

By the Committee on Water & Resource Management and
Representative Carlton

1 A bill to be entitled
2 An act relating to aquatic plant management;
3 transferring aquatic plant management and
4 control programs from the Department of
5 Environmental Protection to the Florida Game
6 and Fresh Water Fish Commission; amending s.
7 206.606, F.S.; revising distribution of
8 gasoline tax revenues; creating s. 369.102,
9 F.S.; providing definitions for pt. I of ch.
10 369, F.S.; amending ss. 369.20, 369.22, 369.25,
11 369.251, and 369.252, F.S., relating to aquatic
12 weed control, regulation of aquatic and
13 nonnative plants, and control of invasive
14 exotic plants on public lands; providing that
15 certain rules remain in effect; revising an
16 exemption from aquatic weed control permitting
17 requirements; deleting definitions; revising
18 authority and references to conform to the
19 transfer of responsibilities under the act;
20 amending s. 372.074, F.S.; revising provisions
21 relating to the Fish and Wildlife Habitat
22 Program of the Florida Game and Fresh Water
23 Fish Commission; amending ss. 581.035 and
24 581.145, F.S.; correcting cross references;
25 providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. All the powers, duties and functions,
30 rules, records, personnel, property, and unexpended balances
31 of appropriations, allocations, or other funds of the

1 Department of Environmental Protection relating to aquatic
2 plant management and control are transferred by a type two
3 transfer, as defined in s. 20.06(2), Florida Statutes, from
4 the Department of Environmental Protection to the Florida Game
5 and Fresh Water Fish Commission. The rules of the Department
6 of Environmental Protection that regulate aquatic plant
7 management and control remain in effect until the Florida Game
8 and Fresh Water Fish Commission has adopted rules to supersede
9 those of the Department of Environmental Protection. Rules
10 adopted subsequent to the transfer shall be subject to full
11 due process pursuant to administrative procedures under
12 chapter 120, Florida Statutes.

13 Section 2. Subsection (1) of section 206.606, Florida
14 Statutes, is amended to read:

15 206.606 Distribution of certain proceeds.--

16 (1) Moneys collected pursuant to ss. 206.41(1)(g) and
17 206.87(1)(e) shall be deposited in the Fuel Tax Collection
18 Trust Fund created by s. 206.875. Such moneys, exclusive of
19 the service charges imposed by s. 215.20, and exclusive of
20 refunds granted pursuant to s. 206.41, shall be distributed
21 monthly to the State Transportation Trust Fund, except that:

22 (a) ~~\$1.25~~^{\$7.55} million shall be transferred to the
23 Department of Environmental Protection in each fiscal year.
24 The transfers must be made in equal monthly amounts beginning
25 on July 1 of each fiscal year. \$1.25 million of the amount
26 transferred shall be deposited annually in the Marine
27 Resources Conservation Trust Fund and must be used by the
28 Department of Environmental Protection to fund special
29 projects to provide recreational channel marking, public
30 launching facilities, and other boating-related activities.
31 The Department of Environmental Protection shall annually

1 determine where unmet needs exist for boating-related
2 activities, and may fund such activities in counties where,
3 due to the number of vessel registrations, insufficient
4 financial resources are available to meet total water resource
5 needs.

6 (b) \$6.3 million shall be transferred to the Florida
7 Game and Fresh Water Fish Commission each fiscal year. The
8 transfers must be made in equal monthly amounts beginning on
9 July 1 of each fiscal year.~~The amount transferred remaining~~
10 ~~proceeds of the annual transfer~~ shall be deposited in the
11 Aquatic Plant Control Trust Fund and must be used for aquatic
12 plant management, including nonchemical control of aquatic
13 weeds, research into nonchemical controls, and enforcement
14 activities. Beginning in fiscal year 1998-1999 ~~1993-1994~~, the
15 Florida Game and Fresh Water Fish Commission ~~department~~ shall
16 allocate at least \$1 million of such funds to the eradication
17 of melaleuca.

18 (c)~~(b)~~ \$1.25 million shall be transferred to the State
19 Game Trust Fund in the Game and Fresh Water Fish Commission in
20 each fiscal year. The transfers must be made in equal monthly
21 amounts beginning on July 1 of each fiscal year, and must be
22 used for recreational boating activities of a type consistent
23 with projects eligible for funding under the Florida Boating
24 Improvement Program administered by the Department of
25 Environmental Protection, and freshwater fisheries management
26 and research.

27 (d)~~(c)~~ \$1.5 million per year shall be transferred to
28 the Board of Regents and shall be spent solely for purposes of
29 s. 334.065.

