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604-05118C-08

Proposed Committee Substitute by the Committee on Criminal and  
Civil Justice Appropriations

1                   A bill to be entitled

2           An act implementing the 2008-2009 General Appropriations  
3           Act; providing legislative intent; reenacting s.  
4           215.32(2)(b), F.S., relating to the source and use of  
5           certain trust funds in order to implement the transfer of  
6           moneys to the General Revenue Fund from trust funds in the  
7           2008-2009 General Appropriations Act; authorizing the  
8           Department of Corrections and the Department of Juvenile  
9           Justice to expend funds to defray the cost of impacts  
10          incurred by a municipality or county which are associated  
11          with a facility operated by each respective department;  
12          providing for future expiration of such authorization;  
13          amending s. 216.262, F.S.; extending the expiration date  
14          of provisions authorizing additional positions to operate  
15          added prison bed capacity; authorizing the Department of  
16          Legal Affairs to expend funds for certain programs  
17          pursuant to specific appropriations; amending s. 932.7055,  
18          F.S.; extending the expiration date of provisions  
19          authorizing the expenditure of funds in a special law  
20          enforcement trust fund established by the governing body  
21          of a municipality; reenacting s. 985.686(3), F.S.,  
22          providing for the payment of costs of providing detention  
23          care for juveniles; providing for the future expiration of  
24          certain amendments to such provisions; specifying certain  
25          limitations on reimbursements to a health care provider or  
26          hospital by the Department of Corrections; providing an  
27          exception for hospitals that reported a negative operating



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28 margin for the prior year; requiring that contract rates  
29 of the Department of Corrections be based on a percentage  
30 of the Medicare allowable rate; providing for the effect  
31 of a veto of one or more specific appropriations or  
32 proviso provisions to which implementing language refers;  
33 providing for the continued operation of certain  
34 provisions notwithstanding a future repeal or expiration  
35 provided by the act; providing for severability; providing  
36 for contingent retroactive application; providing  
37 effective dates.

38

39 Be It Enacted by the Legislature of the State of Florida:

40

41 Section 1. It is the intent of the Legislature that the  
42 implementing and administering provisions of this act apply to  
43 the act making appropriations for the 2008-2009 fiscal year.

44 Section 2. In order to implement the transfer of moneys to  
45 the General Revenue Fund from trust funds in the 2008-2009  
46 General Appropriations Act, paragraph (b) of subsection (2) of  
47 section 215.32, Florida Statutes, is reenacted to read:

48 215.32 State funds; segregation.--

49 (2) The source and use of each of these funds shall be as  
50 follows:

51 (b)1. The trust funds shall consist of moneys received by  
52 the state which under law or under trust agreement are segregated  
53 for a purpose authorized by law. The state agency or branch of  
54 state government receiving or collecting such moneys shall be  
55 responsible for their proper expenditure as provided by law. Upon  
56 the request of the state agency or branch of state government  
57 responsible for the administration of the trust fund, the Chief



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58 Financial Officer may establish accounts within the trust fund at  
59 a level considered necessary for proper accountability. Once an  
60 account is established within a trust fund, the Chief Financial  
61 Officer may authorize payment from that account only upon  
62 determining that there is sufficient cash and releases at the  
63 level of the account.

64 2. In addition to other trust funds created by law, to the  
65 extent possible, each agency shall use the following trust funds  
66 as described in this subparagraph for day-to-day operations:

67 a. Operations or operating trust fund, for use as a  
68 depository for funds to be used for program operations funded by  
69 program revenues, with the exception of administrative activities  
70 when the operations or operating trust fund is a proprietary  
71 fund.

72 b. Operations and maintenance trust fund, for use as a  
73 depository for client services funded by third-party payors.

74 c. Administrative trust fund, for use as a depository for  
75 funds to be used for management activities that are departmental  
76 in nature and funded by indirect cost earnings and assessments  
77 against trust funds. Proprietary funds are excluded from the  
78 requirement of using an administrative trust fund.

79 d. Grants and donations trust fund, for use as a depository  
80 for funds to be used for allowable grant or donor agreement  
81 activities funded by restricted contractual revenue from private  
82 and public nonfederal sources.

83 e. Agency working capital trust fund, for use as a  
84 depository for funds to be used pursuant to s. 216.272.

85 f. Clearing funds trust fund, for use as a depository for  
86 funds to account for collections pending distribution to lawful  
87 recipients.



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88           g. Federal grant trust fund, for use as a depository for  
89 funds to be used for allowable grant activities funded by  
90 restricted program revenues from federal sources.

91  
92 To the extent possible, each agency must adjust its internal  
93 accounting to use existing trust funds consistent with the  
94 requirements of this subparagraph. If an agency does not have  
95 trust funds listed in this subparagraph and cannot make such  
96 adjustment, the agency must recommend the creation of the  
97 necessary trust funds to the Legislature no later than the next  
98 scheduled review of the agency's trust funds pursuant to s.  
99 215.3206.

