

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 871 Inmate Welfare Trust Funds
SPONSOR(S): Criminal Justice Subcommittee, Drake, Bush and others
TIED BILLS: HB 869 **IDEN./SIM. BILLS:** CS/CS/SB 1118

FINAL HOUSE FLOOR ACTION: 118 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/HB 871 passed the House on March 11, 2020, as CS/CS/SB 1118.

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 After this trust fund was repealed in 2003, all proceeds which were previously deposited into the trust fund were diverted to General Revenue.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 are deposited into the Private Trust Fund. The Private Trust Fund is still operating.

SB 1116, linked to this bill, creates the State-Operated Institutions Inmate Welfare Trust Fund (Trust Fund) within DOC. The bill requires up to \$2.5 million of the proceeds generated from certain inmate purchases, commissions, and donations to be deposited into the Trust Fund. The Trust Fund will be used for the benefit and welfare of inmates and provide funding for educational, vocational, and substance abuse programs, contingent on legislative appropriation. Any funds generated over \$2.5 million will be deposited into General Revenue.

The bill will have a significant fiscal impact on the General Revenue Fund, to the extent that existing revenues are diverted from the General Revenue Fund to the Trust Fund.

The bill provides a \$2.5 million appropriation to DOC for Fiscal Year 2020-2021 from the Trust Fund to provide for the welfare of inmates incarcerated in state-operated correctional institutions operated by DOC.

The bill was approved by the Governor on June 27, 2020, ch. 2020-98 L.O.F., and will become effective on the same date that SB 1116 or similar legislation takes effect.

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 collect inmate 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 purchase up to \$100 of items 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 The Private Trust Fund had a cash balance of \$6,916,086 as of January 13, 2020.¹⁷

Effect of the Bill

The bill amends s. 945.215, F.S., to require that up to \$2.5 million per fiscal year in specified revenue streams or donations related to DOC inmates be deposited into the Trust Fund, including:

- Proceeds from operating inmate canteens, vending machines used primarily by inmates and visitors, hobby shops, and other such facilities.
- Proceeds from contracted telephone commissions.
- Any funds that may be assigned by inmates or donated to DOC by the general public or an inmate service organization.
- 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;
 - Forfeitures of inmate earnings; and
 - Unexpended balances in individual inmate trust fund accounts of less than \$1.

The bill requires all proceeds in excess of \$2.5 million in any fiscal year to be deposited into General Revenue.

The bill requires the Trust Fund to be used exclusively to fund the following at state-operated DOC institutions upon legislative appropriation:

- Literacy programs, vocational training programs, and educational programs.
- Inmate chapels, faith-based programs, visiting pavilions, visiting services and programs, family services and programs, and libraries.
- Inmate substance abuse treatment programs and transition and life skills training programs.
- The purchase, rental, maintenance, or repair of:
 - Electronic or audiovisual equipment, media, services, and programming used by inmates;
 - Recreation and wellness equipment; or
 - Bicycles used by inmates traveling to and from employment in a work-release program authorized under s. 945.091(1)(b), F.S.

The bill requires DOC to annually compile a report listing receipts and expenditures of the Trust Fund at both the statewide and institutional levels by October 1 of each year. DOC must submit the report to the

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).

chairs of the appropriate substantive and fiscal committees of the Senate and House of Representatives, and to the Executive Office of the Governor.

The bill provides a \$2.5 million appropriation to DOC for FY 2020-21 from the Trust Fund to provide for the welfare of inmates incarcerated in state-operated correctional institutions operated by DOC.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill provides a \$2.5 million appropriation to DOC for FY 2020-21 from the Trust Fund to provide for the welfare of inmates incarcerated in state-operated correctional institutions operated by DOC.

The bill will have a significant fiscal impact on the General Revenue Fund, to the extent that existing revenues are diverted from the General Revenue Fund to the Trust Fund.