

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 83 Trust Funds/Re-creation/State-Operated Institutions Inmate Welfare Trust Fund/DOC

SPONSOR(S): Lopez, V. and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 520

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Justice Appropriations Subcommittee	13 Y, 0 N	Smith	Keith
2) Appropriations Committee	26 Y, 0 N	Smith	Pridgeon

SUMMARY ANALYSIS

Article III, Section 19(f) of the Florida Constitution requires that all newly created trust funds terminate not more than four years after the initial creation unless re-created. This provision requires that a trust fund be created or re-created by a three-fifths vote of the membership in each house of the Legislature in a separate bill for the sole purpose of creating or re-creating that trust fund. The State-Operated Institutions Inmate Welfare Trust Fund, FLAIR number 20-2-523, was created in the Florida Department of Corrections (FDC) effective July 1, 2020, and is scheduled to terminate on July 1, 2024.

The bill re-creates the State-Operated Institutions Inmate Welfare Trust Fund in the FDC, provided that it is enacted by three-fifths of the membership of both houses of the Legislature.

The bill has no fiscal impact on state and local government.

The bill is effective upon becoming a law.

Art. III s.19(f) of the Florida Constitution requires a three-fifths vote of the membership for final passage of a newly created or re-created trust fund. The bill re-creates a trust fund; thus, it requires a three-fifths vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

1. MAJOR STATUTES THAT CONTROL THE TRUST FUND:

Section 19(f), Article III of the Florida Constitution requires that all newly created trust funds terminate not more than four years after the initial creation unless re-created. This provision requires that a trust fund be created or re-created by a three-fifths vote of the membership in each house of the Legislature in a separate bill for the sole purpose of creating or recreating that trust fund. The State-Operated Institutions Inmate Welfare Trust Fund was created in the Florida Department of Corrections (FDC), effective July 1, 2020, by chapter 2020-97, Laws of Florida, in s. 944.73, F.S., and is scheduled to terminate on July 1, 2024.

2. BRIEF DESCRIPTION OF THE FUND'S USES OR PURPOSES:

The trust fund is used to provide for the benefit and welfare of inmates in state-operated correctional institutions, to include fixed capital outlay for educational facilities, environmental wellness upgrades to facilities, and maintenance and repairs that could improve environmental conditions.

3. MAJOR SOURCES OF REVENUE FOR THE FUND:

Moneys credited to the trust fund consist of proceeds from:

- Contracted telephone commissions;
- Operation of inmate canteens;
- Vending machines used primarily by inmates and visitors;
- Hobby shops and other such facilities;
- Funds that may be assigned by inmates or donated to the FDC by the general public or an inmate service organization;
- Collection of damages pursuant to s. 960.293(2), F.S.;
- Cost of incarceration liens pursuant to s. 960.292(2), F.S.;
- Copayments made by inmates for nonemergency visits to a healthcare provider;
- 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.

4. TOTAL PROJECTED RECEIPTS INTO THE FUND AND CURRENT YEAR APPROPRIATIONS FROM THE FUND:

Total projected receipts into the Trust Fund for Fiscal Year 2024-25 are \$31,841,035. The Fiscal Year 2023-24 appropriation from the Trust Fund is \$31,923,805.

Effect of Proposed Changes

The bill re-creates the State-Operated Institutions Inmate Welfare Trust Fund without modification and repeals the scheduled termination of the trust fund.

B. SECTION DIRECTORY:

Section 1: Amends s. 944.73, F.S., re-creating the State-Operated Institutions Inmate Welfare Trust Fund.

Section 2: Amends s. 944.73(4), F.S., repealing the scheduled termination of the State-Operated Institutions Inmate Welfare Trust Fund.

Section 3: Provides that the bill is effective upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

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 has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. It re-creates, without modification, an existing state trust fund and continues the current use of the fund.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county of municipal governments.

2. Other:

Article III, s. 19(f) of the Florida Constitution requires all newly created trust funds to terminate not more than four years after the initial creation of the fund. In addition, the State Constitution requires a newly created or re-created trust fund to be adopted by a three-fifths vote of the membership in each house of the Legislature in a separate bill for the sole purpose of creating or recreating the fund.

The bill re-creates a trust fund; thus, it requires a three-fifths vote for final passage.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.