

Bill No. SB 1208

Barcode 611824

CHAMBER ACTION

Senate

House

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The Committee on Environmental Preservation (Lawson)
recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Paragraph (e) of subsection (1), paragraph
(a) of subsection (2), and subsection (11) of section 201.15,
Florida Statutes, are amended to read:

201.15 Distribution of taxes collected.--All taxes
collected under this chapter shall be distributed as follows
and shall be subject to the service charge imposed in s.
215.20(1), except that such service charge shall not be levied
against any portion of taxes pledged to debt service on bonds
to the extent that the amount of the service charge is
required to pay any amounts relating to the bonds:

(1) Sixty-two and sixty-three hundredths percent of
the remaining taxes collected under this chapter shall be used
for the following purposes:

(e) The remainder of the moneys distributed under this

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1 subsection, after the required payments under paragraphs (a),
 2 (b), (c), and (d), shall be paid into the State Treasury to
 3 the credit of the General Revenue Fund of the state to be used
 4 and expended for the purposes for which the General Revenue
 5 Fund was created and exists by law or to the Ecosystem
 6 Management and Restoration Trust Fund, ~~or to the Marine~~
 7 Resources Conservation Trust Fund, or the General Inspection
 8 Trust Fund as provided in subsection (11).

9 (2) Seven and fifty-six hundredths percent of the
 10 remaining taxes collected under this chapter shall be used for
 11 the following purposes:

12 (a) Beginning in the month following the final payment
 13 for a fiscal year under paragraph (1)(c), available moneys
 14 shall be paid into the State Treasury to the credit of the
 15 General Revenue Fund of the state to be used and expended for
 16 the purposes for which the General Revenue Fund was created
 17 and exists by law or to the Ecosystem Management and
 18 Restoration Trust Fund, ~~or to the Marine Resources~~
 19 Conservation Trust Fund, or the General Inspection Trust Fund
 20 as provided in subsection (11). Payments made under this
 21 paragraph shall continue until the cumulative amount credited
 22 to the General Revenue Fund for the fiscal year under this
 23 paragraph equals the cumulative payments made under paragraph
 24 (1)(c) for the same fiscal year.

25 (11)(a) From the moneys specified in paragraphs(1)(e)
 26 ~~(1)(d)~~ and (2)(a) and prior to deposit of any moneys into the
 27 General Revenue Fund, \$30 million shall be paid into the State
 28 Treasury to the credit of the Ecosystem Management and
 29 Restoration Trust Fund in fiscal year 2000-2001 and each
 30 fiscal year thereafter, to be used for the preservation and
 31 repair of the state's beaches as provided in ss.

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1 161.091-161.212, and \$2 million shall be paid into the State
2 Treasury to the credit of the Marine Resources Conservation
3 Trust Fund to be used for marine mammal care as provided in s.
4 370.0603(3).

5 (b) After the payments required in paragraph (a),
6 \$300,000 shall be paid into the State Treasury to the credit
7 of the General Inspection Trust Fund in fiscal year 2006-2007
8 and each fiscal year thereafter, to be used to fund oyster
9 management and restoration programs as provided in s.
10 370.07(3).

11 Section 2. Effective July 1, 2007, paragraph (e) of
12 subsection (1) of section 201.15, Florida Statutes, as amended
13 by section 26 of Chapter 2005-290, and subsections (2), (11),
14 and (13) of section 201.15, Florida Statutes, as amended by
15 section 1 of chapter 2005-92, Laws of Florida, are amended to
16 read:

17 201.15 Distribution of taxes collected.--All taxes
18 collected under this chapter shall be distributed as follows
19 and shall be subject to the service charge imposed in s.
20 215.20(1), except that such service charge shall not be levied
21 against any portion of taxes pledged to debt service on bonds
22 to the extent that the amount of the service charge is
23 required to pay any amounts relating to the bonds:

24 (1) Sixty-two and sixty-three hundredths percent of
25 the remaining taxes collected under this chapter shall be used
26 for the following purposes:

27 (e) The remainder of the moneys distributed under this
28 subsection, after the required payments under paragraphs (a),
29 (b), (c), and (d) shall be paid into the State Treasury to the
30 credit of the General Revenue Fund to be used and expended for
31 the purposes for which the General Revenue Fund was created

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1 and exists by law or to the Ecosystem Management and
 2 Restoration Trust Fund, ~~or to~~ the Marine Resources
 3 Conservation Trust Fund, or the General Inspection Trust Fund
 4 as provided in subsection (11).

