

CHAMBER ACTION

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1 The Agriculture & Environment Appropriations Committee  
2 recommends the following:

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4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

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

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23 surcharge; amending s. 213.05, F.S., to conform; providing  
24 effective dates.

25  
26 Be It Enacted by the Legislature of the State of Florida:

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

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

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

41 (e) The remainder of the moneys distributed under this  
42 subsection, after the required payments under paragraphs (a),  
43 (b), (c), and (d), shall be paid into the State Treasury to the  
44 credit of the General Revenue Fund of the state to be used and  
45 expended for the purposes for which the General Revenue Fund was  
46 created and exists by law or to the Ecosystem Management and  
47 Restoration Trust Fund, ~~or to~~ the Marine Resources Conservation  
48 Trust Fund, or the General Inspection Trust Fund as provided in  
49 subsection (11).

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

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

65 (11) From the moneys specified in paragraphs (1)(e) ~~(1)(d)~~  
66 and (2)(a) and prior to deposit of any moneys into the General  
67 Revenue Fund, \$30 million shall be paid into the State Treasury  
68 to the credit of the Ecosystem Management and Restoration Trust  
69 Fund in fiscal year 2000-2001 and each fiscal year thereafter,  
70 to be used for the preservation and repair of the state's  
71 beaches as provided in ss. 161.091-161.212, \$2 million shall be  
72 paid into the State Treasury to the credit of the Marine  
73 Resources Conservation Trust Fund to be used for marine mammal  
74 care as provided in s. 370.0603(3), and \$300,000 shall be paid  
75 into the State Treasury to the credit of the General Inspection  
76 Trust Fund in fiscal year 2006-2007 and each fiscal year

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77 | thereafter, to be used to fund oyster management and restoration  
78 | programs as provided in s. 370.07(3).

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).

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104 (2) The lesser of seven and fifty-six hundredths percent  
 105 of the remaining taxes collected under this chapter or \$84.9  
 106 million in each fiscal year shall be used for the following  
 107 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) From the moneys specified in paragraphs (1)(e) ~~(1)(d)~~  
 127 and (2)(a) and prior to deposit of any moneys into the General  
 128 Revenue Fund, \$30 million shall be paid into the State Treasury  
 129 to the credit of the Ecosystem Management and Restoration Trust  
 130 Fund in fiscal year 2000-2001 and each fiscal year thereafter,  
 131 to be used for the preservation and repair of the state's

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132 beaches as provided in ss. 161.091-161.212, ~~and~~ \$2 million shall  
 133 be paid into the State Treasury to the credit of the Marine  
 134 Resources Conservation Trust Fund to be used for marine mammal  
 135 care as provided in s. 370.0603(3), and \$300,000 shall be paid  
 136 into the State Treasury to the credit of the General Inspection  
 137 Trust Fund in fiscal year 2006-2007 and each fiscal year  
 138 thereafter, to be used to fund oyster management and restoration  
 139 programs as provided in s. 370.07(3).

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

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

154 370.07 Wholesale and retail saltwater products dealers;  
 155 regulation.--

156 (3) OYSTER MANAGEMENT AND RESTORATION PROGRAMS

157 ~~APALACHICOLA BAY OYSTER SURCHARGE.--~~

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

237 Section 4. Section 213.05, Florida Statutes, is amended to  
 238 read:

239 213.05 Department of Revenue; control and administration  
 240 of revenue laws.--The Department of Revenue shall have only  
 241 those responsibilities for ad valorem taxation specified to the  
 242 department in chapter 192, taxation, general provisions; chapter  
 243 193, assessments; chapter 194, administrative and judicial

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244 review of property taxes; chapter 195, property assessment  
 245 administration and finance; chapter 196, exemption; chapter 197,  
 246 tax collections, sales, and liens; chapter 199, intangible  
 247 personal property taxes; and chapter 200, determination of  
 248 millage. The Department of Revenue shall have the responsibility  
 249 of regulating, controlling, and administering all revenue laws  
 250 and performing all duties as provided in s. 125.0104, the Local  
 251 Option Tourist Development Act; s. 125.0108, tourist impact tax;  
 252 chapter 198, estate taxes; chapter 201, excise tax on documents;  
 253 chapter 202, communications services tax; chapter 203, gross  
 254 receipts taxes; chapter 206, motor and other fuel taxes; chapter  
 255 211, tax on production of oil and gas and severance of solid  
 256 minerals; chapter 212, tax on sales, use, and other  
 257 transactions; chapter 220, income tax code; chapter 221,  
 258 emergency excise tax; ss. 336.021 and 336.025, taxes on motor  
 259 fuel and special fuel; ~~s. 370.07(3), Apalachicola Bay oyster~~  
 260 ~~surcharge~~; s. 376.11, pollutant spill prevention and control; s.  
 261 403.718, waste tire fees; s. 403.7185, lead-acid battery fees;  
 262 s. 538.09, registration of secondhand dealers; s. 538.25,  
 263 registration of secondary metals recyclers; s. 624.4621, group  
 264 self-insurer's fund premium tax; s. 624.5091, retaliatory tax;  
 265 s. 624.475, commercial self-insurance fund premium tax; ss.  
 266 624.509-624.511, insurance code: administration and general  
 267 provisions; s. 624.515, State Fire Marshal regulatory  
 268 assessment; s. 627.357, medical malpractice self-insurance  
 269 premium tax; s. 629.5011, reciprocal insurers premium tax; and  
 270 s. 681.117, motor vehicle warranty enforcement.

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271           Section 5. On the effective date of this act, the  
272 Department of Revenue shall cease all efforts to collect any  
273 uncollected revenues due or payable pursuant to the 50-cent-per-  
274 bag surcharge that is abolished by this act.

275           Section 6. Except as otherwise expressly provided in this  
276 act, this act shall take effect upon becoming a law.