

## CHAMBER ACTION

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1 The Environmental Regulation Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

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

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

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

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52 (a) Beginning in the month following the final payment for  
 53 a fiscal year under paragraph (1)(c), available moneys shall be  
 54 paid into the State Treasury to the credit of the General  
 55 Revenue Fund of the state to be used and expended for the  
 56 purposes for which the General Revenue Fund was created and  
 57 exists by law or to the Ecosystem Management and Restoration  
 58 Trust Fund, ~~or to the Marine Resources Conservation Trust Fund,~~  
 59 or the General Inspection Trust Fund as provided in subsection  
 60 (11). Payments made under this paragraph shall continue until  
 61 the cumulative amount credited to the General Revenue Fund for  
 62 the fiscal year under this paragraph equals the cumulative  
 63 payments made under paragraph (1)(c) for the same fiscal year.

64 (11)(a) From the moneys specified in paragraphs (1)(e)  
 65 ~~(1)(d)~~ and (2)(a) and prior to deposit of any moneys into the  
 66 General Revenue Fund, \$30 million shall be paid into the State  
 67 Treasury to the credit of the Ecosystem Management and  
 68 Restoration Trust Fund in fiscal year 2000-2001 and each fiscal  
 69 year thereafter, to be used for the preservation and repair of  
 70 the state's beaches as provided in ss. 161.091-161.212, and \$2  
 71 million shall be paid into the State Treasury to the credit of  
 72 the Marine Resources Conservation Trust Fund to be used for  
 73 marine mammal care as provided in s. 370.0603(3).

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

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79 Section 2. Effective July 1, 2007, paragraph (e) of  
80 subsection (1) of section 201.15, Florida Statutes, as amended  
81 by section 26 of chapter 2005-290, Laws of Florida, and  
82 subsections (2), (11), and (13) of section 201.15, Florida  
83 Statutes, as amended by section 1 of chapter 2005-92, Laws of  
84 Florida, are amended to read:

85 201.15 Distribution of taxes collected.--All taxes  
86 collected under this chapter shall be distributed as follows and  
87 shall be subject to the service charge imposed in s. 215.20(1),  
88 except that such service charge shall not be levied against any  
89 portion of taxes pledged to debt service on bonds to the extent  
90 that the amount of the service charge is required to pay any  
91 amounts relating to the bonds:

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

95 (e) The remainder of the moneys distributed under this  
96 subsection, after the required payments under paragraphs (a),  
97 (b), (c), and (d) shall be paid into the State Treasury to the  
98 credit of the General Revenue Fund to be used and expended for  
99 the purposes for which the General Revenue Fund was created and  
100 exists by law or to the Ecosystem Management and Restoration  
101 Trust Fund, ~~or to~~ the Marine Resources Conservation Trust Fund,  
102 or the General Inspection Trust Fund as provided in subsection  
103 (11).

104 (2) The lesser of seven and fifty-six hundredths percent  
105 of the remaining taxes collected under this chapter or \$85.1

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106 | ~~\$84.9~~ million in each fiscal year shall be used for the  
107 | following purposes:

108 |       (a) Beginning in the month following the final payment for  
109 | a fiscal year under paragraph (1)(c), available moneys shall be  
110 | paid into the State Treasury to the credit of the General  
111 | Revenue Fund to be used and expended for the purposes for which  
112 | the General Revenue Fund was created and exists by law or to the  
113 | Ecosystem Management and Restoration Trust Fund, ~~or to the~~  
114 | Marine Resources Conservation Trust Fund, or the General  
115 | Inspection Trust Fund as provided in subsection (11). Payments  
116 | made under this paragraph shall continue until the cumulative  
117 | amount credited to the General Revenue Fund for the fiscal year  
118 | under this paragraph equals the cumulative payments made under  
119 | paragraph (1)(c) for the same fiscal year.

120 |       (b) The remainder of the moneys distributed under this  
121 | subsection shall be paid into the State Treasury to the credit  
122 | of the Land Acquisition Trust Fund. Sums deposited in the fund  
123 | pursuant to this subsection may be used for any purpose for  
124 | which funds deposited in the Land Acquisition Trust Fund may  
125 | lawfully be used.

126 |       (11) (a) From the moneys specified in paragraphs (1)(e)  
127 | ~~(1)(d)~~ and (2)(a) and prior to deposit of any moneys into the  
128 | General Revenue Fund, \$30 million shall be paid into the State  
129 | Treasury to the credit of the Ecosystem Management and  
130 | Restoration Trust Fund in fiscal year 2000-2001 and each fiscal  
131 | year thereafter, to be used for the preservation and repair of  
132 | the state's beaches as provided in ss. 161.091-161.212, and \$2  
133 | million shall be paid into the State Treasury to the credit of

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134 the Marine Resources Conservation Trust Fund to be used for  
135 marine mammal care as provided in s. 370.0603(3).

