

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.