred to the Operating Trust Fund at the end of one year.

The bill also repeals s. 960.0025, F.S.. According to the department, no funds have ever been transferred pursuant to this section, and no request has ever been received for such a transfer.

C. SECTION DIRECTORY:

Section 1: Amends s. 945.31, F.S.; authorizes the Department of Corrections to deposit or transfer into the Operating Trust Fund² certain overpayments and other payments.

Section 2: Repeals s. 960.0025, F.S.

Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: See Fiscal Comments.
2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

² The sponsor intends to offer a strike everything amendment to change all occurrences of "Operating Trust Fund" in the bill to "General Revenue Fund."

D. FISCAL COMMENTS:

The following fiscal information was obtained from Department of Corrections (DOC or department):

The DOC estimates that there is approximately \$1 million in unclaimed, nonrecurring funds that "have accumulated over the years" that would be transferred to the Operating Trust Fund.

The fiscal impact relating to offender overpayments less than \$10.00 at end of supervision will be minimal. The department issues about 3,000 checks for under \$10.00 per year at a cost of \$3.71 per check. By not issuing these checks, the department will retain the amount that previously was disbursed and will avoid costs associated with the per-check bank service charges, check form costs, and postage (approximately 75 cents).

Unclaimed offender funds should have a minimal fiscal impact since there are not many checks issued. The new language would allow the department to avoid filing unclaimed property reports and remitting funds to the state Treasury.

The interest earned on invested COPS funds was approximately \$300,000 last year.

Unidentified payments do not happen frequently, so they should have a minimal fiscal impact. In the time that COPS has been operating, most of the unidentified payments have been resolved, so that only a few from each year remain. Like unclaimed offender funds, the new language would allow the department to avoid filing unclaimed property reports and remitting funds to the state Treasury.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: N/A

2. Other: N/A

B. RULE-MAKING AUTHORITY: N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill authorizes, rather than requires, the DOC to deposit or transfer funds into the Operating Trust Fund.

As a matter of policy, the Attorney General's Office prefers that the unclaimed victim restitution monies remain directed to the Crime Compensation Fund which is utilized for victim compensation purposes, rather than being redirected to the Operating Trust Fund or General Revenue Fund.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.