

By the Committee on Environmental Preservation; and Senator
Lawson

592-1701-06

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

23
24 Be It Enacted by the Legislature of the State of Florida:

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

29 201.15 Distribution of taxes collected.--All taxes
30 collected under this chapter shall be distributed as follows
31 and shall be subject to the service charge imposed in s.

1 215.20(1), except that such service charge shall not be levied
2 against any portion of taxes pledged to debt service on bonds
3 to the extent that the amount of the service charge is
4 required to pay any amounts relating to the bonds:

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

8 (e) The remainder of the moneys distributed under this
9 subsection, after the required payments under paragraphs (a),
10 (b), (c), and (d), shall be paid into the State Treasury to
11 the credit of the General Revenue Fund of the state to be used
12 and expended for the purposes for which the General Revenue
13 Fund was created and exists by law or to the Ecosystem
14 Management and Restoration Trust Fund, ~~or to~~ the Marine
15 Resources Conservation Trust Fund, or the General Inspection
16 Trust Fund as provided in subsection (11).

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

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

3 (11)~~(a)~~ From the moneys specified in paragraphs~~(1)~~(e)
4 ~~(1)(d)~~ and (2)(a) and prior to deposit of any moneys into the
5 General Revenue Fund, \$30 million shall be paid into the State
6 Treasury to the credit of the Ecosystem Management and
7 Restoration Trust Fund in fiscal year 2000-2001 and each
8 fiscal year thereafter, to be used for the preservation and
9 repair of the state's beaches as provided in ss.
10 161.091-161.212, and \$2 million shall be paid into the State
11 Treasury to the credit of the Marine Resources Conservation
12 Trust Fund to be used for marine mammal care as provided in s.
13 370.0603(3).

14 (b) After the payments required in paragraph (a),
15 \$300,000 shall be paid into the State Treasury to the credit
16 of the General Inspection Trust Fund in fiscal year 2006-2007
17 and each fiscal year thereafter, to be used to fund oyster
18 management and restoration programs as provided in s.
19 370.07(3).

20 Section 2. Effective July 1, 2007, paragraph (e) of
21 subsection (1) and subsections (2), (11), and (13) of section
22 201.15, Florida Statutes, as amended by section 1 of chapter
23 2005-92, Laws of Florida, and by section 26 of chapter
24 2005-290, Laws of Florida, are amended to read:

25 201.15 Distribution of taxes collected.--All taxes
26 collected under this chapter shall be distributed as follows
27 and shall be subject to the service charge imposed in s.
28 215.20(1), except that such service charge shall not be levied
29 against any portion of taxes pledged to debt service on bonds
30 to the extent that the amount of the service charge is
31 required to pay any amounts relating to the bonds:

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

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

13 (2) The lesser of seven and fifty-six hundredths
14 percent of the remaining taxes collected under this chapter or
15 ~~\$85.1~~^{\$84.9} million in each fiscal year shall be used for the
16 following purposes:

17 (a) Beginning in the month following the final payment
18 for a fiscal year under paragraph (1)(c), available moneys
19 shall be paid into the State Treasury to the credit of the
20 General Revenue Fund to be used and expended for the purposes
21 for which the General Revenue Fund was created and exists by
22 law or to the Ecosystem Management and Restoration Trust Fund,
23 ~~or to~~ the Marine Resources Conservation Trust Fund, or the
24 General Inspection Trust Fund as provided in subsection (11).

25 Payments made under this paragraph shall continue until the
26 cumulative amount credited to the General Revenue Fund for the
27 fiscal year under this paragraph equals the cumulative
28 payments made under paragraph (1)(c) for the same fiscal year.

29 (b) The remainder of the moneys distributed under this
30 subsection shall be paid into the State Treasury to the credit
31 of the Land Acquisition Trust Fund. Sums deposited in the fund

1 pursuant to this subsection may be used for any purpose for
2 which funds deposited in the Land Acquisition Trust Fund may
3 lawfully be used.

4 (11)(a) From the moneys specified in paragraphs(1)(e)
5 ~~(1)(d)~~ and (2)(a) and prior to deposit of any moneys into the
6 General Revenue Fund, \$30 million shall be paid into the State
7 Treasury to the credit of the Ecosystem Management and
8 Restoration Trust Fund in fiscal year 2000-2001 and each
9 fiscal year thereafter, to be used for the preservation and
10 repair of the state's beaches as provided in ss.
11 161.091-161.212, and \$2 million shall be paid into the State
12 Treasury to the credit of the Marine Resources Conservation
13 Trust Fund to be used for marine mammal care as provided in s.
14 370.0603(3).