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1 Section 3. Effective July 1, 1999, subsection (1) of
2 section 206.606, Florida Statutes, as amended by section 8 of
3 chapter 96-321, Laws of Florida, is amended to read:

4 206.606 Distribution of certain proceeds.--

5 (1) Moneys collected pursuant to ss. 206.41(1)(g) and
6 206.87(1)(e) shall be deposited in the Fuel Tax Collection
7 Trust Fund. Such moneys, after deducting the service charges
8 imposed by s. 215.20, the refunds granted pursuant to s.
9 206.41, and the administrative costs incurred by the
10 department in collecting, administering, enforcing, and
11 distributing the tax, which administrative costs may not
12 exceed 2 percent of collections, shall be distributed monthly
13 to the State Transportation Trust Fund, except that:

14 (a) ~~\$1.25~~\$7.55 million shall be transferred to the
15 Department of Environmental Protection in each fiscal year.
16 The transfers must be made in equal monthly amounts beginning
17 on July 1 of each fiscal year. \$1.25 million of the amount
18 transferred shall be deposited annually in the Marine
19 Resources Conservation Trust Fund and must be used by the
20 Department of Environmental Protection to fund special
21 projects to provide recreational channel marking, public
22 launching facilities, and other boating-related activities.
23 The Department of Environmental Protection shall annually
24 determine where unmet needs exist for boating-related
25 activities, and may fund such activities in counties where,
26 due to the number of vessel registrations, insufficient
27 financial resources are available to meet total water resource
28 needs.

29 (b) \$6.3 million shall be transferred to the Florida
30 Game and Fresh Water Fish Commission each fiscal year. The
31 transfers must be made in equal monthly amounts beginning on

1 July 1 of each fiscal year.The amount transferred ~~remaining~~
2 ~~proceeds of the annual transfer~~ shall be deposited in the
3 Aquatic Plant Control Trust Fund and must be used for aquatic
4 plant management, including nonchemical control of aquatic
5 weeds, research into nonchemical controls, and enforcement
6 activities. Beginning in fiscal year 1998-1999 ~~1993-1994~~, the
7 Florida Game and Fresh Water Fish Commission ~~department~~ shall
8 allocate at least \$1 million of such funds to the eradication
9 of melaleuca.

10 (c)~~(b)~~ \$1.25 million shall be transferred to the State
11 Game Trust Fund in the Game and Fresh Water Fish Commission in
12 each fiscal year. The transfers must be made in equal monthly
13 amounts beginning on July 1 of each fiscal year, and must be
14 used for recreational boating activities of a type consistent
15 with projects eligible for funding under the Florida Boating
16 Improvement Program administered by the Department of
17 Environmental Protection, and freshwater fisheries management
18 and research.

19 (d)~~(c)~~ \$1.5 million per year shall be transferred to
20 the Board of Regents and shall be spent solely for purposes of
21 s. 334.065.

22 Section 4. Section 369.102, Florida Statutes, is
23 created to read:

24 369.102 Definitions.--As used in this part, the term:

25 (1) "Aquatic plant" means any plant, including a
26 floating, emersed, submersed, or ditch bank species, growing
27 in, or closely associated with, an aquatic environment and
28 includes any part or seed of such plant.

29 (2) "Commission" means the Florida Game and Fresh
30 Water Fish Commission.

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1 (3) "Complaint spray program" means a method for the
2 control of nonindigenous aquatic plants in which weeds are
3 allowed to grow unhindered to a given level of undesirability,
4 at which point eradication techniques are applied in an effort
5 to restore the area in question to a relatively low level of
6 infestation.

7 (4) "Department" means the Department of Environmental
8 Protection.

9 (5) "Districts" means the five water management
10 districts as created in s. 373.069, and named, respectively,
11 the Northwest Florida Water Management District, the Suwannee
12 River Water Management District, the St. Johns River Water
13 Management District, the Southwest Florida Water Management
14 District, and the South Florida Water Management District.

15 (6) "Eradication program" means a method for the
16 control of nonindigenous aquatic plants in which control
17 techniques are utilized in a coordinated manner in an attempt
18 to kill all the aquatic plants on a permanent basis in a given
19 geographical area.

20 (7) "Intercounty waters" means any waters which lie in
21 more than one county or form any part of the boundary between
22 two or more counties, as determined by the department.

23 (8) "Intracounty waters" means any waters which lie
24 wholly within the boundaries of one county as determined by
25 the department.

26 (9) "Maintenance program" means a method for the
27 control of nonindigenous aquatic plants in which control
28 techniques are utilized in a coordinated manner on a
29 continuous basis in order to maintain the plant population at
30 the lowest feasible level as determined by the department.

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1 (10) "Nonindigenous aquatic plant" means any aquatic
2 plant that is nonnative to the state and has certain
3 characteristics, such as massive productivity, choking
4 density, or an obstructive nature, which render it
5 detrimental, obnoxious, or unwanted in a particular location.

