

CHAMBER ACTION

1 The Committee on Natural Resources recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to manatee protection; amending s. 370.12,
7 F.S.; creating an exception from penalties for activities
8 that are otherwise prohibited if the activity is
9 reasonably necessary in order to prevent loss of life or
10 property or render necessary assistance to persons or
11 property; directing that existing manatee protection rules
12 be presumed adequate and additional rules unnecessary in a
13 region where measurable biological goals are being
14 achieved; providing that the presumption does not prevent
15 the Fish and Wildlife Conservation Commission from
16 addressing unique manatee issues within that region;
17 defining the term "region" for purposes of the act;
18 creating s. 370.1202, F.S.; requiring the commission to
19 implement an enhanced manatee protection study; providing
20 goals for manatee protection research relating to
21 decisions based on sound science-based policies; directing
22 the commission to contract with Mote Marine Laboratory to
23 conduct a Manatee Habitat and Submerged Aquatic Vegetation

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24 | Assessment; providing requirements for the assessment;
 25 | directing that reports be made to the Governor,
 26 | Legislature, and commission which include recommendations
 27 | based upon study results; providing for an annual audit;
 28 | directing the commission to conduct a Signage and Boat
 29 | Speed Assessment of the effectiveness of signs warning
 30 | boaters of manatee slow-speed zones in the waters of this
 31 | state; providing requirements for the assessment;
 32 | directing the commission to prepare and submit a report to
 33 | the Governor and the Legislature; directing the commission
 34 | to make specific policy recommendations regarding signs in
 35 | manatee slow-speed zones; authorizing the commission to
 36 | develop and implement a genetic tagging program for
 37 | manatees; amending s. 372.072, F.S.; requiring that
 38 | measurable biological goals for manatee recovery developed
 39 | under the Florida Endangered and Threatened Species Act be
 40 | used by the commission when evaluating existing and
 41 | proposed manatee protection rules; providing
 42 | appropriations; providing an effective date.

43

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

45

46 | Section 1. Paragraph (s) of subsection (2) of section
 47 | 370.12, Florida Statutes, is amended, and paragraph (u) is added
 48 | to said subsection, to read:

49 | 370.12 Marine animals; regulation.--

50 | (2) PROTECTION OF MANATEES OR SEA COWS.--

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51 (s) Except as otherwise provided in this paragraph, any
 52 person violating the provisions of this subsection or any rule
 53 or ordinance adopted pursuant to this subsection shall be guilty
 54 of a misdemeanor, punishable as provided in s. 370.021(1)(a) or
 55 (b).

56 1. Any person operating a vessel in excess of a posted
 57 speed limit shall be guilty of a civil infraction, punishable as
 58 provided in s. 327.73, except as provided in subparagraph 2.

59 2. This paragraph does not apply to persons violating
 60 restrictions governing "No Entry" zones or "Motorboat
 61 Prohibited" zones, who, if convicted, shall be guilty of a
 62 misdemeanor, punishable as provided in s. 370.021(1)(a) or (b),
 63 or, if such violation demonstrates blatant or willful action,
 64 may be found guilty of harassment as described in paragraph (d).

65 3. A person may engage in any activity otherwise
 66 prohibited by this subsection or any rule or ordinance adopted
 67 pursuant to this subsection if the activity is reasonably
 68 necessary in order to prevent the loss of life or property due
 69 to weather conditions or other reasonably unforeseen
 70 circumstances, or in order to render emergency assistance to
 71 persons or property.

72 (u)1. Existing state manatee protection rules shall be
 73 presumed to be adequate and additional rules unnecessary in a
 74 region where the measurable biological goals developed pursuant
 75 to s. 372.072 are being achieved. However, the presumption does
 76 not prevent the commission from amending existing rules or
 77 adopting new rules to address unique risks or circumstances in a
 78 particular area or body of water to protect manatees.

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79 2. As used in this paragraph, the term "region" means one
 80 of the four geographic areas defined by the United States Fish
 81 and Wildlife Service in the Florida Manatee Recovery Plan, 3rd
 82 revision (October 30, 2001).

83 Section 2. Section 370.1202, Florida Statutes, is created
 84 to read:

85 370.1202 Enhanced manatee protection study.--

86 (1) The Fish and Wildlife Conservation Commission shall
 87 implement and administer an enhanced manatee protection study
 88 designed to increase knowledge of the factors that determine the
 89 size and distribution of the manatee population in the waters of
 90 the state. The enhanced study shall be used by the commission in
 91 its mission to provide manatees with the maximum protection
 92 possible while also allowing maximum recreational use of the
 93 state's waterways. The goal of the enhanced study is to collect
 94 data that will enable resource managers and state and local
 95 policymakers, in consultation with the public, to develop and
 96 implement sound science-based policies to improve manatee
 97 habitat, establish manatee protection zones, and maximize the
 98 size of safe boating areas for recreational use of state waters
 99 without endangering the manatee population.

100 (2)(a) As part of the enhanced manatee protection study,
 101 the Legislature intends that the commission shall contract with
 102 Mote Marine Laboratory to conduct a Manatee Habitat and
 103 Submerged Aquatic Vegetation Assessment that specifically
 104 considers:

105 1. Manatee populations that congregate in the warm water
 106 discharge sites at power plants in the state and the potential

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107 risks for disease resulting from increased congregation of
108 manatees at these sites.