15 (b) After the payments required in paragraph (a),
16 \$300,000 shall be paid into the State Treasury to the credit
17 of the General Inspection Trust Fund in fiscal year 2006-2007
18 and each fiscal year thereafter, to be used to fund oyster
19 management and restoration programs as provided in s.
20 370.07(3).

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

1 ~~recommendations, the Legislature shall review the need to~~
2 ~~repeal this provision during the 2005 Regular Session.~~

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

5 370.07 Wholesale and retail saltwater products
6 dealers; regulation.--

7 (3) OYSTER MANAGEMENT AND RESTORATION PROGRAMS
8 ~~APALACHICOLA BAY OYSTER SURCHARGE.~~--

9 (a) ~~For purposes of this section, "bag" means an~~
10 ~~amount of oysters with shells weighing approximately 60~~
11 ~~pounds.~~

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

16 (c)1. ~~Each wholesale dealer shall certify, on such~~
17 ~~forms as may be prescribed by the Department of Revenue, to~~
18 ~~any subsequent purchasing wholesale dealer or other purchaser~~
19 ~~that the surcharge imposed by this subsection has been paid or~~
20 ~~will be paid by such wholesale dealer first receiving the~~
21 ~~oysters.~~

22 2. ~~In the case where the harvester is also the~~
23 ~~wholesale dealer, such wholesale dealer shall maintain~~
24 ~~documentation, on forms as may be prescribed by the Department~~
25 ~~of Revenue, adequate to establish that the surcharge has been~~
26 ~~paid or will be paid by such wholesale dealer.~~

27 3. ~~In such case where the wholesale dealer is also the~~
28 ~~retail dealer under paragraph (1)(b), such wholesale dealer~~
29 ~~shall maintain documentation, on forms as may be prescribed by~~
30 ~~the Department of Revenue, adequate to establish that the~~
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1 ~~surcharge has been paid or will be paid by such wholesale~~
2 ~~dealer.~~

3 ~~(d) Except for the collection allowance pursuant to s.~~
4 ~~212.12 and estimated tax filing requirements pursuant to s.~~
5 ~~212.11, the same duties and privileges imposed by chapter 212~~
6 ~~upon dealers of tangible personal property respecting the~~
7 ~~remission of the surcharge, the making of returns, penalties~~
8 ~~and interest, the keeping of books, records and accounts, and~~
9 ~~the compliance with the rules of the Department of Revenue in~~
10 ~~the administration of chapter 212 shall apply and be binding~~
11 ~~upon all wholesale dealers who are subject to the surcharge~~
12 ~~imposed by this subsection.~~

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

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

18 ~~(g) The Department of Revenue is empowered to~~
19 ~~promulgate rules, establish audit procedures for the audit of~~
20 ~~wholesale dealers, assess for delinquency, and prescribe and~~
21 ~~publish such forms as may be necessary to effectuate the~~
22 ~~provisions of this subsection.~~

23 ~~(h) Annually, the Department of Agriculture and~~
24 ~~Consumer Services and the Fish and Wildlife Conservation~~
25 ~~Commission shall furnish the Department of Revenue with a~~
26 ~~current list of wholesale dealers in the state.~~

27 ~~(i) Collections received by the Department of Revenue~~
28 ~~from the surcharge shall be transferred quarterly to the~~
29 ~~General Inspection Trust Fund of the Department of Agriculture~~
30 ~~and Consumer Services, less the costs of administration.~~

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1 ~~(j) The executive director of the Department of~~
2 ~~Revenue is hereby authorized to adopt emergency rules pursuant~~
3 ~~to s. 120.54(4) for purposes of implementing this subsection.~~
4 ~~Notwithstanding any other provisions of law, such emergency~~
5 ~~rules shall remain effective for 6 months from the date of~~
6 ~~adoption. Other rules of the Department of Revenue related to~~
7 ~~and in furtherance of the orderly implementation of this~~
8 ~~subsection shall not be subject to a s. 120.56(2) rule~~
9 ~~challenge or a s. 120.54(3)(c)2. drawout proceeding but, once~~
10 ~~adopted, shall be subject to a s. 120.56(3) invalidity~~
11 ~~challenge. Such rules shall be adopted by the Governor and~~
12 ~~Cabinet and shall become effective upon filing with the~~
13 ~~Department of State, notwithstanding the provisions of s.~~
14 ~~120.54(3)(c)6.~~

15 ~~(k)~~ The Department of Agriculture and Consumer
16 Services shall use or distribute funds paid into the State
17 Treasury to the credit of the General Inspection Trust Fund
18 pursuant to s. 201.15(11) generated by this surcharge, less
19 reasonable costs of ~~collection and~~ administration, to fund the
20 following oyster management and restoration programs in
21 Apalachicola Bay and other oyster harvest areas in the state:

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

23 ~~(b)2.~~ Shell planting to construct or rehabilitate
24 oyster bars.

