

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 232

SPONSOR: Criminal Justice Committee and Senator Silver

SUBJECT: Prison Industries Trust Fund

DATE: March 15, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This CS creates and provides for the administration of a Trust Fund. The Trust Fund will be administered by the Department of Banking and Finance. The moneys in the Trust Fund will consist of money appropriated by the Legislature and money deposited to the Trust Fund by PRIDE, Inc. The money will be used for purposes of construction and renovation of current inmate work programs and facilities or to expand or establish PRIDE (Prison Rehabilitative Industries and Diversified Enterprises) programs or PIE (Prison Industry Enhancement) programs. The CS also exempts the Trust Fund from certain constitutional and statutory requirements.

This CS substantially amends or creates the following sections of the Florida Statutes: 946.522 and 946.512.

II. Present Situation:

Currently s. 946.512, F.S., requires PRIDE to establish a compensation plan for the moneys earned by inmates performing labor in PRIDE programs to be credited to an account, a portion of which money is used to make court ordered payments including restitution, and a portion of which is paid to the Department of Corrections Correctional Work Program Trust Fund. The money deposited into the Correctional Work Program Trust Fund is to be used as provided in s. 946.32, F.S.

Section 946.32, F.S., specifies that the funds in the Correctional Work Program Trust Fund shall be used to finance the operation of inmate work programs, including compensation of personnel assigned to those programs, long-term lease-purchase agreements for fixtures and equipment, and construction or capital improvements for the operation of inmate work programs.

The Department of Corrections reports that the deposits made by PRIDE to the Correctional Work Program Trust Fund, above and beyond the money used to pay the inmates' court ordered

payments, have been earmarked in the past for community supervision programs. According to the Department, in 1999-2000 the \$1.4 million expected from PRIDE will, once it is received, be appropriated to pay the salaries of Corrections personnel supervising work squads in communities which provide services for local governments. To date PRIDE has not made the anticipated deposit to the Correctional Work Program Trust Fund.

In 1999, legislation was enacted which deleted the statutory authority of the Department of Corrections to enter into contracts with the private sector to operate PIE programs. That authority was given to PRIDE. s. 946.523, F.S. Title 18, U.S.C. 1761 (c) and the applicable federal guidelines provide for funds from inmate's wages for work in PIE programs (up to 80 percent) may be deducted and used to pay taxes, charges for room and board, child support and restitution.

The Department of Corrections reports that as of December 31, 1998 the number of inmates working in PRIDE work programs equated to 2,357 FTE's (full-time equivalents) and those assigned to PIE programs was 35 FTE's. As of February 25, 2000 the numbers had grown to 2,429 FTE's in PRIDE programs and 42 FTE's in PIE programs.

III. Effect of Proposed Changes:

The CS would create a Trust Fund, to be administered by the Department of Banking and Finance, which would eliminate the requirement that PRIDE make deposits to the Department of Corrections Correctional Work Program Trust Fund.

The CS specifies that the trust fund shall consist of moneys deducted under Title 18, U.S.C. 1761 (c), to be appropriated by the Legislature, and moneys deposited by the corporation, to be used for expenditures for purposes of construction and renovation of PRIDE, Inc.'s facilities, for the expansion or establishment of correctional work programs, or for PIE programs.

The CS requires the moneys be deposited in the State Treasury and paid out on warrants drawn by the Comptroller upon receiving a corporate resolution from PRIDE, Inc. The corporation will maintain all related records and accounts.

Section 215.20, F.S., requires a service charge of 7 percent be deducted from all income of a revenue nature deposited in trust funds. This 7 percent represents the estimated pro rata share of the cost of general government paid from the General Revenue Fund. The 7 percent deduction is to be paid to the General Revenue Fund. Section 215.22, F.S., exempts certain trust funds from the deduction required in s. 215.20, F.S. This CS exempts the Prison Industries Trust Fund from the requirement of the 7 percent deduction required by s. 215.20, F.S.

The CS exempts the Trust Fund from the statutory requirement that any remaining balance of any appropriation, except an appropriation for fixed capital outlay, shall revert at the end of the fiscal year to the fund from which it was appropriated, as set forth in s. 216.301, F.S. The CS provides that any balance remaining in the Trust Fund at the end of the fiscal year shall remain in the Trust Fund and be available for carrying out the purposes of the Trust Fund.

Under a provision in the CS, the Prison Industries Trust Fund would be recognized as consisting of assets held by the state, in a trustee capacity, as an agent or fiduciary for PRIDE, Inc. This recognition would exempt the Trust Fund from termination under s. 19 (f) (2), Article III of the Constitution of Florida.

Section 19 (f) (2), Article III states that trust funds shall terminate not more than four years after the effective date of the Act that created the fund. Section 19 (f) (3), Article III exempts certain funds from the mandatory termination. Among those funds that are exempted are trust funds that account for assets held by the state in a trustee capacity as an agent or fiduciary for individuals, private organizations or other governmental units.

The CS amends s. 946.512, F.S., to conform to the intent of the Legislature in creating the Prison Industries Trust Fund, in that it provides for inmate compensation payments to be made to the Department of Corrections only for purposes of the inmate's court-ordered payments being made. The funds not credited to the inmate's account or used to make court-ordered payments, through the Department, shall be deposited into the Prison Industries Trust Fund to be used as set forth in the newly enacted s. 946.522, F.S., described herein.

Single Subject Requirement

Article III, Section 19 (f) (1) of the Florida Constitution states: "No trust fund of the State of Florida or other public body may be created by law without a three-fifths (3/5) vote of the membership of each house of the legislature in a separate bill for that purpose only."

In *American Bankers Insurance Company v. Chiles*, 675 So.2d 922 (Fla. 1996), the Supreme Court interpreted the single subject requirement as it relates to trust funds in Article III, Section 19 (f) (1) as follows:

"[W]e find that article III, section 19 (f) (1) limits legislation creating a trust fund to those items related to the purpose, administration, and funding of the fund." *Id.* at 924.

The legislation the Court was scrutinizing in the *American Bankers Insurance* case was passed during a Special Session dealing with a potential crisis in the insurance industry after Hurricane Andrew. Chapter 93-409, L.O.F., created the Florida Hurricane Catastrophe Fund which is funded by assessments on insurers. In challenging the law the insurers argued that the provisions included measures that went beyond simply creating a trust fund. The statute also dealt with reimbursement premiums, revenue bonds, statutory violations, and also amended the retaliatory tax statute in the Insurance Code.

The Court found, however, that those provisions challenged by the insurers directly related to the purpose, funding, administration and regulation of the Catastrophe Fund, and therefore the Act did not violate the single subject requirement in the Constitution. *Id.* At 924.

Given the Court's broad interpretation of Article III, Section (f) (1), it does not appear CS/SB 232 would violate the single subject requirement unless it is found that the provision exempting the Fund from the statutory reversion requirement and the 7 percent contribution to General Revenue go beyond merely defining the purpose of the Fund, or its administration and funding.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to Fiscal Policy staff there would be an indeterminate impact on General Revenue because the CS exempts the Trust Fund from the statutory requirement that 7 percent of its receipts be contributed to the General Revenue Fund.

The Department of Corrections has indicated to Fiscal Policy staff that eliminating the PRIDE contribution to the Correctional Work Program Trust Fund would reduce the funds available for community work squads by \$1.4 million. Community work squads are currently funded with funds from General Revenue and funds from the Correctional Work Program Trust Fund. The Department of Corrections request for funding from the trust fund is based on receiving no contribution from PRIDE. Consequently, the Department of Corrections should be able to maintain the current service level of work squads without the \$1.4 million previously received from PRIDE.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
