

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1319 Protection of Manatees

SPONSOR(S): Harrington

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Natural Resources		Camechis	Lotspeich
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill reserves the first \$2 million deposited into the Save the Manatee Trust Fund to fund law enforcement positions within the Fish and Wildlife Conservation Commission for the purpose of enforcing laws designed to protect manatees.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Manatee (West Indian Manatee species)

The manatees found throughout Florida’s rivers, estuaries, and bays are members of the West Indian manatee species and are native to Florida’s coastal and riverine waters. Adult manatees typically average 8-10 feet in length and weigh an average of 1,000-1,200 pounds while the largest manatees may reach 13 feet in length and weigh over 3,500 pounds. Manatees eat a variety of aquatic plants, as much as 200 pounds per day, and are often seen near natural or artificial fresh water sources. Gestation lasts approximately 13 months and typically results in the birth of a single calf measuring 3-5 feet in length weighing approximately 65 pounds. Calves remain with their mothers for up to two years.

The manatee is listed by both the U.S. Fish and Wildlife Service and the Florida Fish and Wildlife Conservation Commission (“FWCC”) as an endangered species, and has been protected in Florida since 1892. Manatees are warm-blooded and seek refuge from cold temperatures in natural springs or congregate in manmade sources of warm water such as power plants and other industrial facilities with thermal plumes. The water temperature danger level for manatees is approximately 55°F.

Manatees are killed or injured by a variety of human-related causes including collisions with watercraft, being crushed in water control gates and boat locks, and becoming entangled in fishing gear. Manatees also die as a result of exposure to harmful algal blooms such as red tide, the effects of cold water, and disease. Manatee habitat loss or degradation is also of concern, including future changes in artificial warm water refugia upon which many manatees have become dependent. However, aerial surveys conducted by the FWCC show that manatee populations have increased in recent years as follows:

Year ¹	Total Florida Manatee Population
1991	1,465
1999	2,353
2000	2,223
2001	3,276
2002	1,796
January 21-22, 2003	3,113

¹ Statistics provided in this table obtained from the Florida Marine Research Institute, 01/27/2003 Second Synoptic Survey to Count Manatees, http://www.floridamarine.org/features/view_article.asp?id=19462

The number of manatee deaths from water-related incidents, such as collisions with boats and other watercraft, is documented by the FWCC as follows:

Year ²	Total Manatee Mortalities	Total Manatee Mortalities Due to Watercraft Incidents
1998	231	66
1999	269	82
2000	272	78
2001	325	81
2002	305	95
1/1/03-2/28/03	81	10

Today, state manatee rules apply to approximately 298,817 acres of Florida waters with other areas being considered for protection.³ Additionally, approximately 10,058 acres are designated as federal manatee refuges or sanctuaries. Florida has significantly increased law enforcement in manatee protection areas, has developed measurable biological goals to help define recovery of the manatee population and has instituted additional public education programs to enhance manatee protections.⁴

Current state efforts to recover the population are guided by the Florida Manatee Sanctuary Act of 1978 and the federally approved Florida Manatee Recovery Plan of 2001. In addition, the manatee is protected under the federal Marine Mammal Protection Act. During the past year, increased attention was given to assessing the status of the manatee population. A workshop was convened in April that brought together experts from around the world to review the most recent manatee data. In addition, the FWC began a Biological Status Review, which included a Population Viability Analysis. Based on these most recent analyses, it appears that the total manatee population in Florida has increased over the past 30 years. In particular, strong population growth in sub-populations such as Florida's northwest coast (including Crystal River) and the upper St. Johns River, have been well documented. Population trends in other areas such as the Atlantic Coast and southwest Florida are less clear. While there is evidence that these areas have also experienced growth over the long-term, the most recent trends are cause for concern. In particular, survival rates in Southwest Florida suggest that the population may be stable or may have begun to decline in that region. Nevertheless, the FWC remains cautiously optimistic about the manatee's future in Florida. The FWCC believes that the focus of management over the past three decades--to reduce human-related injury and death, and to protect habitat--has been a major factor in realizing positive population growth. Provided that this basic approach is continued, the long-term survival of this species is promising.⁵

FWCC Law Enforcement Authority

Section 9, Art. IV of the Constitution of Florida requires the Florida Fish and Wildlife Conservation Commission ("FWCC") to exercise all regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life. FWCC wildlife officers are fully constituted peace officers with the power to make arrests for violations of any law of this state, including Florida law

² Statistics provided in this table were obtained from the FFWC Marine Mammal Pathobiology Laboratory, <http://floridaconservation.org/manatee/>

³ FWCC Position on Proposed Stipulated Order in *Save the Manatee Club, Inc. v. Ballard*, USDC, 1:00CV00076

⁴ FWCC Position on Proposed Stipulated Order in *Save the Manatee Club, Inc. v. Ballard*, USDC, 1:00CV00076

⁵ Information in the preceding paragraph obtained from the *Save the Manatee Trust Fund—Annual Report 2001-2002*, p. 7.