6 (11) "Nonnursery cultivation" means the tending of
7 aquatic plant species for harvest in the natural environment.

8 (12) "Noxious aquatic plant" means any part,
9 including, but not limited to, seeds or reproductive parts, of
10 an aquatic plant which has the potential to hinder the growth
11 of beneficial plants, interfere with irrigation or navigation,
12 or adversely affect the public welfare or the natural
13 resources of this state.

14 (13) "Person" includes a natural person, a public or
15 private corporation, a governmental entity, or any other kind
16 of entity.

17 (14) "Waters" means rivers, streams, lakes, navigable
18 waters and associated tributaries, canals, meandered lakes,
19 enclosed water systems, and any other bodies of water.

20 Section 5. Section 369.20, Florida Statutes, is
21 amended to read:

22 369.20 Florida Aquatic Weed Control Act.--

23 (1) This section may be cited ~~act shall be known~~ as
24 the "Florida Aquatic Weed Control Act."

25 (2) The Florida Game and Fresh Water Fish Commission
26 ~~Department of Environmental Protection~~ shall direct the
27 control, eradication, and regulation of noxious aquatic weeds
28 and direct the research and planning related to these
29 activities, as provided in this section, ~~excluding the~~
30 ~~authority to use fish as a biological control agent,~~so as to
31 protect human health, safety, and recreation and, to the

1 greatest degree practicable, prevent injury to plant and
2 animal life and property.

3 (3) It shall be the duty of the commission ~~department~~
4 to guide and coordinate the activities of all public bodies,
5 authorities, agencies, and special districts charged with the
6 control or eradication of aquatic weeds and plants. ~~It may~~
7 ~~delegate all or part of such functions to the Game and Fresh~~
8 ~~Water Fish Commission.~~

9 (4) The commission ~~department~~ shall also promote,
10 develop, and support research activities directed toward the
11 more effective and efficient control of aquatic plants. In
12 the furtherance of this purpose, the commission ~~department~~ is
13 authorized to:

14 (a) Accept donations and grants of funds and services
15 from both public and private sources;

16 (b) Contract or enter into agreements with public or
17 private agencies or corporations for research and development
18 of aquatic plant control methods or for the performance of
19 aquatic plant control activities;

20 (c) Construct, acquire, operate, and maintain
21 facilities and equipment; and

22 (d) Enter upon, or authorize the entry upon, private
23 property for purposes of making surveys and examinations and
24 to engage in aquatic plant control activities; and such entry
25 shall not be deemed a trespass.

26 (5) The commission ~~Department of Environmental~~
27 ~~Protection~~ may disburse funds to any special district or other
28 local authority charged with the responsibility of controlling
29 or eradicating aquatic plants, upon:

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1 (a) Receipt of satisfactory proof that such district
2 or authority has sufficient funds on hand to match the state
3 funds herein referred to on an equal basis;

4 (b) Approval by the commission ~~department~~ of the
5 control techniques to be used by the district or authority;
6 and

7 (c) Review and approval of the program of the district
8 or authority by the commission ~~department~~ to be in conformance
9 with the state control plan.

10 (6) The commission ~~department~~ shall adopt, amend, or
11 repeal all rules as necessary to carry out the duties,
12 obligations, and powers set forth in this section and perform
13 any other acts necessary for the proper administration,
14 enforcement, or interpretation of this section, including
15 creating ~~general permits and~~ exemptions and adopting rules and
16 forms governing reports. The current rules of the Department
17 of Environmental Protection that regulate aquatic plant
18 control remain in effect until the Florida Game and Fresh
19 Water Fish Commission has adopted rules to supersede them. All
20 rules related to the administration and regulation of the
21 aquatic plant management and control program shall be subject
22 to the full due process of administrative procedures under
23 chapter 120.

24 (7) No person or public agency shall control,
25 eradicate, remove, or otherwise alter any aquatic weeds or
26 plants in waters of the state unless a permit for such
27 activity has been issued by the Department of Environmental
28 Protection prior to the effective date of this act, or by the
29 commission, or unless the activity is in waters expressly
30 exempted by ~~department~~ rule. The commission ~~department~~ shall
31 develop standards by rule which shall address, at a minimum,

1 chemical, biological, and mechanical control activities; an
2 evaluation of the benefits of such activities to the public;
3 specific criteria recognizing the differences between natural
4 and artificially created waters; and the different amount and
5 quality of littoral vegetation on various waters. Applications
6 for a permit to engage in aquatic plant control activities
7 shall be made to the department. In reviewing such
8 applications, the commission ~~department~~ shall consider the
9 criteria set forth in subsection (2).

