

## Senate Bill No. 954

An act relating to trust funds; terminating specified trust funds within the Department of Legal Affairs and the Department of Corrections; providing for disposition of balances in and revenues of such trust funds; declaring the findings of the Legislature that a specified trust fund within the Department of Corrections is exempt from the termination requirements of s. 19(f), Art. III of the State Constitution; amending s. 501.2101, F.S.; deleting provisions relating to the Consumer Frauds Trust Fund; providing for the deposit of moneys received pursuant to the regulation of deceptive and unfair trade practices into the Legal Affairs Revolving Trust Fund rather than the Consumer Frauds Trust Fund; amending ss. 501.059, 501.143, and 501.2077, F.S., to conform; repealing s. 945.21502, F.S.; repealing the Inmate Welfare Trust Fund in the Department of Corrections; amending ss. 944.516, 944.803, 945.091, 945.215, 945.6037, F.S., to conform; providing for revenues of the Inmate Welfare Trust Fund to be deposited in the General Revenue Fund; repealing ch. 2002-123, Laws of Florida; repealing the future re-creation of the Inmate Welfare Trust Fund; amending s. 860.158, F.S.; repealing the Florida Motor Vehicle Theft Prevention Trust Fund in the Department of Legal Affairs; amending ss. 320.08046, 713.78, F.S., to conform; providing for revenues of the fund to be deposited in the General Revenue Fund; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) The following trust funds within the following departments are terminated:

(a) Within the Department of Legal Affairs:

1. The Florida Motor Vehicle Theft Prevention Trust Fund, FLAIR number 41-2-051.

2. The Consumer Fraud Trust Fund, FLAIR number 41-2-127.

(b) Within the Department of Corrections:

1. The Florida Agricultural Exposition Trust Fund, FLAIR number 70-2-298.

2. The Inmate Welfare Trust Fund, FLAIR number 70-2-523.

(2) Unless otherwise provided, all current balances remaining in, and all revenues of, the trust funds terminated by this act shall be transferred to the General Revenue Fund.

(3) For each trust fund terminated by this act, the agency that administers the trust fund shall pay any outstanding debts and obligations of the terminated fund as soon as practicable, and the Chief Financial Officer shall

close out and remove the terminated fund from the various state accounting systems using generally accepted accounting principles concerning warrants outstanding, assets, and liabilities.

Section 2. The Legislature finds that, within the Department of Corrections, the Inmate Bank Trust Fund, which has no FLAIR number, is exempt from termination pursuant to Section 19(f), Article III of the State Constitution.

Section 3. Section 501.2101, Florida Statutes, is amended to read:

501.2101 Enforcing authorities; moneys received in certain proceedings; ~~Consumer Frauds Trust Fund.~~—

(1) Any moneys received by an enforcing authority for attorney's fees and costs of investigation or litigation in proceedings brought under the provisions of s. 501.207, s. 501.208, or s. 501.211 shall be deposited as received in ~~the Consumer Frauds Trust Fund or the Legal Affairs Revolving Trust Fund~~ in the State Treasury.

~~(2) There is created in the State Treasury a trust fund to be known as the Consumer Frauds Trust Fund. Money deposited therein shall be disbursed to the enforcing authority responsible for its collection for the funding of activities conducted by enforcing authorities pursuant to ss. 501.201-501.213, inclusive.~~

~~(2)(3)~~ Any moneys received by an enforcing authority and neither received for attorney's fees and costs of investigation or litigation nor used to reimburse consumers found under this law to be damaged shall accrue to the state and be deposited as received in the General Revenue Fund unallocated.

Section 4. Subsection (8) of section 501.059, Florida Statutes, is amended to read:

501.059 Telephone solicitation.—

(8) The department shall investigate any complaints received concerning violations of this section. If, after investigating any complaint, the department finds that there has been a violation of this section, the department or the Department of Legal Affairs may bring an action to impose a civil penalty and to seek other relief, including injunctive relief, as the court deems appropriate against the telephone solicitor. The civil penalty shall not exceed \$10,000 per violation and shall be deposited in the General Inspection Trust Fund if the action or proceeding was brought by the department, or the Legal Affairs Revolving Consumer Frauds Trust Fund if the action or proceeding was brought by the Department of Legal Affairs. This civil penalty may be recovered in any action brought under this part by the department, or the department may terminate any investigation or action upon agreement by the person to pay a stipulated civil penalty. The department or the court may waive any civil penalty if the person has previously made full restitution or reimbursement or has paid actual damages to the consumers who have been injured by the violation.