regarding marine and freshwater aquatic life as well as the laws related to boating.⁶ FWCC officers are also cross-deputized to enforce federal fisheries and wildlife laws.⁷

It is the FWCC's responsibility to provide protection and enforce laws relating to all wild animal and aquatic resources of the state including threatened and endangered wildlife, fish, and marine mammals. In addition, the FWCC enforces the boating safety requirements set forth in Chp. 327, F.S., including the boating-under-the-influence-laws and laws relating to the safe and prudent operation of watercraft, in order to ensure the safe usage of our resources. In performing enforcement duties, FWCC officers patrol over 8,246 miles of tidal coastline, 12,000 miles of rivers and streams, 3,000,000 acres of lakes and ponds, and 11,000 miles of canals.⁸

The FWCC also provides general law enforcement protection by virtue of its duty to patrol in rural, semi-wilderness, wilderness, and off-shore areas where no other law enforcement agencies routinely patrol. FWCC officers also respond to a variety of emergencies including natural disasters, civil disturbances, and search and rescue missions.

The FWCC Field Operations consists of two bureaus within the Division of Law Enforcement divided into East and West Operations. The Bureau of East Operations contains the Northeast and South Regions, including a Special Enforcement Area. The Bureaus contain 887.5 positions, 711 of which are sworn positions, which are organized in military rank structure.⁹ Funding for twenty-five sworn positions was appropriated in FY 2001-02 for enhanced manatee protection.

The operating and fixed capital outlay funding as well as staff funding for the Division of Law Enforcement is outlined as follows:

FWCC DIVISION OF LAW ENFORCEMENT OPERATING AND CAPITAL OUTLAY FUNDING¹⁰				
	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03
Gen Rev	\$39.3	\$42.2	\$37.5	\$37.7
Fed TF's	\$3.8	\$5.6	\$4.4	\$3.2
Other TF	\$14.2	\$17.7	\$23.1	\$32.7
TOTAL	\$57.2	\$65.5	\$65.0	\$73.6
STAFF	857.0	860.0	888.0	891.0

The Save The Manatee Trust Fund ("STMTF")

Funding for Florida's manatee related research and management activities is provided primarily from the Save The Manatee Trust Fund ("STMTF") within the FWCC. Section 320.08058, F.S., provides for a manatee license plate and requires that the annual use fee be deposited into the STMTF and used only for the purposes set forth in s. 370.12(4), F.S. The STMTF also receives revenues from other sources, including vessel registrations fees¹¹, county annual vessel registration optional registration fees¹², interest earnings, proceeds from the sale of decals¹³, and voluntary donations¹⁴.

⁶ ss.372.07 and 372.071, F.S

⁷ <http://floridaconservation.org/law/aboutus.html>

⁸ <http://floridaconservation.org/law/aboutus.html>

⁹ <http://floridaconservation.org/law/aboutus.html>

¹⁰ FWCC Final Senate Overview 1/2003, http://floridaconservation.org/legis/Senate_Overview_Final.pdf

¹¹ s. 328.76, F.S., requires transfer to the STMTF of \$1.50 per registered commercial and recreational vessel.

¹² s. 328.66, F.S., requires transfer to the STMTF of \$1.00 of every optional registration fee imposed.

¹³ s 328.72(11), F.S.

¹⁴ s 328.72(11), F.S.

Revenues for the STMTF for FY 2001-2002 are summarized as follows:

SAVE THE MANATEE TRUST FUND REVENUES		
TOTAL REVENUE FY 2001-2002 \$3,869,710	Save the Manatee License Plate:	\$1,972,277
	Boat Registrations:	\$1,725,543
	Interest:	\$96,233
	Decals and Donations:	\$75,657

Section 370.12(4), F.S., requires the FWCC to annually solicit advisory recommendations from the Save the Manatee Committee affiliated with the Save the Manatee Club, as identified and recognized in Executive Order 85-19, on the use of funds from the STMTF, and specifically provides that moneys in the STMTF may be used to fund:

- an annual, impartial scientific benchmark census of the manatee population conducted by the FWCC;
- activities of public and private organizations and those of the FWCC intended to provide manatee and marine mammal protection and recovery effort;
- manufacture and erection of informational and regulatory signs;
- production, publication, and distribution of educational materials;
- participation in manatee and marine mammal research programs including carcass salvage;
- programs intended to assist the recovery of the manatee as an endangered species, assist the recovery of the endangered or threatened marine mammals, and prevent the endangerment of other species of marine mammals;
- and, other similar programs intended to protect and enhance the recovery of the manatee and other species of marine mammals.

