

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: HB 869 State-Operated Institutions Inmate Welfare Trust Fund/DOC

SPONSOR(S): Drake and Bush

TIED BILLS: CS/HB 871 **IDEN./SIM. BILLS:** SB 1116

FINAL HOUSE FLOOR ACTION: 113 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

HB 869 passed the House on March 11, 2020, as SB 1116.

Article III, section 19(f) of the Florida Constitution requires that every trust fund be created by a three-fifths vote of the membership of each house of the Legislature in a separate bill for the sole purpose of creating a trust fund.

From 1979 until 2003, the Department of Corrections (DOC) had an inmate welfare trust fund that allowed DOC to use proceeds from the sale of inmate canteen items and inmate collect telephone calls to fund programs for the benefit of inmates, including educational, vocational, and substance abuse programs. After this trust fund was repealed in 2003, all proceeds which were previously deposited into the trust fund were diverted to General Revenue.

In 1998, the Legislature established the Privately Operated Inmate Welfare Trust Fund (Private Trust Fund). The Private Trust Fund was created for the benefit and welfare of inmates incarcerated in private correctional facilities under contract with DOC or the Department of Management Services. The net proceeds derived from inmate canteens, vending machines, telephone commissions, and similar sources at private correctional facilities must be deposited into the Private Trust Fund. The Private Trust Fund is still operating.

The bill creates the State-Operated Institutions Inmate Welfare Trust Fund (Trust Fund) within DOC. The Trust Fund will be used for the benefit and welfare of inmates in state-operated correctional institutions.

As required by article III, section 19(f) of the Florida Constitution, the Trust Fund will terminate on July 1, 2024, unless terminated sooner by the Legislature.

The bill will have no fiscal impact on state or local governments.

The bill was approved by the Governor on June 27, 2020, ch. 2020-97 L.O.F., and will become effective on July 1, 2020.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Inmate Welfare

From 1979 until 2003, the Department of Corrections (DOC) had an inmate welfare trust fund that allowed DOC to use proceeds from the sale of inmate canteen¹ items and inmate collect telephone calls to fund programs for the benefit of inmates, including educational, vocational, and substance abuse programs. After this trust fund was repealed in 2003², all proceeds which were previously deposited into the trust fund were diverted to General Revenue.

Section 945.215, F.S., requires that certain proceeds from specified revenue streams or donations related to DOC inmates be deposited into the General Revenue Fund, including:

- Proceeds from operating inmate canteens, vending machines used primarily by inmates and visitors, hobby shops, and other such facilities.³
- Proceeds from contracted telephone commissions.⁴
- Any funds that may be assigned by inmates or donated to DOC by the general public or an inmate service organization.⁵
- All proceeds from the following sources:
 - The confiscation and liquidation of any contraband found upon, or in the possession of, any inmate;
 - Disciplinary fines imposed against inmates;⁶
 - Forfeitures of inmate earnings;⁷ and
 - Unexpended balances in individual inmate trust fund accounts of less than \$1.^{8,9}

According to DOC, the following amounts, resulting from proceeds from canteen commissions, vending machine commissions, and medical copay, have been deposited into General Revenue:

- Fiscal Year (FY) 2016-2017: \$34,150,970;
- FY 2017-18: \$36,569,593; and
- FY 2018-19: \$35,796,957.¹⁰

Privately Operated Institutions Inmate Welfare Trust Fund

Section 944.72, F.S., establishes the Privately Operated Institutions Inmate Welfare Trust Fund (Private Trust Fund) within DOC.¹¹ The Private Trust Fund was created for the benefit and welfare of inmates incarcerated in private correctional facilities under contract with DOC or the Department of Management Services (DMS).¹²

¹ A canteen is a store within the correctional institution which sells a variety of items, including food and toiletries. Inmates are permitted to make up to \$100 of purchases from the canteen per week. S. 945.215(1)(f), F.S.

² Ch. 2003-179, Laws of Fla.

³ S. 945.215(1)(a), F.S.

⁴ S. 945.215(1)(b), F.S.

⁵ S. 945.215(1)(c), F.S.

⁶ If an inmate is found guilty at a DOC disciplinary hearing of damaging, destroying, or misappropriating property, DOC can fine the inmate in the amount of the replacement value of the property. R. 33-601.308, F.A.C.

⁷ If an inmate escapes, DOC determines the amount of an inmate's earnings that should be forfeited to the Inmate Welfare Fund. S. 946.002(4)(b), F.S.

⁸ An inmate's family or friends may donate money to the inmate, which is held in trust for the inmate by DOC. The inmate may use funds from his or her inmate trust fund to purchase items at the canteen. S. 944.516, F.S.

⁹ S. 945.215(1)(d), F.S.

¹⁰ Email from Scotti Vaughan, Deputy Legislative Affairs Director, Department of Corrections, GR Deposits (Jan.14, 2020).

¹¹ S. 944.72, F.S.

¹² S. 944.72(1), F.S.

The net proceeds derived from inmate canteens, vending machines, telephone commissions, and similar sources at private correctional facilities must be deposited into the Private Trust Fund.¹³ The funds in the Private Trust Fund may be expended only through legislative appropriation.¹⁴ DMS is required to annually compile a report that documents Private Trust Fund receipts and expenditures at each private correctional facility by September 1 of each year and submit the report to the chairs of the appropriate substantive and fiscal committees of the Senate and House of Representatives, and to the Executive Office of the Governor.¹⁵

DOC reports that some of the current uses of the Private Trust Fund include training service dogs for veterans, barbering and cosmetology programs, commercial driver license programs, welding, architectural drafting, wastewater management training, veterinary assistant training, chapel programs, visitation activities, cable television, and wellness equipment.¹⁶ As of January 13, 2020, the Private Trust Fund had a cash balance of \$6,916,086.¹⁷

Effect of the Bill

The bill creates the State-Operated Institutions Inmate Welfare Trust Fund (Trust Fund) within DOC. The Trust Fund will be used for the benefit and welfare of inmates incarcerated in state-operated correctional institutions.

The bill provides any balance in the Trust Fund at the end of any fiscal year must remain in the Trust Fund and be used for carrying out the purposes of the Trust Fund.

In accordance with article III, section 19(f) of the Florida Constitution, the Trust Fund will terminate on July 1, 2024 unless terminated sooner by the Legislature.¹⁸

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

¹³ S. 945.215(2)(b)1., F.S.

¹⁴ S. 945.215(2)(b)2., F.S.

¹⁵ S. 945.215(2)(c), F.S.

¹⁶ Florida Department of Corrections, Agency Analysis of 2020 House Bill 869, p. 2 (Jan. 10, 2020).

¹⁷ Email from Scotti Vaughan, Deputy Legislative Affairs Director, Department of Corrections, GR Deposits (Jan.14, 2020).

¹⁸ Article III, section 19(f) of the Florida Constitution requires that every trust fund be created or recreated by a three-fifths vote of the membership in each house of the Legislature in a separate bill for the sole purpose of creating that trust fund. The Constitution also provides that all newly created trust funds terminate not more than four years after the initial creation unless re-created. Art. III, s.19(f), Fla. Const.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.