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

141 (13) The distribution of proceeds deposited into the Water  
142 Management Lands Trust Fund and the Conservation and Recreation  
143 Lands Trust Fund, pursuant to subsections (4) and (5), shall not  
144 be used for land acquisition, but may be used for preacquisition  
145 costs associated with land purchases. The Legislature intends  
146 that the Florida Forever program supplant the acquisition  
147 programs formerly authorized under ss. 259.032 and 373.59. ~~Prior~~  
148 ~~to the 2005 Regular Session of the Legislature, the Acquisition~~  
149 ~~and Restoration Council shall review and make recommendations to~~  
150 ~~the Legislature concerning the need to repeal this provision.~~  
151 ~~Based on these recommendations, the Legislature shall review the~~  
152 ~~need to repeal this provision during the 2005 Regular Session.~~

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

155 370.07 Wholesale and retail saltwater products dealers;  
156 regulation.--

157 (3) OYSTER MANAGEMENT AND RESTORATION PROGRAMS  
158 ~~APALACHICOLA BAY OYSTER SURCHARGE.--~~

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

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

165 ~~(c)1. Each wholesale dealer shall certify, on such forms~~  
166 ~~as may be prescribed by the Department of Revenue, to any~~  
167 ~~subsequent purchasing wholesale dealer or other purchaser that~~  
168 ~~the surcharge imposed by this subsection has been paid or will~~  
169 ~~be paid by such wholesale dealer first receiving the oysters.~~

170 ~~2. In the case where the harvester is also the wholesale~~  
171 ~~dealer, such wholesale dealer shall maintain documentation, on~~  
172 ~~forms as may be prescribed by the Department of Revenue,~~  
173 ~~adequate to establish that the surcharge has been paid or will~~  
174 ~~be paid by such wholesale dealer.~~

175 ~~3. In such case where the wholesale dealer is also the~~  
176 ~~retail dealer under paragraph (1)(b), such wholesale dealer~~  
177 ~~shall maintain documentation, on forms as may be prescribed by~~  
178 ~~the Department of Revenue, adequate to establish that the~~  
179 ~~surcharge has been paid or will be paid by such wholesale~~  
180 ~~dealer.~~

181 ~~(d) Except for the collection allowance pursuant to s.~~  
182 ~~212.12 and estimated tax filing requirements pursuant to s.~~  
183 ~~212.11, the same duties and privileges imposed by chapter 212~~  
184 ~~upon dealers of tangible personal property respecting the~~  
185 ~~remission of the surcharge, the making of returns, penalties and~~  
186 ~~interest, the keeping of books, records and accounts, and the~~  
187 ~~compliance with the rules of the Department of Revenue in the~~  
188 ~~administration of chapter 212 shall apply and be binding upon~~

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189 ~~all wholesale dealers who are subject to the surcharge imposed~~  
190 ~~by this subsection.~~

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

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

196 ~~(g) The Department of Revenue is empowered to promulgate~~  
197 ~~rules, establish audit procedures for the audit of wholesale~~  
198 ~~dealers, assess for delinquency, and prescribe and publish such~~  
199 ~~forms as may be necessary to effectuate the provisions of this~~  
200 ~~subsection.~~

201 ~~(h) Annually, the Department of Agriculture and Consumer~~  
202 ~~Services and the Fish and Wildlife Conservation Commission shall~~  
203 ~~furnish the Department of Revenue with a current list of~~  
204 ~~wholesale dealers in the state.~~

205 ~~(i) Collections received by the Department of Revenue from~~  
206 ~~the surcharge shall be transferred quarterly to the General~~  
207 ~~Inspection Trust Fund of the Department of Agriculture and~~  
208 ~~Consumer Services, less the costs of administration.~~

209 ~~(j) The executive director of the Department of Revenue is~~  
210 ~~hereby authorized to adopt emergency rules pursuant to s.~~  
211 ~~120.54(4) for purposes of implementing this subsection.~~  
212 ~~Notwithstanding any other provisions of law, such emergency~~  
213 ~~rules shall remain effective for 6 months from the date of~~  
214 ~~adoption. Other rules of the Department of Revenue related to~~  
215 ~~and in furtherance of the orderly implementation of this~~  
216 ~~subsection shall not be subject to a s. 120.56(2) rule challenge~~