100           3. All such moneys are hereby appropriated to be expended  
101 in accordance with the law or trust agreement under which they  
102 were received, subject always to the provisions of chapter 216  
103 relating to the appropriation of funds and to the applicable laws  
104 relating to the deposit or expenditure of moneys in the State  
105 Treasury.

106           4.a. Notwithstanding any provision of law restricting the  
107 use of trust funds to specific purposes, unappropriated cash  
108 balances from selected trust funds may be authorized by the  
109 Legislature for transfer to the Budget Stabilization Fund and  
110 General Revenue Fund in the General Appropriations Act.

111           b. This subparagraph does not apply to trust funds required  
112 by federal programs or mandates; trust funds established for bond  
113 covenants, indentures, or resolutions whose revenues are legally  
114 pledged by the state or public body to meet debt service or other  
115 financial requirements of any debt obligations of the state or  
116 any public body; the State Transportation Trust Fund; the trust  
117 fund containing the net annual proceeds from the Florida



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118 Education Lotteries; the Florida Retirement System Trust Fund;  
119 trust funds under the management of the State Board of Education  
120 or the Board of Governors of the State University System, where  
121 such trust funds are for auxiliary enterprises, self-insurance,  
122 and contracts, grants, and donations, as those terms are defined  
123 by general law; trust funds that serve as clearing funds or  
124 accounts for the Chief Financial Officer or state agencies; trust  
125 funds that account for assets held by the state in a trustee  
126 capacity as an agent or fiduciary for individuals, private  
127 organizations, or other governmental units; and other trust funds  
128 authorized by the State Constitution.

129       Section 3. In order to fulfill legislative intent regarding  
130 the use of funds contained in Specific Appropriations 721M, 721Z,  
131 721AK, and 1146 of the 2008-2009 General Appropriations Act, the  
132 Department of Corrections and the Department of Juvenile Justice  
133 may expend appropriated funds to assist in defraying the costs of  
134 impacts that are incurred by a municipality or county and  
135 associated with opening or operating a facility under the  
136 authority of the respective department which is located within  
137 that municipality or county. The amount that is to be paid under  
138 this section for any facility may not exceed 1 percent of the  
139 facility construction cost, less building impact fees imposed by  
140 the municipality or by the county if the facility is located in  
141 the unincorporated portion of the county. This section expires  
142 July 1, 2009.

143       Section 4. In order to implement Specific Appropriations  
144 708 through 766 and 780 through 806 of the 2008-2009 General  
145 Appropriations Act, subsection (4) of section 216.262, Florida  
146 Statutes, is amended to read:

147       216.262 Authorized positions.--



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148           (4) Notwithstanding the provisions of this chapter on  
149 increasing the number of authorized positions, and for the 2008-  
150 2009 ~~2007-2008~~ fiscal year only, if the average daily actual  
151 inmate population of the Department of Corrections exceeds the  
152 inmate population projections of the February 15, 2008 ~~16, 2007~~,  
153 Criminal Justice Estimating Conference by 1 percent for 2  
154 consecutive months or 2 percent for any month, the Executive  
155 Office of the Governor, with the approval of the Legislative  
156 Budget Commission, shall immediately notify the Criminal Justice  
157 Estimating Conference, which shall convene as soon as possible to  
158 revise the estimates. The Department of Corrections may then  
159 submit a budget amendment requesting the establishment of  
160 positions in excess of the number authorized by the Legislature  
161 and additional appropriations from unallocated general revenue  
162 sufficient to provide for essential staff, fixed capital  
163 improvements, and other resources to provide classification,  
164 security, food services, health services, and other variable  
165 expenses within the institutions to accommodate the estimated  
166 increase in the inmate population. All actions taken pursuant to  
167 the authority granted in this subsection shall be subject to  
168 review and approval by the Legislative Budget Commission. This  
169 subsection expires July 1, 2009 ~~2008~~.

170           Section 5. In order to implement Specific Appropriations  
171 1301 and 1302 of the 2008-2009 General Appropriations Act, the  
172 Department of Legal Affairs is authorized to expend appropriated  
173 funds in Specific Appropriations 1301 and 1302 on the same  
174 programs that were funded by the department pursuant to specific  
175 appropriations made in general appropriations acts in prior  
176 years.



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177 Section 6. In order to implement Specific Appropriation  
178 1210 of the 2008-2009 General Appropriations Act, subsection (4)  
179 of section 932.7055, Florida Statutes, is amended to read:

180 932.7055 Disposition of liens and forfeited property.--

181 (4) The proceeds from the sale of forfeited property shall  
182 be disbursed in the following priority:

183 (a) Payment of the balance due on any lien preserved by the  
184 court in the forfeiture proceedings.