5 (2) The lesser of seven and fifty-six hundredths
 6 percent of the remaining taxes collected under this chapter or
 7 ~~\$85.1~~~~\$84.9~~ million in each fiscal year shall be used for the
 8 following purposes:

9 (a) Beginning in the month following the final payment
 10 for a fiscal year under paragraph (1)(c), available moneys
 11 shall be paid into the State Treasury to the credit of the
 12 General Revenue Fund to be used and expended for the purposes
 13 for which the General Revenue Fund was created and exists by
 14 law or to the Ecosystem Management and Restoration Trust Fund, ~~or to~~
 15 ~~the Marine Resources Conservation Trust Fund, or the~~
 16 General Inspection Trust Fund as provided in subsection (11).
 17 Payments made under this paragraph shall continue until the
 18 cumulative amount credited to the General Revenue Fund for the
 19 fiscal year under this paragraph equals the cumulative
 20 payments made under paragraph (1)(c) for the same fiscal year.

21 (b) The remainder of the moneys distributed under this
 22 subsection shall be paid into the State Treasury to the credit
 23 of the Land Acquisition Trust Fund. Sums deposited in the fund
 24 pursuant to this subsection may be used for any purpose for
 25 which funds deposited in the Land Acquisition Trust Fund may
 26 lawfully be used.

27 (11)(a) From the moneys specified in paragraphs(1)(e)
 28 ~~(1)(d)~~ and (2)(a) and prior to deposit of any moneys into the
 29 General Revenue Fund, \$30 million shall be paid into the State
 30 Treasury to the credit of the Ecosystem Management and
 31 Restoration Trust Fund in fiscal year 2000-2001 and each

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1 fiscal year thereafter, to be used for the preservation and
 2 repair of the state's beaches as provided in ss.
 3 161.091-161.212, and \$2 million shall be paid into the State
 4 Treasury to the credit of the Marine Resources Conservation
 5 Trust Fund to be used for marine mammal care as provided in s.
 6 370.0603(3).

7 (b) After the payments required in paragraph (a),
 8 \$300,000 shall be paid into the State Treasury to the credit
 9 of the General Inspection Trust Fund in fiscal year 2006-2007
 10 and each fiscal year thereafter, to be used to fund oyster
 11 management and restoration programs as provided in s.
 12 370.07(3).

13 (13) The distribution of proceeds deposited into the
 14 Water Management Lands Trust Fund and the Conservation and
 15 Recreation Lands Trust Fund, pursuant to subsections (4) and
 16 (5), shall not be used for land acquisition, but may be used
 17 for preacquisition costs associated with land purchases. The
 18 Legislature intends that the Florida Forever program supplant
 19 the acquisition programs formerly authorized under ss. 259.032
 20 and 373.59. ~~Prior to the 2005 Regular Session of the~~
 21 ~~Legislature, the Acquisition and Restoration Council shall~~
 22 ~~review and make recommendations to the Legislature concerning~~
 23 ~~the need to repeal this provision. Based on these~~
 24 ~~recommendations, the Legislature shall review the need to~~
 25 ~~repeal this provision during the 2005 Regular Session.~~

26 Section 3. Subsection (3) of section 370.07, Florida
 27 Statutes, is amended to read:

28 370.07 Wholesale and retail saltwater products
 29 dealers; regulation.--

30 (3) OYSTER MANAGEMENT AND RESTORATION PROGRAMS

31 ~~APALACHICOLA BAY OYSTER SURCHARGE.--~~

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1 ~~(a) For purposes of this section, "bag" means an~~
2 ~~amount of oysters with shells weighing approximately 60~~
3 ~~pounds.~~

4 ~~(b) Effective October 1, 1989, there shall be assessed~~
5 ~~a surcharge of 50 cents on each bag of oysters to be paid by~~
6 ~~the wholesale dealer first receiving, using, or selling the~~
7 ~~oysters after harvesting from the waters of Apalachicola Bay.~~

8 ~~(c)1. Each wholesale dealer shall certify, on such~~
9 ~~forms as may be prescribed by the Department of Revenue, to~~
10 ~~any subsequent purchasing wholesale dealer or other purchaser~~
11 ~~that the surcharge imposed by this subsection has been paid or~~
12 ~~will be paid by such wholesale dealer first receiving the~~
13 ~~oysters.~~

