

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5401 PCB JUA 22-01 State-Operated Institutions Inmate Welfare Trust Fund

SPONSOR(S): Justice Appropriations Subcommittee, Plakon

TIED BILLS: IDEN./SIM. **BILLS:** SB 636, HB 433

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

SUMMARY ANALYSIS

In 1979, the Legislature established the Inmate Welfare Trust Fund within the Florida Department of Corrections (FDC) for the deposit of 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. This trust fund was repealed in 2003 and all proceeds, which were previously deposited into the trust fund, were diverted to the General Revenue Fund.

In 1998, the Legislature established the Privately Operated Institutions 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 FDC or the Department of Management Services (DMS). 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 currently active.

During the 2020 Legislative Session, the Legislature established the State-Operated Institutions Inmate Welfare Trust Fund (Trust Fund) within the FDC. The trust fund was created for the benefit and welfare of inmates in state-operated correctional institutions. Proceeds generated from certain inmate purchases, commissions, and donations at institutions operated by the department are deposited into the trust fund, up to and not to exceed \$2.5 million annually. Any revenues generated over \$2.5 million are deposited into the General Revenue Fund.

HB 5401 increases the authorized amount of deposits into the State-Operated Institutions Inmate Welfare Trust Fund from \$2.5 million up to and not to exceed \$7.5 million per fiscal year, maintaining that all excess revenue above \$7.5 million shall be deposited into the General Revenue Fund. The bill also allows for the funds in the trust fund to be utilized to provide environmental wellness upgrades to facilities, including fixed capital outlay maintenance and repairs that could improve environmental conditions.

The bill conforms to the proposed Fiscal Year 2022-2023 House of Representatives' General Appropriations Act, which provides \$5,000,000 in additional budget authority from the State-Operated Institutions Inmate Welfare Trust Fund to be used for the benefit and welfare of inmates in state-operated correctional institutions.

The bill is effective July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Inmate Welfare

Chapter 1979-78, Laws of Florida, created s. 945.215, F.S., establishing an Inmate Welfare Trust Fund within the Florida Department of Corrections (FDC). Proceeds from the sale of inmate canteen¹ items and collect telephone calls made by inmates were used to fund programs for the benefit of inmates, including educational, vocational, and substance abuse programs. This trust fund was repealed in 2003² and all proceeds, which were previously deposited into the trust fund, were diverted to the General Revenue Fund.

Section 945.215, F.S., requires that certain proceeds from specified revenue streams or donations related to FDC 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 FDC 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 inmates⁶;
 - Forfeitures of inmate earnings⁷; and
 - Unexpended balances in individual inmate trust fund accounts of less than \$1^{8,9}

Privately Operated Institutions Inmate Welfare Trust Fund

Chapter 1998-386, Laws of Florida, created s. 944.72, F.S., establishing the Privately Operated Institutions Inmate Welfare Trust Fund (Private Trust Fund) within FDC.¹⁰ The Private Trust Fund was created for the benefit and welfare of inmates incarcerated in private correctional facilities under contract with the FDC or the Department of Management Services (DMS).¹¹

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.¹² The funds in the Private Trust Fund may be expended only through legislative appropriation.¹³ The 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

¹ A canteen is a store within the correctional institution which sells a variety of items including food and toiletries. Inmate s 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 FDC disciplinary hearing of damaging, destroying, or misappropriating property, FDC 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, FDC 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 FDC. 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 S. 944.72, F.S.

¹¹ S. 944.72(1), F.S.

¹² S. 945.215(3)(b)1., F.S.

¹³ S. 945.215(3)(b)2., F.S.

appropriate substantive and fiscal committees of the Senate and House of Representatives, and to the Executive Office of the Governor.¹⁴

State-Operated Institutions Inmate Welfare Trust Fund

During the 2020 Legislative Session, the Legislature established the State-Operated Institutions Inmate Welfare Trust Fund (Trust Fund) within the FDC. The trust fund was created for the benefit and welfare of inmates in state-operated correctional institutions.¹⁵ Proceeds generated up to \$2.5 million per fiscal year in specified revenue streams or donations related to FDC inmates at institutions operated by the department be deposited into the State-Operated Institutions Inmate Welfare 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 FDC 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 \$1.¹⁶

Any revenues generated over \$2.5 million are deposited into the General Revenue Fund.¹⁷

The Trust Fund is required to be used exclusively to fund the following at state-operated FDC 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.¹⁸

Effect of Proposed Changes

HB 5401 increases the authorized amount of deposits into the State-Operated Institutions Inmate Welfare Trust Fund from \$2.5 million up to and not to exceed \$7.5 million per fiscal year, maintaining that all excess revenue above \$7.5 million shall be deposited into the General Revenue Fund. The bill also allows for the funds in the trust fund to be used to provide environmental health upgrades to facilities, to include fixed capital outlay repairs and maintenance that would improve environmental conditions of the correctional facilities.

The bill is effective July 1, 2022.

¹⁴ S. 945.215(3)(c), F.S.

¹⁵ S. 944.73(1), F.S.

¹⁶ S. 945.215(1), F.S.

¹⁷ S. 945.215(2), F.S.

¹⁸ *Id.*

B. SECTION DIRECTORY:

- Section 1:** Amends s. 945.215, F.S., relating to inmate welfare and employee benefit trust funds.
Section 2: Reenacts s. 944.516, F.S., relating to money or other property received for personal use or benefit of inmate; deposit; disposition of unclaimed trust funds.
Section 3: Reenacts s. 944.73, F.S., relating to State-Operated Institutions Inmate Welfare Trust Fund.
Section 4: Reenacts s. 946.002, F.S., relating to requirement of labor; compensation; amount; crediting of account of prisoner; forfeiture; civil rights; prisoner not employee or entitled to compensation insurance benefits.
Section 5: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill will have a fiscal impact of \$5,000,000 on the General Revenue Fund, to the extent that existing revenues are diverted from the General Revenue Fund to the State-Operated Institutions Inmate Welfare Trust Fund.

2. Expenditures:

The bill conforms to the proposed Fiscal Year 2022-2023 House of Representatives' General Appropriations Act, which provides \$5,000,000 in additional budget authority from the State-Operated Institutions Inmate Welfare Trust Fund to be used for the benefit and welfare of inmates in state-operated correctional institutions.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.