185 (b) Payment of the cost incurred by the seizing agency in  
186 connection with the storage, maintenance, security, and  
187 forfeiture of such property.

188 (c) Payment of court costs incurred in the forfeiture  
189 proceeding.

190 (d) Notwithstanding any other provision of this subsection,  
191 and for the 2008-2009 ~~2007-2008~~ fiscal year only, the funds in a  
192 special law enforcement trust fund established by the governing  
193 body of a municipality may be expended to reimburse the general  
194 fund of the municipality for moneys advanced from the general  
195 fund to the special law enforcement trust fund prior to October  
196 1, 2001. This paragraph expires July 1, 2009 ~~2008~~.

197 Section 7. In order to implement Specific Appropriation  
198 1080 of the 2008-2009 General Appropriations Act, subsection (3)  
199 of section 985.686, Florida Statutes, is reenacted to read:

200 985.686 Shared county and state responsibility for juvenile  
201 detention.--

202 (3) Each county shall pay the costs of providing detention  
203 care, exclusive of the costs of any preadjudicatory nonmedical  
204 educational or therapeutic services and \$2.5 million provided for  
205 additional medical and mental health care at the detention  
206 centers, for juveniles for the period of time prior to final



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207 | court disposition. The department shall develop an accounts  
208 | payable system to allocate costs that are payable by the  
209 | counties.

210 |       Section 8. The amendment to s. 985.686(3), Florida  
211 | Statutes, as carried forward by this act from chapter 2007-73,  
212 | Laws of Florida, shall expire July 1, 2009, and the text of that  
213 | subsection shall revert to that in existence on June 30, 2008,  
214 | except that any amendments to such text enacted other than by  
215 | this act shall be preserved and continue to operate to the extent  
216 | that such amendments are not dependent upon the portions of such  
217 | text which expire pursuant to this section.

218 |       Section 9. In order to implement Specific Appropriation 786  
219 | of the 2008-2009 General Appropriations Act, the Department of  
220 | Corrections shall comply with the following reimbursement  
221 | limitations:

222 |       (1) If no contract exists between the Department of  
223 | Corrections and the health care provider or hospital regarding  
224 | services, payments may not exceed 110 percent of the Medicare  
225 | allowable rate.

226 |       (2) If a contract has been executed between the Department  
227 | of Corrections and the health care provider or hospital, payments  
228 | shall continue at the currently contracted rates through the  
229 | current term of the contract; however, if the contract expires or  
230 | is subject to renewal during the 2007-2008 fiscal year, the  
231 | payments may not exceed 110 percent of Medicare allowable rate.

232 |       (3) If the Department of Corrections enters into a new  
233 | contract with a health care provider or hospital, the payments  
234 | may not exceed 110 percent of the Medicare allowable rate.

235 |       (4) Notwithstanding the limitations of subsections (1),  
236 | (2), and (3) to the contrary, the Department of Corrections may





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237 pay up to 125 percent of the Medicare allowable rate for  
238 hospitals that reported to the Agency for Health Care  
239 Administration, through hospital audited financial data, a  
240 negative operating margin for the previous year.

241  
242 The Department of Corrections may not negotiate contracts for  
243 medical services for rates other than rates based on a percentage  
244 of the Medicare allowable rate.

245 Section 10. Any section of this act which implements a  
246 specific appropriation or specifically identified proviso  
247 language in the act making appropriations for the 2008-2009  
248 fiscal year is void if the specific appropriation or specifically  
249 identified proviso language is vetoed. Any section of this act  
250 which implements more than one specific appropriation or more  
251 than one portion of specifically identified proviso language in  
252 the act making appropriations for the 2008-2009 fiscal year is  
253 void if all the specific appropriations or portions of  
254 specifically identified proviso language are vetoed.

255 Section 11. If any other act passed in 2008 contains a  
256 provision that is substantively the same as a provision in this  
257 act, but that removes or is otherwise not subject to the future  
258 repeal applied to such provision by this act, the Legislature  
259 intends that the provision in the other act shall take precedence  
260 and shall continue to operate, notwithstanding the future repeal  
261 provided by this act.

262 Section 12. If any provision of this act or its application  
263 to any person or circumstance is held invalid, the invalidity  
264 does not affect other provisions or applications of the act which  
265 can be given effect without the invalid provision or application,  
266 and to this end the provisions of this act are severable.



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267 |           Section 13. Except as otherwise expressly provided in this  
268 | act, this act shall take effect July 1, 2008; or, if this act  
269 | fails to become law until after that date, it shall take effect  
270 | upon becoming a law and shall operate retroactively to July 1,  
271 | 2008.