14 ~~2. In the case where the harvester is also the~~
15 ~~wholesale dealer, such wholesale dealer shall maintain~~
16 ~~documentation, on forms as may be prescribed by the Department~~
17 ~~of Revenue, adequate to establish that the surcharge has been~~
18 ~~paid or will be paid by such wholesale dealer.~~

19 ~~3. In such case where the wholesale dealer is also the~~
20 ~~retail dealer under paragraph (1)(b), such wholesale dealer~~
21 ~~shall maintain documentation, on forms as may be prescribed by~~
22 ~~the Department of Revenue, adequate to establish that the~~
23 ~~surcharge has been paid or will be paid by such wholesale~~
24 ~~dealer.~~

25 ~~(d) Except for the collection allowance pursuant to s.~~
26 ~~212.12 and estimated tax filing requirements pursuant to s.~~
27 ~~212.11, the same duties and privileges imposed by chapter 212~~
28 ~~upon dealers of tangible personal property respecting the~~
29 ~~remission of the surcharge, the making of returns, penalties~~
30 ~~and interest, the keeping of books, records and accounts, and~~
31 ~~the compliance with the rules of the Department of Revenue in~~

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1 ~~the administration of chapter 212 shall apply and be binding~~
2 ~~upon all wholesale dealers who are subject to the surcharge~~
3 ~~imposed by this subsection.~~

4 ~~(e) The Department of Revenue shall keep records~~
5 ~~showing the amount of the surcharge collected.~~

6 ~~(f) The Department of Revenue shall collect the~~
7 ~~surcharge for transfer into the General Inspection Trust Fund~~
8 ~~of the Department of Agriculture and Consumer Services.~~

9 ~~(g) The Department of Revenue is empowered to~~
10 ~~promulgate rules, establish audit procedures for the audit of~~
11 ~~wholesale dealers, assess for delinquency, and prescribe and~~
12 ~~publish such forms as may be necessary to effectuate the~~
13 ~~provisions of this subsection.~~

14 ~~(h) Annually, the Department of Agriculture and~~
15 ~~Consumer Services and the Fish and Wildlife Conservation~~
16 ~~Commission shall furnish the Department of Revenue with a~~
17 ~~current list of wholesale dealers in the state.~~

18 ~~(i) Collections received by the Department of Revenue~~
19 ~~from the surcharge shall be transferred quarterly to the~~
20 ~~General Inspection Trust Fund of the Department of Agriculture~~
21 ~~and Consumer Services, less the costs of administration.~~

22 ~~(j) The executive director of the Department of~~
23 ~~Revenue is hereby authorized to adopt emergency rules pursuant~~
24 ~~to s. 120.54(4) for purposes of implementing this subsection.~~
25 ~~Notwithstanding any other provisions of law, such emergency~~
26 ~~rules shall remain effective for 6 months from the date of~~
27 ~~adoption. Other rules of the Department of Revenue related to~~
28 ~~and in furtherance of the orderly implementation of this~~
29 ~~subsection shall not be subject to a s. 120.56(2) rule~~
30 ~~challenge or a s. 120.54(3)(c)2. drawout proceeding but, once~~
31 ~~adopted, shall be subject to a s. 120.56(3) invalidity~~

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1 ~~challenge. Such rules shall be adopted by the Governor and~~
2 ~~Cabinet and shall become effective upon filing with the~~
3 ~~Department of State, notwithstanding the provisions of s.~~
4 ~~120.54(3)(e)6.~~

5 ~~(*)~~ The Department of Agriculture and Consumer
6 Services shall use or distribute funds paid into the State
7 Treasury to the credit of the General Inspection Trust Fund
8 pursuant to s. 201.15(11) generated by this surcharge, less
9 reasonable costs of ~~collection and~~ administration, to fund the
10 following oyster management and restoration programs in
11 Apalachicola Bay and other oyster harvest areas in the state:

12 (a)1. The relaying and transplanting of live oysters.

13 (b)2. Shell planting to construct or rehabilitate
14 oyster bars.

15 (c)3. Education programs for licensed oyster
16 harvesters on oyster biology, aquaculture, boating and water
17 safety, sanitation, resource conservation, small business
18 management, and other relevant subjects.

19 (d)4. Research directed toward the enhancement of
20 oyster production in the bay and the water management needs of
21 the bay.

