The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SPB 2510

INTRODUCER: For consideration by the Appropriations Committee

SUBJECT: Trust Funds/Correctional Facilities Improvement Trust Fund/Department of Corrections

DATE: January 30, 2024 REVISED: ______ ______ ______ ______

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
Harkness	Sadberry		**Pre-meeting**

I. Summary:

SPB 2510 creates section 944.75, Florida Statutes, establishing the Correctional Facilities Improvement Trust Fund. The purpose of the trust fund is to address the critical fixed capital outlay needs of state-operated correctional facilities. The trust fund will receive funds as provided in the General Appropriations Act.

The bill is effective July 1, 2024.

II. Present Situation:

Trust Funds

Establishment of Trust Funds

A trust fund may be created by law only by the Legislature and only if passed by a three-fifths vote of the membership of each house in a separate bill for that purpose only. Except for trust funds being re-created by the Legislature, each trust fund must be created by statutory language that specifies at least the following:

- The name of the trust fund.
- The agency or branch of state government responsible for administering the trust fund.
- The requirements or purposes that the trust fund is established to meet.
- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.[1]

Florida Constitutional Requirement for Trust Funds

The Florida Constitution requires that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund.[2] By law the Legislature may set a shorter time period for which any trust fund is authorized.[3]

---

[1] Section 215.3207, F.S.

[2] Art. III, s. 19(f)(2), Fla. Const.

[3] *Id*.

Review of Trust Funds

The Legislature must review all state trust funds at least once every 4 years,[4] prior to the regular session of the Legislature immediately preceding the date on which any executive or judicial branch trust fund is scheduled to be terminated,[5] or such earlier date as the Legislature may specify.[6]

The agency responsible for the administration of the trust fund and the Governor, for executive branch trust funds, or the Chief Justice, for judicial branch trust funds, must recommend to the President of the Senate and the Speaker of the House of Representatives whether the trust fund should be allowed to terminate or should be re-created.[7] Each recommendation must be based on a review of the purpose and use of the trust fund and a determination of whether the trust fund will continue to be necessary.[8] A recommendation to re-create the trust fund may include suggested modifications to the purpose, sources of receipts, and allowable expenditures for the trust fund.[9]

When the Legislature terminates a trust fund, the agency or branch of state government that administers the trust fund must pay any outstanding debts or obligations of the trust fund as soon as practicable.[10] The Legislature may also provide for the distribution of moneys in that trust fund. If no such distribution is provided, the moneys remaining after all outstanding obligations of the trust fund are met must be deposited in the General Revenue Fund.[11]

Department of Corrections Fixed Capital Outlay Needs

The Fiscal Year 2022-2023 General Appropriations Act directed the Department of Management Services to contract with an independent third-party consulting firm to conduct a review of state-operated correctional institutions, as defined in s. 944.02, F.S., and develop a multi-year master plan ("master plan") that addresses the repair, maintenance, or replacement of state-operated institutions in the prison system.[12] The plan estimated that the department's estimated capital costs over the next 20 years to be approximately $11.8 billion. This estimate is comprised of three main cost drivers:

- <u>Immediate Capital Needs</u>: The report concluded that approximately $2.1 billion is needed to address immediate capital needs across the department, maintain existing infrastructure, and continue the provision of essential services. These needs include, for example, electrical distribution and panel boards, plumbing fixtures, and finishes, windows, and roofs.
- <u>Key Enablers</u>: The report identified another $1.3 billion in key enablers, which play a role in contributing to a more secure, efficient, and cost-effective correctional system. These enablers include HVAC, LAN fiber connectivity, WAN fiber connectivity and camera systems.

[4] Section 215.3208(1), F.S.
[5] Pursuant to Art. III, s. 19(f), Fla. Const.
[6] Section 215.3206(1), F.S.
[7] *Id*.
[8] *Id*.
[9] *Id*.
[10] Section 215.3208(2)(a), F.S.
[11] Section 215.3208(b), F.S.
[12] Specific Appropriation 2781A, Ch. 2022-156, L.O.F.

- New Construction Costs: Finally, to address the projected increase in the prison population coupled with staffing challenges, the department will need new dorms at existing facilities, staff housing, new prisons and new hospitals estimated to cost $8.4 billion. These costs include three new prisons (14,400 beds), two new hospitals (900 beds), and 4,640 beds in new dorms at existing sites.[13]

According to the plan, the department currently budgets approximately $11.9 million annually for routine maintenance across all sites. Of this, $5.4 million is allocated for discretionary repairs, while the remaining $6.5 million is allocated for maintenance-related contracts, such as generator maintenance, water/wastewater plant testing services, perimeter detection service, and related services. Over the past ten years, the Legislature has appropriated on average $6.9 million per year for the department's maintenance-related fixed capital outlay (FCO). Combined with the $11.9 million for routine maintenance, this $18.8 million annual total equates to $0.84 per square foot per year across the FDC portfolio.[14]

III. Effect of Proposed Changes:

The bill creates s. 944.75, F.S., to establish the Correctional Facilities Improvement Trust Fund. The purpose of the trust fund is to address the critical fixed capital outlay needs of state-operated correctional facilities.

Moneys shall be deposited into and expenditures made from the trust fund as provided in s. 944.751, F.S.[15] Notwithstanding s. 216.301, F.S., and pursuant to s. 216.351, F.S, any balance in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of the year and shall be available for carrying out the purpose of the trust fund.

As required by the Florida Constitution, the Correctional Facilities Improvement Trust Fund terminates on July 1, 2028, unless terminated sooner or recreated by the Legislature.[16] Additionally, the trust fund shall be reviewed as provided in s. 215.3206, F.S., before its scheduled termination.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

---

[13] Final Multi-Year Master Plan (FAR-D16), *Charting a Path to a Safer, More Efficient Correctional System*, KPMG, December 27, 2023.
[14] *Id.*
[15] SPB 2512 (2024 Reg. Session).
[16] Fla. Const. art. III, s. 19(f).

C. Trust Funds Restrictions:

Article III, s. 19(f)(1) of the Florida Constitution specifies that a trust fund may be created or re-created only by a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

Article III, s. 19(f)(2) of the Florida Constitution specifies that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund. By law the Legislature may set a shorter time period for which any trust fund is authorized.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 944.75 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.