Section 5. Subsection (9) of section 501.143, Florida Statutes, is amended to read:

501.143 Dance Studio Act.—

(9) GENERAL INSPECTION TRUST FUND; PAYMENTS.—Any moneys recovered by the enforcing authority as a penalty under this section shall be deposited in the General Inspection Trust Fund if the action or proceeding was brought by the department, or the Legal Affairs Revolving Consumer Frauds Trust Fund if the action or proceeding was brought by the Department of Legal Affairs.

Section 6. Subsection (4) of section 501.2077, Florida Statutes, is amended to read:

501.2077 Violations involving senior citizen or handicapped person; civil penalties; presumption.—

(4) Civil penalties collected pursuant to this section shall be deposited into the Legal Affairs Revolving Trust Fund of the Department of Legal Affairs ~~Consumer Frauds Trust Fund~~ and allocated solely to the Department of Legal Affairs for the purpose of preparing and distributing consumer education materials, programs, and seminars to benefit senior citizens and handicapped persons or to further enforcement efforts.

Section 7. Subsection (5) of section 944.516, Florida Statutes, is amended to read:

944.516 Money or other property received for personal use or benefit of inmate; deposit; disposition of unclaimed trust funds.—The Department of Corrections shall protect the financial interest of the state with respect to claims which the state may have against inmates in state institutions under its supervision and control and shall administer money and other property received for the personal benefit of such inmates. In carrying out the provisions of this section, the department may delegate any of its enumerated powers and duties affecting inmates of an institution to the warden or regional director who shall personally, or through designated employees of his or her personal staff under his or her direct supervision, exercise such powers or perform such duties.

(5) When an inmate is transferred between department facilities, is released from the custody of the department, dies, or escapes during incarceration, and the inmate has an unexpended inmate trust fund account balance of less than \$1, that balance shall be transferred to the General Revenue Inmate Welfare Trust Fund.

Section 8. Subsection (2) of section 944.803, Florida Statutes, is amended to read:

944.803 Faith-based programs for inmates.—

(2) It is the intent of the Legislature that the Department of Corrections and the private vendors operating private correctional facilities shall continuously:

- (a) Measure recidivism rates for inmates who have participated in religious programs;
- (b) Increase the number of volunteers who minister to inmates from various faith-based institutions in the community;
- (c) Develop community linkages with churches, synagogues, mosques, and other faith-based institutions to assist inmates in their release back into the community; and
- (d) Fund through the use of annual appropriations, in department facilities, and through inmate welfare trust funds pursuant to s. 945.215, in private facilities, an adequate number of chaplains and support staff to operate faith-based programs in correctional institutions.

Section 9. Paragraph (a) of subsection (8) of section 945.091, Florida Statutes, is amended to read:

945.091 Extension of the limits of confinement; restitution by employed inmates.—

(8)(a) The department is authorized to levy fines only through disciplinary reports and only against inmates placed on extended limits of confinement. Major and minor infractions and their respective punishments for inmates placed on extended limits of confinement shall be defined by the rules of the department, provided that any fine shall not exceed \$50 for each infraction deemed to be minor and \$100 for each infraction deemed to be major. Such fines shall be deposited in the General Revenue Inmate Welfare Trust Fund, and a receipt shall be given to the inmate.

Section 10. Subsection (1) of section 945.215, Florida Statutes, is amended to read:

945.215 Inmate welfare and employee benefit trust funds.—

(1) INMATE PURCHASES WELFARE TRUST FUND; DEPARTMENT OF CORRECTIONS.—

(a) ~~From the Inmate Welfare Trust Fund constitutes a trust held by the department for the benefit and welfare of inmates incarcerated in correctional facilities operated directly by the department and for visitation and family programs and services in such correctional facilities. Funds shall be credited to the trust fund as follows:~~

1.—~~All funds held in any auxiliary, canteen, welfare, or similar fund in any correctional facility operated directly by the department.~~

2.—~~All net proceeds from operating inmate canteens, vending machines used primarily by inmates and visitors, hobby shops, and other such facilities~~ must be deposited in the General Revenue Fund; however, funds necessary to purchase items for resale at inmate canteens and vending machines must be deposited into local bank accounts designated by the department.

(b)3. All proceeds from contracted telephone commissions must be deposited in the General Revenue Fund. The department shall develop and update, as necessary, administrative procedures to verify that:

a. Contracted telephone companies accurately record and report all telephone calls made by inmates incarcerated in correctional facilities under the department's jurisdiction;

b. Persons who accept collect calls from inmates are charged the contracted rate; and

c. The department receives the contracted telephone commissions.