In FY 2001-2002, appropriations to, and expenditures of, the STMTF were as follows¹⁵:

STMTF APPROPRIATIONS		
TOTAL APPROPRIATIONS FY 2001-2002 \$4,377,922	FWC Manatee Program:	\$3,150,449
	FWC Law Enforcement:	\$371,000
	Mote Marine Laboratory:	\$325,000
	Advisory Council for Environmental Education:	\$272,701
	Administrative Costs:	\$258,772
STMTF EXPENDITURES: FWC MANATEE PROGRAM RESEARCH EXPENSES		
RESEARCH EXPENSE FY 2001-2002 \$1,698,898	Manatee Salvage and Rescue:	\$697,718
	Administration and Operations:	\$273,620
	Geographic Information Services:	\$243,377
	Population Monitoring:	\$130,167
	Life History and Biology:	\$114,323
	Manatee Ecology and Migration:	\$101,249
	Regional Assessments:	\$98,500
Human Dimensions:	\$39,944	
STMTF EXPENDITURES: FWC MANATEE PROGRAM MANAGEMENT EXPENSES		
PROGRAM MANAGEMENT EXPENSES FY 2001-2002 \$1,139,167	Manatee Protection Plans:	\$268,980
	Habitat Protection:	\$208,816
	Rule Development:	\$206,224
	Permit Review:	\$180,025
	Data Distribution:	\$135,006
	Education & Information:	\$128,439
	Signs:	\$11,677

The STMTF supports four program areas within the FWCC: the Division of Law Enforcement, the Bureau of Protected Species Management, the Florida Marine Research Institute, and the Office of Informational Services.

¹⁵ Fiscal Information obtained from the *Save the Manatee Trust Fund—Annual Report 2001-2002*, p. 7.

Effect of Proposed Changes

The bill amends s. 370.12(4)(a), F.S., to dedicate the first \$2 million dollars deposited into the Save the Manatee Trust Fund to fund law enforcement positions within the Fish and Wildlife Conservation Commission to enforce manatee protection laws. The law enforcement positions must be assigned to perform their law enforcement duties in counties having the highest incidences of manatee deaths and injuries. Any funds remaining in the STMTF will remain available to fund programs in accordance with the current provisions of s. 370.12, F.S.

The bill also amends s. 370.12(4)(b), F.S., requiring the FWCC to submit a report to the President of the Senate and the Speaker of the House of Representatives by December 1 of each year identifying the number of additional law enforcement positions funded and a list of the counties to which the personnel were assigned.

In FY 2002-03, \$1,439,451 is appropriated from the STMTF for manatee related programs in the Office of Environmental Services ("OES"). The following functions of the OES are eliminated unless alternative funding sources are provided by the Legislature:

- Administration of manatee rules;
- Coordination of manatee protection plans, permit reviews, and law enforcement
- Coordination of local government grants for manatee protection plan implementation;
- Coordination with federal, state, local agencies regarding manatee habitat characterization and protection;
- Manatee outreach and information distribution; and
- Reviewing sign plans by other governmental units.

In FY 2002-03, \$2,047,326 is appropriated from the STMTF for manatee research programs conducted by the Florida Marine Institute. The following functions of the Florida Marine Institute are eliminated unless alternative funding sources are provided by the Legislature:

- Manatee necropsy, salvage, and rescue;
- Manatee population monitoring;
- Tracking and monitoring manatee migration and behavior;
- Assessing the physical condition of manatees statewide;
- Studying alternative approaches to education and signage to increase boater compliance;
- Mote Marine Lab outsourcing for research regarding manatee recovery.

In FY 2002-03, \$272,915 is appropriated to the Office of Informational Services, which conducts educational programs regarding manatees. This program is eliminated or significantly reduced unless alternative funding sources are provided by the Legislature.

According to the FWCC, the Water Management Districts and Department of Environmental Protection rely on the FWCC for technical expertise in the area of manatee protection. Additionally, the U.S. Fish and Wildlife Service relies on the FWCC to provide numerous reviews of projects, implement manatee protection plans, create and implement manatee protection rules, provide information on cause of manatee deaths, locations and population distribution, and to serve on joint agency committees and task forces designed to ensure accomplishment of recovery tasks. The Florida Department of Community Affairs also relies on FWCC for assistance in reviewing comprehensive plan amendments and Developments of Regional Impacts for manatee protection purposes.

According to the FWCC, passage of this bill may result in water dependent activities becoming more regulated by federal agencies because of reduced research, management, and education efforts

regarding the manatee, ultimately diminishing Florida's information base and role in influencing local and federal decisions affecting manatees. FWCC predicts that the federal role in manatee protection issues and establishing protection areas in Florida would likely increase as a result of the total substitution of law enforcement for research, management, and education programs designed to protect manatees.

C. SECTION DIRECTORY:

- Section 1. Amends s. 370.12, F.S., regarding annual funding of programs for marine animals.
- Section 2. Provides an effective date.

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 revenues for the Save the Manatee Trust Fund totaled \$3,869,710 in FY 2001-2002. If the first \$2 million in STMTF funds are dedicated to law enforcement, and revenues remain stable, only \$1.86 million would be available from the Save the Manatee Trust Fund to continue the manatee recovery program in the FWCC, unless the program is funded from other sources of revenue.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

- 1. Applicability of Municipality/County Mandates Provision: None.
- 2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

N/A