10 (8) As an exemption to all permitting requirements in
11 this section and ss. 369.22 and 369.25, in all freshwater
12 bodies, except aquatic preserves designated under chapter 258
13 ~~and Outstanding Florida Waters designated under chapter 403~~, a
14 riparian owner may physically or mechanically remove
15 herbaceous aquatic plants and semiwoody herbaceous plants,
16 such as shrub species and willow, within an area delimited by
17 up to 50 percent of the property owner's frontage or 50 feet,
18 whichever is less, and by a sufficient length waterward from,
19 and perpendicular to, the riparian owner's shoreline to create
20 a corridor to allow access for a boat or swimmer to reach open
21 water. All unvegetated areas shall be cumulatively considered
22 when determining the width of the exempt corridor. Physical
23 or mechanical removal does not include the use of any
24 chemicals or any activity that requires a permit pursuant to
25 part IV of chapter 373.

26 (9) A permit issued pursuant to this section for the
27 application of herbicides to waters in the state for the
28 control of aquatic plants, algae, or invasive exotic plants is
29 exempt from the requirement to obtain a water pollution
30 operation permit pursuant to s. 403.088.

31

1 Section 6. Section 369.22, Florida Statutes, is
2 amended to read:

3 369.22 Nonindigenous aquatic plant control.--

4 (1) This section may be cited ~~shall be known~~ as the
5 "Florida Nonindigenous Aquatic Plant Control Act."

6 ~~(2) For the purpose of this section, the following~~
7 ~~words and phrases shall have the following meanings:~~

8 ~~(a) "Department" means the Department of Environmental~~
9 ~~Protection.~~

10 ~~(b) "Aquatic plant" is any plant growing in, or~~
11 ~~closely associated with, the aquatic environment and includes~~
12 ~~"floating," "emersed," "submersed," and "ditch bank" species.~~

13 ~~(c) "Nonindigenous aquatic plant" is any aquatic plant~~
14 ~~that is nonnative to the State of Florida and has certain~~
15 ~~characteristics, such as massive productivity, choking~~
16 ~~density, or an obstructive nature, which render it~~
17 ~~detrimental, obnoxious, or unwanted in a particular location.~~

18 ~~(d) A "maintenance program" is a method for the~~
19 ~~control of nonindigenous aquatic plants in which control~~
20 ~~techniques are utilized in a coordinated manner on a~~
21 ~~continuous basis in order to maintain the plant population at~~
22 ~~the lowest feasible level as determined by the department.~~

23 ~~(e) An "eradication program" is a method for the~~
24 ~~control of nonindigenous aquatic plants in which control~~
25 ~~techniques are utilized in a coordinated manner in an attempt~~
26 ~~to kill all the aquatic plants on a permanent basis in a given~~
27 ~~geographical area.~~

28 ~~(f) A "complaint spray program" is a method for the~~
29 ~~control of nonindigenous aquatic plants in which weeds are~~
30 ~~allowed to grow unhindered to a given level of undesirability,~~
31 ~~at which point eradication techniques are applied in an effort~~

1 ~~to restore the area in question to a relatively low level of~~
2 ~~infestation.~~

3 ~~(g) "Waters" means rivers, streams, lakes, navigable~~
4 ~~waters and associated tributaries, canals, meandered lakes,~~
5 ~~enclosed water systems, and any other bodies of water.~~

6 ~~(h) "Intercounty waters" means any waters which lie in~~
7 ~~more than one county or form any part of the boundary between~~
8 ~~two or more counties, as determined by the department.~~

9 ~~(i) "Intracounty waters" means any waters which lie~~
10 ~~wholly within the boundaries of one county as determined by~~
11 ~~the department.~~

12 ~~(j) "Districts" means the six water management~~
13 ~~districts created by law and named, respectively, the~~
14 ~~Northwest Florida Water Management District, the Suwannee~~
15 ~~River Water Management District, the St. Johns River Water~~
16 ~~Management District, the Southwest Florida Water Management~~
17 ~~District, the Central and Southern Florida Flood Control~~
18 ~~District, and the Ridge and Lower Gulf Coast Water Management~~
19 ~~District; and on July 1, 1975, shall mean the five water~~
20 ~~management districts created by chapter 73-190, Laws of~~
21 ~~Florida, and named, respectively, the Northwest Florida Water~~
22 ~~Management District, the Suwannee River Water Management~~
23 ~~District, the St. Johns River Water Management District, the~~
24 ~~Southwest Florida Water Management District, and the South~~
25 ~~Florida Water Management District.~~

26 (2)~~(3)~~ The Legislature recognizes that the
27 uncontrolled growth of nonindigenous aquatic plants in the
28 waters of Florida poses a variety of environmental, health,
29 safety, and economic problems. The Legislature acknowledges
30 the responsibility of the state to cope with the uncontrolled
31 and seemingly never-ending growth of nonindigenous aquatic