25 ~~(c)3.~~ Education programs for licensed oyster
26 harvesters on oyster biology, aquaculture, boating and water
27 safety, sanitation, resource conservation, small business
28 management, and other relevant subjects.

29 ~~(d)4.~~ Research directed toward the enhancement of
30 oyster production in the bay and the water management needs of
31 the bay.

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

3 161.091 Beach management; funding; repair and
4 maintenance strategy.--

5 (3) In accordance with the intent expressed in s.
6 161.088 and the legislative finding that erosion of the
7 beaches of this state is detrimental to tourism, the state's
8 major industry, further exposes the state's highly developed
9 coastline to severe storm damage, and threatens beach-related
10 jobs, which, if not stopped, could significantly reduce state
11 sales tax revenues, funds deposited into the State Treasury to
12 the credit of the Ecosystem Management and Restoration Trust
13 Fund, in the annual amounts provided in s. 201.15(11)(a) ~~s.~~
14 ~~201.15(11)~~, shall be used, for a period of not less than 15
15 years, to fund the development, implementation, and
16 administration of the state's beach management plan, as
17 provided in ss. 161.091-161.212, prior to the use of such
18 funds deposited pursuant to s. 201.15(11)(a) ~~s. 201.15(11)~~ in
19 that trust fund for any other purpose.

20 Section 5. Section 213.05, Florida Statutes, is
21 amended to read:

22 213.05 Department of Revenue; control and
23 administration of revenue laws.--The Department of Revenue
24 shall have only those responsibilities for ad valorem taxation
25 specified to the department in chapter 192, taxation, general
26 provisions; chapter 193, assessments; chapter 194,
27 administrative and judicial review of property taxes; chapter
28 195, property assessment administration and finance; chapter
29 196, exemption; chapter 197, tax collections, sales, and
30 liens; chapter 199, intangible personal property taxes; and
31 chapter 200, determination of millage. The Department of

1 Revenue shall have the responsibility of regulating,
2 controlling, and administering all revenue laws and performing
3 all duties as provided in s. 125.0104, the Local Option
4 Tourist Development Act; s. 125.0108, tourist impact tax;
5 chapter 198, estate taxes; chapter 201, excise tax on
6 documents; chapter 202, communications services tax; chapter
7 203, gross receipts taxes; chapter 206, motor and other fuel
8 taxes; chapter 211, tax on production of oil and gas and
9 severance of solid minerals; chapter 212, tax on sales, use,
10 and other transactions; chapter 220, income tax code; chapter
11 221, emergency excise tax; ss. 336.021 and 336.025, taxes on
12 motor fuel and special fuel; ~~s. 370.07(3), Apalachicola Bay~~
13 ~~oyster surcharge~~; s. 376.11, pollutant spill prevention and
14 control; s. 403.718, waste tire fees; s. 403.7185, lead-acid
15 battery fees; s. 538.09, registration of secondhand dealers;
16 s. 538.25, registration of secondary metals recyclers; s.
17 624.4621, group self-insurer's fund premium tax; s. 624.5091,
18 retaliatory tax; s. 624.475, commercial self-insurance fund
19 premium tax; ss. 624.509-624.511, insurance code:
20 administration and general provisions; s. 624.515, State Fire
21 Marshal regulatory assessment; s. 627.357, medical malpractice
22 self-insurance premium tax; s. 629.5011, reciprocal insurers
23 premium tax; and s. 681.117, motor vehicle warranty
24 enforcement.

25 Section 6. On the effective date of this act, the
26 Department of Revenue shall cease all efforts to collect any
27 uncollected revenues due or payable pursuant to the
28 50-cent-per-bag surcharge that is abolished by this act.

29 Section 7. Except as otherwise expressly provided in
30 this act, this act shall take effect upon becoming a law.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1208

Authorizes the use of funds appropriated for oyster management and restoration programs in Apalachicola Bay and other areas of the state. Authorizes the Department of Agriculture and Consumer Services to implement oyster restoration and management programs in Apalachicola Bay and other areas of the state. Reinstates the ability of a taxpayer to seek a legal remedy or appeal a denial of a refund for payment of the surcharge. Reinstates the confidentiality exclusion provided for taxpayer information relating to the collection of the surcharge by the Department of Revenue.