(c)4. Any funds that may be assigned by inmates or donated to the department by the general public or an inmate service organization must be deposited in the General Revenue Fund; however, the department shall not accept any donation from, or on behalf of, any individual inmate.

(d)5. All proceeds from the following sources must be deposited in the General Revenue Fund:

a. The confiscation and liquidation of any contraband found upon, or in the possession of, any inmate;

b. Disciplinary fines imposed against inmates;

c. Forfeitures of inmate earnings; and

d. Unexpended balances in individual inmate trust fund accounts of less than \$1.

~~6.—All interest earnings and other proceeds derived from investments of funds deposited in the trust fund. In the manner authorized by law for fiduciaries, the secretary of the department, or the secretary's designee, may invest any funds in the trust fund when it is determined that such funds are not needed for immediate use.~~

~~(b)—Funds in the Inmate Welfare Trust Fund must be used exclusively for the following purposes at correctional facilities operated directly by the department:~~

~~1.—To operate inmate canteens and vending machines, including purchasing items for resale at inmate canteens and vending machines; employing personnel and inmates to manage, supervise, and operate inmate canteens and vending machines; and covering other operating and fixed capital outlay expenses associated with operating inmate canteens and vending machines;~~

~~2.—To employ personnel to manage and supervise the proceeds from telephone commissions;~~

~~3.—To develop, implement, and maintain the medical copayment accounting system;~~

~~4.—To provide literacy programs, vocational training programs, and educational programs that comply with standards of the Department of Educa-~~

tion, including employing personnel and covering other operating and fixed capital outlay expenses associated with providing such programs;

~~5.—To operate inmate chapels, faith-based programs, visiting pavilions, visiting services and programs, family services and programs, libraries, and law libraries, including employing personnel and covering other operating and fixed capital outlay expenses associated with operating inmate chapels, faith-based programs, visiting pavilions, visiting services and programs, family services and programs, libraries, and law libraries;~~

~~6.—To provide for expenses associated with various inmate clubs;~~

~~7.—To provide for expenses associated with legal services for inmates;~~

~~8.—To provide inmate substance abuse treatment programs and transition and life skills training programs, including employing personnel and covering other operating and fixed capital outlay expenses associated with providing such programs;~~

~~9.—To provide for the purchase, rental, maintenance, and repair of electronic or audiovisual equipment, unless otherwise prohibited by this chapter; and~~

~~10.—To provide for the purchase, rental, maintenance, and repair of wellness equipment, unless otherwise prohibited by this chapter.~~

~~(c) The Legislature shall annually appropriate the funds deposited in the Inmate Welfare Trust Fund. It is the intent of the Legislature that total annual expenditures for providing literacy programs, vocational training programs, and educational programs exceed the combined total annual expenditures for operating inmate chapels, faith-based programs, visiting pavilions, visiting services and programs, family services and programs, libraries, and law libraries, covering expenses associated with inmate clubs, and providing inmate substance abuse treatment programs and transition and life skills training programs.~~

~~(d) Funds in the Inmate Welfare Trust Fund or any other fund may not be used to purchase weight training equipment, to purchase cable television service for recreation purposes, or to rent or purchase videocassettes, video-cassette recorders, or other audiovisual or electronic media or equipment used primarily for recreation purposes. This paragraph does not preclude the purchase or rental of electronic or audiovisual equipment or services for inmate training or educational programs.~~

~~(e) Items for resale at inmate canteens and vending machines maintained at the correctional facilities shall be priced comparatively with like items for retail sale at fair market prices.~~

~~(f) Notwithstanding any other provision of law, inmates with sufficient balances in their individual inmate bank trust fund accounts, after all debts against the account are satisfied, shall be allowed to request a weekly draw of up to an amount set by the Secretary of Corrections, not to exceed \$100, to be expended for personal use on canteen and vending machine items.~~

~~(g) The department shall annually compile a report that specifically documents Inmate Welfare Trust Fund receipts and expenditures. This report shall be compiled at both the statewide and institutional levels. The department must submit this report for the previous fiscal year by September 1 of each year to the chairs of the appropriate substantive and fiscal committees of the Senate and the House of Representatives and to the Executive Office of the Governor.~~

Section 11. Section 945.21502, Florida Statutes, is repealed.