1 plants in the waters throughout Florida. It is, therefore, the
2 intent of the Legislature that the state policy for the
3 control of nonindigenous aquatic plants in waters of state
4 responsibility be carried out under the general supervision
5 and control of the commission ~~department~~, and that the state
6 itself be responsible for the control of such plants in all
7 intercounty waters; but that control of such plants in
8 intracounty waters be the designated responsibility of the
9 appropriate unit of local or county government, special
10 district, authority, or other public body. It is the intent of
11 the Legislature that the control of nonindigenous aquatic
12 plants be carried out primarily by means of maintenance
13 programs, rather than eradication or complaint spray programs,
14 for the purpose of achieving more effective control at a lower
15 long-range cost. It is also the intent of the Legislature that
16 the commission ~~department~~ guide, review, approve, and
17 coordinate all nonindigenous aquatic plant control programs
18 within each of the water management districts as defined in s.
19 369.102(5)~~paragraph (2)(j)~~. It is the intent of the
20 Legislature to account for the costs of nonindigenous aquatic
21 plant maintenance programs by watershed for comparison
22 management purposes.

23 (3)~~(4)~~ The commission ~~department~~ shall supervise and
24 direct all maintenance programs for control of nonindigenous
25 aquatic plants, as provided in this section, ~~excluding the~~
26 ~~authority to use fish as a biological control agent,~~ so as to
27 protect human health, safety, and recreation and, to the
28 greatest degree practicable, prevent injury to plant, fish,
29 and animal life and to property.

30 (4)~~(5)~~ When state funds are involved, or when waters
31 of state responsibility are involved, it is the duty of the

1 commission ~~department~~ to guide, review, approve, and
2 coordinate the activities of all public bodies, authorities,
3 state agencies, units of local or county government,
4 commissions, districts, and special districts engaged in
5 operations to maintain, control, or eradicate nonindigenous
6 aquatic plants, ~~except for activities involving biological~~
7 ~~control programs using fish as the control agent.~~ The
8 commission ~~department~~ may delegate all or part of such
9 functions to any appropriate state agency, special district,
10 unit of local or county government, commission, authority, or
11 other public body. However, special attention shall be given
12 to the keeping of accounting and cost data in order to prepare
13 the annual fiscal report required in subsection ~~(6)~~ (7).

14 ~~(5)~~ (6) The commission ~~department~~ may disburse funds to
15 any district, special district, or other local authority for
16 the purpose of operating a maintenance program for controlling
17 nonindigenous aquatic plants and other noxious aquatic plants
18 in the waters of state responsibility upon:

19 (a) Receipt of satisfactory proof that such district
20 or authority has sufficient funds on hand to match the state
21 funds herein referred to on an equal basis;

22 (b) Approval by the commission ~~department~~ of the
23 maintenance control techniques to be used by the district or
24 authority; and

25 (c) Review and approval of the program of the district
26 or authority by the commission ~~department~~ to be in conformance
27 with the state maintenance control plan.

28 ~~(6)~~ (7) The commission ~~department~~ shall submit an
29 annual report on the status of the nonindigenous aquatic plant
30 maintenance program to the President of the Senate, the
31 Speaker of the House of Representatives, and the Governor and

1 Cabinet by January 1 of each ~~the following~~ year. This report
2 shall include a statement of the degree of maintenance control
3 achieved by individual nonindigenous aquatic plant species in
4 the intercounty waters of each of the water management
5 districts for the preceding county fiscal year, together with
6 an analysis of the costs of achieving this degree of control.
7 This cost accounting shall include the expenditures by all
8 governmental agencies in the waters of state responsibility.
9 If the level of maintenance control achieved falls short of
10 that which is deemed adequate by the department, then the
11 report shall include an estimate of the additional funding
12 that would have been required to achieve this level of
13 maintenance control. All measures of maintenance program
14 achievement and the related cost shall be presented by water
15 management districts so that comparisons may be made among the
16 water management districts, as well as with the state as a
17 whole.

18 ~~(7)(8)~~ The commission ~~department~~ shall have the
19 authority to cooperate with the United States and to enter
20 into such cooperative agreements or commitments as the
21 commission ~~department~~ may determine necessary to carry out the
22 maintenance, control, or eradication of water hyacinths,
23 alligator weed, and other noxious aquatic plant growths from
24 the waters of the state and to enter into contracts with the
25 United States obligating the state to indemnify and save
26 harmless the United States from any and all claims and
27 liability arising out of the initiation and prosecution of any
28 project undertaken under this section. However, any claim or
29 claims required to be paid under this section shall be paid
30 from money appropriated to the nonindigenous aquatic plant
31 control program.