22 Section 4. Subsection (3) of section 161.091, Florida
23 Statutes, is amended to read:

24 161.091 Beach management; funding; repair and
25 maintenance strategy.--

26 (3) In accordance with the intent expressed in s.
27 161.088 and the legislative finding that erosion of the
28 beaches of this state is detrimental to tourism, the state's
29 major industry, further exposes the state's highly developed
30 coastline to severe storm damage, and threatens beach-related
31 jobs, which, if not stopped, could significantly reduce state

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1 sales tax revenues, funds deposited into the State Treasury to
 2 the credit of the Ecosystem Management and Restoration Trust
 3 Fund, in the annual amounts provided in s. 201.15(11)(a) ~~s.~~
 4 ~~201.15(11)~~, shall be used, for a period of not less than 15
 5 years, to fund the development, implementation, and
 6 administration of the state's beach management plan, as
 7 provided in ss. 161.091-161.212, prior to the use of such
 8 funds deposited pursuant to s. 201.15(11)(a) ~~s. 201.15(11)~~ in
 9 that trust fund for any other purpose.

10 Section 5. Section 213.05, Florida Statutes, is
 11 amended to read:

12 213.05 Department of Revenue; control and
 13 administration of revenue laws.--The Department of Revenue
 14 shall have only those responsibilities for ad valorem taxation
 15 specified to the department in chapter 192, taxation, general
 16 provisions; chapter 193, assessments; chapter 194,
 17 administrative and judicial review of property taxes; chapter
 18 195, property assessment administration and finance; chapter
 19 196, exemption; chapter 197, tax collections, sales, and
 20 liens; chapter 199, intangible personal property taxes; and
 21 chapter 200, determination of millage. The Department of
 22 Revenue shall have the responsibility of regulating,
 23 controlling, and administering all revenue laws and performing
 24 all duties as provided in s. 125.0104, the Local Option
 25 Tourist Development Act; s. 125.0108, tourist impact tax;
 26 chapter 198, estate taxes; chapter 201, excise tax on
 27 documents; chapter 202, communications services tax; chapter
 28 203, gross receipts taxes; chapter 206, motor and other fuel
 29 taxes; chapter 211, tax on production of oil and gas and
 30 severance of solid minerals; chapter 212, tax on sales, use,
 31 and other transactions; chapter 220, income tax code; chapter

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1 221, emergency excise tax; ss. 336.021 and 336.025, taxes on
 2 motor fuel and special fuel; ~~s. 370.07(3), Apalachicola Bay~~
 3 ~~oyster surcharge~~; s. 376.11, pollutant spill prevention and
 4 control; s. 403.718, waste tire fees; s. 403.7185, lead-acid
 5 battery fees; s. 538.09, registration of secondhand dealers;
 6 s. 538.25, registration of secondary metals recyclers; s.
 7 624.4621, group self-insurer's fund premium tax; s. 624.5091,
 8 retaliatory tax; s. 624.475, commercial self-insurance fund
 9 premium tax; ss. 624.509-624.511, insurance code:
 10 administration and general provisions; s. 624.515, State Fire
 11 Marshal regulatory assessment; s. 627.357, medical malpractice
 12 self-insurance premium tax; s. 629.5011, reciprocal insurers
 13 premium tax; and s. 681.117, motor vehicle warranty
 14 enforcement.

15 Section 6. On the effective date of this act, the
 16 Department of Revenue shall cease all efforts to collect any
 17 uncollected revenues due or payable pursuant to the
 18 50-cent-per-bag surcharge that is abolished by this act.

19 Section 7. Except as otherwise expressly provided in
 20 this act, this act shall take effect upon becoming a law.

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23 ===== T I T L E A M E N D M E N T =====

24 And the title is amended as follows:

25 Delete everything before the enacting clause

26
 27 and insert:

28 A bill to be entitled
 29 An act relating to funding for oyster
 30 management and restoration programs in
 31 Apalachicola Bay and other areas; amending s.

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1 201.15, F.S.; authorizing the distribution of
2 certain revenues from the excise tax on
3 documents to the General Inspection Trust Fund
4 of the Department of Agriculture and Consumer
5 Services; providing for such funds to be used
6 for oyster management and restoration programs
7 in Apalachicola Bay and other areas; amending
8 s. 370.07, F.S.; abolishing a surcharge upon
9 oysters harvested from Apalachicola Bay;
10 deleting certain requirements related to the
11 surcharge; providing for the use of moneys from
12 the General Inspection Trust Fund for oyster
13 management and restoration programs in
14 Apalachicola Bay and other areas; prohibiting
15 the Department of Revenue from collecting
16 uncollected moneys payable from the surcharge;
17 amending ss. 161.091 and 213.05, F.S., to
18 conform; providing effective dates.

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