109 2. Development of research, monitoring, and submerged
110 aquatic vegetation restoration priorities for manatee habitat in
111 and near the warm water discharge sites at power plants in the
112 state.

113 3. The potential impacts on manatees and manatee habitat
114 if power plants that provide warm water discharge sites where
115 manatees congregate are closed, including how closure will
116 affect the size and health of submerged aquatic vegetation
117 areas.

118 (b) The Mote Marine Laboratory must submit an interim
119 report on the Manatee Habitat and Submerged Aquatic Vegetation
120 Assessment to the Governor, the President of the Senate, the
121 Speaker of the House of Representatives, and the commission by
122 September 1, 2006. The interim report must detail the progress
123 of the assessment. The final report, due to the Governor, the
124 President of the Senate, the Speaker of the House of
125 Representatives, and the commission by January 1, 2007, must
126 detail the results of the assessment and include recommendations
127 for protection of manatee habitat in warm water discharge sites
128 at power plants in the state.

129 (c) The commission shall ensure that funds allocated to
130 implement the Manatee Habitat and Submerged Aquatic Vegetation
131 Assessment are expended in a manner that is consistent with the
132 requirements of this subsection. The commission may require an
133 annual audit of the expenditures made by Mote Marine Laboratory.
134 Copies of any audit requested under this subsection must be

135 provided to the appropriate substantive and appropriations
 136 committees of the Senate and the House of Representatives as
 137 they become available.

138 (3) As part of the enhanced manatee protection study, the
 139 Legislature intends that the commission must conduct a Signage
 140 and Boat Speed Assessment to evaluate the effectiveness of
 141 manatee protection signs and sign placement and assess boat
 142 speeds. The commission shall evaluate existing data on manatee
 143 mortality before and after existing manatee protection zones
 144 were established, boater compliance with and comprehension of
 145 regulatory signs and buoys, changes in boating traffic patterns,
 146 and manatee distribution and behavior. The commission shall also
 147 provide recommendations on innovative marker designs that are in
 148 compliance with the federal aids to navigation system. The
 149 Signage and Boat Speed Assessment must address:

150 (a) The effectiveness of signs and buoys to warn boaters
 151 of manatee slow-speed zones with a goal of developing federally
 152 approved standards for marking manatee protection zones.

153 (b) Determining where buoys may be used in place of
 154 pilings for boating safety purposes.

155 (c) An evaluation of higher speed travel corridors in
 156 manatee zones to determine the most effective speed to balance
 157 safe boating, recreational use, vessel operating
 158 characteristics, and manatee protection.

159
 160 The commission shall complete its Signage and Boat Speed
 161 Assessment by January 1, 2007, and must submit a report of its
 162 findings to the Governor, the President of the Senate, and the

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163 Speaker of the House of Representatives by February 1, 2007. The
 164 report must detail the results of the assessment, including
 165 specific recommendations for developing state and local policies
 166 relating to the appropriate placement of signs, including
 167 innovative markers, in manatee slow-speed zones.

168 (4) The commission is authorized to develop and implement
 169 the use of genetic tagging to improve its ability to assess the
 170 status, health, and reproductive capacity of the manatee
 171 population, estimate annual survival rates through mark
 172 recapture studies, determine migration patterns, and determine
 173 maternity and paternity. The development and use of genetic
 174 tagging may be done in cooperation with federal agencies or
 175 other entities, such as genetic laboratories at schools within
 176 the state university system.

177 Section 3. Subsection (6) of section 372.072, Florida
 178 Statutes, is amended to read:

179 372.072 Endangered and Threatened Species Act.--

180 (6) MEASURABLE BIOLOGICAL GOALS.--~~No later than February~~
 181 ~~15, 2003, the commission, working in conjunction with the United~~
 182 ~~States Fish and Wildlife Service, shall develop measurable~~
 183 ~~biological goals that define manatee recovery. These~~
 184 Measurable biological goals that define manatee recovery
 185 developed by the commission, working in conjunction with the
 186 United States Fish and Wildlife Service, shall be used by the
 187 commission in its development of management plans or work plans.
 188 In addition to other criteria, these measurable biological goals
 189 shall be used by the commission when evaluating existing and
 190 proposed protection rules, and in determining progress in

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191 | achieving manatee recovery. Any evaluation of an existing or
192 | proposed protection rule must describe how the measurable
193 | biological goals were used in the evaluation.

194 | Section 4. Appropriations.--

195 | (1) For fiscal year 2004-2005, the sum of \$325,000 is
196 | appropriated from the Save the Manatee Trust Fund to the Fish
197 | and Wildlife Conservation Commission for the purpose of
198 | contracting with Mote Marine Laboratory to conduct the Manatee
199 | Habitat and Submerged Aquatic Vegetation Assessment as provided
200 | in this act.

201 | (2) For fiscal year 2004-2005, the sum of \$325,000 is
202 | appropriated from funds transferred to the Marine Resources
203 | Conservation Trust Fund pursuant to s. 206.606(1)(d), Florida
204 | Statutes, to the Fish and Wildlife Conservation Commission for
205 | the purposes of conducting the Signage and Boat Speed Assessment
206 | as provided in this act.

207 | Section 5. This act shall take effect July 1, 2004.