1 ~~(9) The department may delegate various nonindigenous~~
2 ~~aquatic plant control and maintenance functions to the Game~~
3 ~~and Fresh Water Fish Commission. The commission shall, in~~
4 ~~accepting commitments to engage in nonindigenous aquatic plant~~
5 ~~control and maintenance activities, be subject to the rules of~~
6 ~~the department, except that the commission shall regulate,~~
7 ~~control, and coordinate the use of any fish for aquatic weed~~
8 ~~control in fresh waters of the state. In addition, the~~
9 ~~commission shall render technical and other assistance to the~~
10 ~~department in order to carry out most effectively the purposes~~
11 ~~of s. 369.20. However, nothing herein shall diminish or~~
12 ~~impair the regulatory authority of the commission with respect~~
13 ~~to the powers granted to it by s. 9, Art. IV of the State~~
14 ~~Constitution.~~

15 (8)~~(10)~~ The commission ~~department~~ is directed to use
16 biological agents, including ~~excluding~~ fish, for the control
17 of nonindigenous aquatic plants.

18 (9)~~(11)~~ The commission ~~department~~ shall adopt, amend,
19 or repeal all rules as necessary to carry out the duties,
20 obligations, and powers set forth in this section and perform
21 any other acts necessary for the proper administration,
22 enforcement, or interpretation of this section, including
23 adopting rules and forms governing reports.

24 (10)~~(12)~~ No person or public agency shall control,
25 eradicate, remove, or otherwise alter any nonindigenous
26 aquatic plants in waters of the state unless a permit for such
27 activity has been issued by the department prior to the
28 effective date of this act, or by the commission, or unless
29 the activity is in waters expressly exempted by ~~department~~
30 rule. The commission ~~department~~ shall develop standards by
31 rule which shall address, at a minimum, chemical, biological,

1 and mechanical control activities; an evaluation of the
2 benefits of such activities to the public; specific criteria
3 recognizing the differences between natural and artificially
4 created waters; and the different amount and quality of
5 littoral vegetation on various waters. Applications for a
6 permit to engage in aquatic plant control activities shall be
7 made to the commission ~~department~~. In reviewing such
8 applications, the commission ~~department~~ shall consider the
9 criteria set forth in subsection (3) ~~(4)~~.

10 Section 7. Section 369.25, Florida Statutes, is
11 amended to read:

12 369.25 Aquatic plants; definitions; permits; powers of
13 department; penalties.--

14 ~~(1) As used in this section, the term:~~

15 ~~(a) "Aquatic plant" means any plant, including a~~
16 ~~floating, emersed, submersed, or ditch bank species, growing~~
17 ~~in, or closely associated with, an aquatic environment and~~
18 ~~includes any part or seed of such plant.~~

19 ~~(b) "Department" means the Department of Environmental~~
20 ~~Protection.~~

21 ~~(c) "Nonnursery cultivation" means the tending of~~
22 ~~aquatic plant species for harvest in the natural environment.~~

23 ~~(d) "Noxious aquatic plant" means any part, including,~~
24 ~~but not limited to, seeds or reproductive parts, of an aquatic~~
25 ~~plant which has the potential to hinder the growth of~~
26 ~~beneficial plants, interfere with irrigation or navigation, or~~
27 ~~adversely affect the public welfare or the natural resources~~
28 ~~of this state.~~

29 ~~(e) "Person" includes a natural person, a public or~~
30 ~~private corporation, a governmental entity, or any other kind~~
31 ~~of entity.~~

1 ~~(1)(2)~~ No person shall engage in any business
2 involving the importation, transportation, nonnursery
3 cultivation, collection, sale, or possession of any aquatic
4 plant species without a permit issued by the Department of
5 Environmental Protection prior to the effective date of this
6 act, the commission, or the Department of Agriculture and
7 Consumer Services. No person shall import, transport,
8 nonnursery cultivate, collect, sell, or possess any noxious
9 aquatic plant listed on the prohibited aquatic plant list
10 established by the commission ~~department~~ without a permit
11 issued by the Department of Environmental Protection prior to
12 the effective date of this act, the commission, or the
13 Department of Agriculture and Consumer Services. No permit
14 shall be issued until the commission ~~department~~ determines
15 that the proposed activity poses no threat or danger to the
16 waters, wildlife, natural resources, or environment of the
17 state.

18 ~~(2)(3)~~ The commission ~~department~~ has the following
19 powers:

20 (a) To make such rules governing the importation,
21 transportation, nonnursery cultivation, collection, and
22 possession of aquatic plants as may be necessary for the
23 eradication, control, or prevention of the dissemination of
24 noxious aquatic plants that are not inconsistent with rules of
25 the Department of Agriculture and Consumer Services.