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217 ~~or a s. 120.54(3)(c)2. drawout proceeding but, once adopted,~~  
 218 ~~shall be subject to a s. 120.56(3) invalidity challenge. Such~~  
 219 ~~rules shall be adopted by the Governor and Cabinet and shall~~  
 220 ~~become effective upon filing with the Department of State,~~  
 221 ~~notwithstanding the provisions of s. 120.54(3)(e)6.~~

222 ~~(k)~~ The Department of Agriculture and Consumer Services  
 223 shall use or distribute funds paid into the State Treasury to  
 224 the credit of the General Inspection Trust Fund pursuant to s.  
 225 201.15(11) generated by this surcharge, less reasonable costs of  
 226 ~~collection and~~ administration, to fund the following oyster  
 227 management and restoration programs in Apalachicola Bay and  
 228 other oyster harvest areas in the state:

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

230 (b)2. Shell planting to construct or rehabilitate oyster  
 231 bars.

232 (c)3. Education programs for licensed oyster harvesters on  
 233 oyster biology, aquaculture, boating and water safety,  
 234 sanitation, resource conservation, small business management,  
 235 and other relevant subjects.

236 (d)4. Research directed toward the enhancement of oyster  
 237 production in the bay and the water management needs of the bay.

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

240 161.091 Beach management; funding; repair and maintenance  
 241 strategy.--

242 (3) In accordance with the intent expressed in s. 161.088  
 243 and the legislative finding that erosion of the beaches of this  
 244 state is detrimental to tourism, the state's major industry,

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245 further exposes the state's highly developed coastline to severe  
 246 storm damage, and threatens beach-related jobs, which, if not  
 247 stopped, could significantly reduce state sales tax revenues,  
 248 funds deposited into the State Treasury to the credit of the  
 249 Ecosystem Management and Restoration Trust Fund, in the annual  
 250 amounts provided in s. 201.15(11)(a) ~~s. 201.15(11)~~, shall be  
 251 used, for a period of not less than 15 years, to fund the  
 252 development, implementation, and administration of the state's  
 253 beach management plan, as provided in ss. 161.091-161.212, prior  
 254 to the use of such funds deposited pursuant to s. 201.15(11)(a)  
 255 ~~s. 201.15(11)~~ in that trust fund for any other purpose.

256 Section 5. Section 213.05, Florida Statutes, is amended to  
 257 read:

258 213.05 Department of Revenue; control and administration  
 259 of revenue laws.--The Department of Revenue shall have only  
 260 those responsibilities for ad valorem taxation specified to the  
 261 department in chapter 192, taxation, general provisions; chapter  
 262 193, assessments; chapter 194, administrative and judicial  
 263 review of property taxes; chapter 195, property assessment  
 264 administration and finance; chapter 196, exemption; chapter 197,  
 265 tax collections, sales, and liens; chapter 199, intangible  
 266 personal property taxes; and chapter 200, determination of  
 267 millage. The Department of Revenue shall have the responsibility  
 268 of regulating, controlling, and administering all revenue laws  
 269 and performing all duties as provided in s. 125.0104, the Local  
 270 Option Tourist Development Act; s. 125.0108, tourist impact tax;  
 271 chapter 198, estate taxes; chapter 201, excise tax on documents;  
 272 chapter 202, communications services tax; chapter 203, gross

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273 receipts taxes; chapter 206, motor and other fuel taxes; chapter  
 274 211, tax on production of oil and gas and severance of solid  
 275 minerals; chapter 212, tax on sales, use, and other  
 276 transactions; chapter 220, income tax code; chapter 221,  
 277 emergency excise tax; ss. 336.021 and 336.025, taxes on motor  
 278 fuel and special fuel; ~~s. 370.07(3), Apalachicola Bay oyster~~  
 279 ~~surcharge~~; s. 376.11, pollutant spill prevention and control; s.  
 280 403.718, waste tire fees; s. 403.7185, lead-acid battery fees;  
 281 s. 538.09, registration of secondhand dealers; s. 538.25,  
 282 registration of secondary metals recyclers; s. 624.4621, group  
 283 self-insurer's fund premium tax; s. 624.5091, retaliatory tax;  
 284 s. 624.475, commercial self-insurance fund premium tax; ss.  
 285 624.509-624.511, insurance code: administration and general  
 286 provisions; s. 624.515, State Fire Marshal regulatory  
 287 assessment; s. 627.357, medical malpractice self-insurance  
 288 premium tax; s. 629.5011, reciprocal insurers premium tax; and  
 289 s. 681.117, motor vehicle warranty enforcement.

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

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