Section 12. Paragraph (c) of subsection (3) of section 945.6037, Florida Statutes, is amended to read:

945.6037 Nonemergency health care; inmate copayments.—

(3)

~~(c) The expenses and operating capital outlay required to develop, implement, and maintain the medical copayment accounting system must be appropriated by the Legislature from the Inmate Welfare Trust Fund. The fiscal assistants and accountants at the correctional facilities funded from the Inmate Welfare Trust Fund are, in addition to their duties relating to the inmate canteen and bank, responsible for managing the medical copayment system.~~

Section 13. Paragraph (a) of subsection (6) of section 958.09, Florida Statutes, is amended to read:

958.09 Extension of limits of confinement.—

~~(6)(a) The department is authorized to levy fines only through disciplinary reports and only against inmates placed on extended limits of confinement. Major and minor infractions and their respective punishments for inmates placed on extended limits of confinement shall be defined by the rules of the department, except that any fine shall not exceed \$50 for each infraction deemed to be minor and \$100 for each infraction deemed to be major. Such fines shall be deposited in the General Revenue Inmate Welfare Trust Fund, and a receipt shall be given to the inmate.~~

Section 14. Chapter 2002-123, Laws of Florida, which recreates the Inmate Welfare Trust Fund effective November 4, 2004, is repealed.

Section 15. Section 320.08046, Florida Statutes, is amended to read:

320.08046 Surcharge on license tax; General Revenue Fund.—There is levied on each license tax imposed under s. 320.08, except those set forth in s. 320.08(11), a surcharge in the amount of \$1, which shall be collected in the same manner as the license tax. Of the proceeds of the license tax surcharge, 58 ~~40~~ percent shall be deposited into the General Revenue Fund and, 42 percent shall be deposited into the Grants and Donations Trust Fund in the Department of Juvenile Justice to fund the community juvenile justice partnership grants program, and 18 percent shall be deposited into the Florida Motor Vehicle Theft Prevention Trust Fund to fund motor vehicle theft prevention programs pursuant to s. 860.158.

Section 16. Paragraph (e) of subsection (13) of section 713.78, Florida Statutes, is amended to read:

713.78 Liens for recovering, towing, or storing vehicles and vessels.—  
(13)

(e) When a wrecker operator files a notice of wrecker operator's lien under this subsection, the department shall charge the wrecker operator a fee of \$2, which shall be deposited into the General Revenue Florida Motor Vehicle Theft Prevention Trust Fund established under s. 860.158. A service charge of \$2.50 shall be collected and retained by the tax collector who processes a notice of wrecker operator's lien.

Section 17. Present subsection (3) of section 860.153, Florida Statutes, is repealed and present subsection (4) of that section is redesignated as subsection (3).

Section 18. Section 860.158, Florida Statutes, as amended by chapter 2002-402, Laws of Florida, is amended to read:

860.158 Florida Motor Vehicle Theft Prevention Authority Expenditures Trust Fund.—

~~(1) There is hereby established within the Department of Legal Affairs the Florida Motor Vehicle Theft Prevention Trust Fund, which shall be administered by the executive director of the authority at the direction of the board. All interest earned from the investment or deposit of moneys accumulated in the trust fund shall be deposited in the trust fund. The trust fund shall be funded from the surcharge collected under s. 320.08046.~~

~~(2)(a) Money appropriated to the authority in the trust fund shall be expended as follows:~~

~~(1)1. To pay the authority's cost to administer the board and the trust fund.~~

~~(2)2. To achieve the purposes and objectives of this act, which may include, but not be limited to, the following:~~

~~(a)a. To provide financial support to law enforcement and correctional agencies, prosecutors, and the judiciary for programs designed to reduce motor vehicle theft and to improve the administration of motor vehicle theft laws.~~

~~(b)b. To provide financial support for federal and state agencies, units of local government, corporations, and neighborhood, community, or business organizations for programs designed to reduce motor vehicle theft and to improve the administration of motor vehicle theft laws.~~

~~(c)e. To provide financial support to conduct programs designed to inform owners of motor vehicles about the financial and social cost of motor vehicle theft and to suggest to those owners methods for preventing motor vehicle theft.~~



~~(d)~~ To provide financial support for plans, programs, and projects consistent with the purposes of this act.

~~(b) For the 2002-2003 fiscal year only, and notwithstanding s. 320.08046, the use of funds allocated to the Florida Motor Vehicle Theft Prevention Trust Fund may also be as provided in the General Appropriations Act. This paragraph expires July 1, 2003.~~

Section 19. This act shall take effect July 1, 2003.

Approved by the Governor June 23, 2003.

Filed in Office Secretary of State June 23, 2003.