26 (b) To establish by rule lists of aquatic plant
27 species regulated under this section, including those exempted
28 from such regulation, provided the Department of Agriculture
29 and Consumer Services and the Department of Environmental
30 Protection ~~Game and Fresh Water Fish Commission~~ approve such
31 lists prior to the lists becoming effective.

1 (c) To evaluate an aquatic plant species through
2 research or other means to determine whether such species
3 poses a threat or danger to the waters, wildlife, natural
4 resources, or environment of the state.

5 (d) To declare a quarantine against aquatic plants,
6 including the vats, pools, or other containers or bodies of
7 water in which such plants are growing, except in aquatic
8 plant nurseries, to prevent the dissemination of any noxious
9 aquatic plant.

10 (e) To make rules governing the application for,
11 issuance of, suspension of, and revocation of permits under
12 this section.

13 (f) To enter into cooperative agreements with any
14 person as necessary or desirable to carry out and enforce the
15 provisions of this section.

16 (g) To purchase all necessary supplies, material, and
17 equipment and accept all grants and donations useful in the
18 implementation and enforcement of the provisions of this
19 section.

20 (h) To enter upon and inspect any facility or place,
21 except aquatic plant nurseries regulated by the Department of
22 Agriculture and Consumer Services, where aquatic plants are
23 cultivated, held, packaged, shipped, stored, or sold, or any
24 vehicle of conveyance of aquatic plants, to ascertain whether
25 the provisions of this section and commission ~~department~~
26 regulations are being complied with, and to seize and destroy,
27 without compensation, any aquatic plants imported,
28 transported, cultivated, collected, or otherwise possessed in
29 violation of this section or commission ~~department~~
30 regulations.

31

1 (i) To conduct a public information program,
2 including, but not limited to, erection of road signs, in
3 order to inform the public and interested parties of this
4 section and its associated rules and of the dangers of noxious
5 aquatic plant introductions.

6 ~~(3)(4)~~ The commission ~~department~~ shall adopt rules
7 which limit the sanctions available for violations under this
8 act to quarantine and confiscation:

9 (a) If the prohibited activity apparently results from
10 natural dispersion; or

11 (b) If a small amount of noxious aquatic plant
12 material incidentally adheres to a boat or boat trailer
13 operated by a person who is not involved in any phase of the
14 aquatic plant business and if that person is not knowingly
15 violating this act.

16 ~~(4)(5)~~(a) Any person who violates the provisions of
17 this section is guilty of a misdemeanor of the second degree,
18 punishable as provided in s. 775.082 or s. 775.083.

19 (b) All law enforcement officers of the state and its
20 agencies with power to make arrests for violations of state
21 law shall enforce the provisions of this section.

22 Section 8. Section 369.251, Florida Statutes, is
23 amended to read:

24 369.251 Invasive nonnative plants; prohibitions;
25 study; removal; rules.--

26 (1) A person may not sell, transport, collect,
27 cultivate, or possess any plant, including any part or seed,
28 of the species *Melaleuca quinquenervia*, *Schinus*
29 *terebinthifolius*, *Casuarina equisetifolia*, *Casuarina glauca*,
30 or *Mimosa pigra* without a permit issued by ~~from~~ the Department
31 of Environmental Protection prior to the effective date of

1 this act or by the commission. Any person who violates this
2 section commits a misdemeanor of the second degree, punishable
3 by fine only, as provided in s. 775.083.

4 (2) The commission ~~department~~ shall study methods of
5 control of plants of the species *Melaleuca quinquenervia*,
6 *Schinus terebinthifolius*, *Casuarina equisetifolia*, *Casuarina*
7 *glauca*, and *Mimosa pigra*. The South Florida Water Management
8 District shall undertake programs to remove such plants from
9 conservation area I, conservation area II, and conservation
10 area III of the district.

11 (3) The commission ~~department~~ shall adopt rules
12 necessary to implement this section. Possession or
13 transportation resulting from natural dispersion, mulching
14 operations, control and disposal, or use in herbaria or other
15 educational or research institutions, or for other reasons
16 determined by the commission ~~department~~ to be consistent with
17 this section and where there is neither the danger of, nor
18 intent to, further disperse any plant species prohibited by
19 this section, is not subject to the permit or penalty
20 provisions of this section.

21 Section 9. Section 369.252, Florida Statutes, is
22 amended to read:

23 369.252 Invasive exotic plant control on public
24 lands.--The commission ~~department~~ shall establish a program
25 to:

26 (1) Achieve eradication or maintenance control of
27 invasive exotic plants on public lands when the scientific
28 data indicate that they are detrimental to the state's natural
29 environment or when the Commissioner of Agriculture finds that
30 such plants or specific populations thereof are a threat to
31 the agricultural productivity of the state;

1 (2) Assist state and local government agencies in the
2 development and implementation of coordinated management plans
3 for the eradication or maintenance control of invasive exotic
4 plant species on public lands;

5 (3) Contract, or enter into agreements, with entities
6 in the State University System or other governmental or
7 private sector entities for research concerning control
8 agents; production and growth of biological control agents;
9 and development of workable methods for the eradication or
10 maintenance control of invasive exotic plants on public lands;
11 and

12 (4) Use funds in the Aquatic Plant Control Trust Fund
13 as authorized by the Legislature for carrying out activities
14 under this section on public lands.

15 Section 10. Section 372.074, Florida Statutes, is
16 amended to read:

17 372.074 Fish and Wildlife Habitat Program.--

18 (1)(a) There is established within the Game and Fresh
19 Water Fish Commission the Fish and Wildlife Habitat Program
20 for the purpose of acquiring lands, assisting other agencies
21 or local governments in acquiring lands, or managing lands or
22 water bodies important to the conservation of fish and
23 wildlife.

24 (b) The Game and Fresh Water Fish Commission or its
25 designee shall manage such lands or water bodies for the
26 primary purpose of maintaining, restoring, and enhancing their
27 habitat value for fish and wildlife. Control of nuisance or
28 nonnative aquatic plants in public waters, and of nonnative
29 upland plants as listed pursuant to s. 369.251 on public
30 lands, is among the responsibilities of the Fish and Wildlife
31 Habitat Program; however, this shall not be construed to mean

1 that the commission has the authority to issue permits under
2 part IV of chapter 373 or to authorize exemptions to such
3 permits.

4 (c) Other uses for lands and water bodies managed by
5 the commission may be allowed that are not contrary to the
6 purposes of maintaining, restoring, and enhancing habitat
7 value for fish and wildlife this purpose.

8 (d)(c) Where acquisition pursuant to this section will
9 result in state ownership of land, title shall be vested in
10 the Board of Trustees of the Internal Improvement Trust Fund
11 as required in chapter 253. Land acquisition pursuant to this
12 section shall be voluntary, negotiated acquisition and, where
13 title is to be vested in the Board of Trustees of the Internal
14 Improvement Trust Fund, is subject to the acquisition
15 procedures of s. 259.041 ~~253.025~~.

16 (e)(d) Acquisition costs shall include purchase prices
17 and costs and fees associated with title work, surveys, and
18 appraisals required to complete an acquisition.

19 (2) Moneys which may be deposited into the Land
20 Acquisition Trust Fund for the purposes of this section may
21 include, but not be limited to, donations, grants,
22 development-of-regional-impact wildlife mitigation
23 contributions, or legislative appropriations. Preservation
24 2000 acquisition funds ~~moneys~~ and Conservation and Recreation
25 Lands management moneys shall not be deposited into this fund.

26 Section 11. Subsection (2) of section 581.035, Florida
27 Statutes, is amended to read:

28 581.035 Preemption of regulatory authority over
29 nurseries.--It is the intent of the Legislature to eliminate
30 duplication of regulatory authority over nurseries.

31

1 Notwithstanding any other law to the contrary, the authority
2 to regulate, inspect, and permit:
3 (2) Nurseries, nursery stock, plants, and plant
4 products, including any aquatic plant as defined in s. 369.102
5 ~~369.22~~ which is grown in a nursery,
6
7 is preempted to the department.

8 Section 12. Subsection (2) of section 581.145, Florida
9 Statutes, is amended to read:

10 581.145 Aquatic plant nursery registration; special
11 permit requirements.--

12 (2) It shall be unlawful for any nursery or nursery
13 stock dealer to import, transport, cultivate, collect, sell,
14 or possess any noxious aquatic plant listed on the prohibited
15 aquatic plant list established by the Florida Game and Fresh
16 Water Fish Commission ~~Department of Environmental Protection~~
17 in s. 369.25(2)(~~3~~)(b) without a special permit issued by the
18 department.

19 Section 13. This act shall take effect July 1 of the
20 year in which enacted.

21
22 *****

23 HOUSE SUMMARY

24 Transfer powers, duties, and functions relating to
25 aquatic plant management and control from the Department
26 of Environmental Protection to the Florida Game and Fresh
27 Water Fish Commission. Revises the distribution of
28 gasoline tax revenues which fund such activities.
29 Revises, reorganizes, and conforms ch. 369, F.S.,
30 (Aquatic Plant Control) to conform to the transfer.
31 Eliminates a weed control permitting requirement for
designated Outstanding Florida Waters. Revises provisions
relating to acquisition and management of lands and water
bodies under the Fish and Wildlife Habitat Program of the
commission.