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HB 1249, Engrossed 1

2006 Legislature

1 A bill to be entitled

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

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Paragraph (e) of subsection (1), paragraph (a)
24 of subsection (2), and subsection (11) of section 201.15,
25 Florida Statutes, are amended to read:

26 201.15 Distribution of taxes collected.--All taxes
27 collected under this chapter shall be distributed as follows and

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28 shall be subject to the service charge imposed in s. 215.20(1),
 29 except that such service charge shall not be levied against any
 30 portion of taxes pledged to debt service on bonds to the extent
 31 that the amount of the service charge is required to pay any
 32 amounts relating to the bonds:

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

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

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

48 (a) Beginning in the month following the final payment for
 49 a fiscal year under paragraph (1)(c), available moneys shall be
 50 paid into the State Treasury to the credit of the General
 51 Revenue Fund of the state to be used and expended for the
 52 purposes for which the General Revenue Fund was created and
 53 exists by law or to the Ecosystem Management and Restoration
 54 Trust Fund, ~~or to~~ the Marine Resources Conservation Trust Fund,

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55 | or the General Inspection Trust Fund as provided in subsection
56 | (11). Payments made under this paragraph shall continue until
57 | the cumulative amount credited to the General Revenue Fund for
58 | the fiscal year under this paragraph equals the cumulative
59 | payments made under paragraph (1)(c) for the same fiscal year.

60 | (11) From the moneys specified in paragraphs (1)(e) ~~(1)(d)~~
61 | and (2)(a) and prior to deposit of any moneys into the General
62 | Revenue Fund, \$30 million shall be paid into the State Treasury
63 | to the credit of the Ecosystem Management and Restoration Trust
64 | Fund in fiscal year 2000-2001 and each fiscal year thereafter,
65 | to be used for the preservation and repair of the state's
66 | beaches as provided in ss. 161.091-161.212, \$2 million shall be
67 | paid into the State Treasury to the credit of the Marine
68 | Resources Conservation Trust Fund to be used for marine mammal
69 | care as provided in s. 370.0603(3), and \$300,000 shall be paid
70 | into the State Treasury to the credit of the General Inspection
71 | Trust Fund in fiscal year 2006-2007 and each fiscal year
72 | thereafter, to be used to fund oyster management and restoration
73 | programs as provided in s. 370.07(3).

74 | Section 2. Effective July 1, 2007, paragraph (e) of
75 | subsection (1) of section 201.15, Florida Statutes, as amended
76 | by section 26 of chapter 2005-290, Laws of Florida, and
77 | subsections (2), (11), and (13) of section 201.15, Florida
78 | Statutes, as amended by section 1 of chapter 2005-92, Laws of
79 | Florida, are amended to read:

80 | 201.15 Distribution of taxes collected.--All taxes
81 | collected under this chapter shall be distributed as follows and

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82 shall be subject to the service charge imposed in s. 215.20(1),
 83 except that such service charge shall not be levied against any
 84 portion of taxes pledged to debt service on bonds to the extent
 85 that the amount of the service charge is required to pay any
 86 amounts relating to the bonds:

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

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

99 (2) The lesser of seven and fifty-six hundredths percent
 100 of the remaining taxes collected under this chapter or \$84.9
 101 million in each fiscal year shall be used for the following
 102 purposes:

103 (a) Beginning in the month following the final payment for
 104 a fiscal year under paragraph (1)(c), available moneys shall be
 105 paid into the State Treasury to the credit of the General
 106 Revenue Fund to be used and expended for the purposes for which
 107 the General Revenue Fund was created and exists by law or to the
 108 Ecosystem Management and Restoration Trust Fund, ~~or to~~ the

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109 Marine Resources Conservation Trust Fund, or the General
110 Inspection Trust Fund as provided in subsection (11). Payments
111 made under this paragraph shall continue until the cumulative
112 amount credited to the General Revenue Fund for the fiscal year
113 under this paragraph equals the cumulative payments made under
114 paragraph (1)(c) for the same fiscal year.

115 (b) The remainder of the moneys distributed under this
116 subsection shall be paid into the State Treasury to the credit
117 of the Land Acquisition Trust Fund. Sums deposited in the fund
118 pursuant to this subsection may be used for any purpose for
119 which funds deposited in the Land Acquisition Trust Fund may
120 lawfully be used.

121 (11) From the moneys specified in paragraphs (1)(e) ~~(1)(d)~~
122 and (2)(a) and prior to deposit of any moneys into the General
123 Revenue Fund, \$30 million shall be paid into the State Treasury
124 to the credit of the Ecosystem Management and Restoration Trust
125 Fund in fiscal year 2000-2001 and each fiscal year thereafter,
126 to be used for the preservation and repair of the state's
127 beaches as provided in ss. 161.091-161.212, ~~and~~ \$2 million shall
128 be paid into the State Treasury to the credit of the Marine
129 Resources Conservation Trust Fund to be used for marine mammal
130 care as provided in s. 370.0603(3), and \$300,000 shall be paid
131 into the State Treasury to the credit of the General Inspection
132 Trust Fund in fiscal year 2006-2007 and each fiscal year
133 thereafter, to be used to fund oyster management and restoration
134 programs as provided in s. 370.07(3).

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

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

149 370.07 Wholesale and retail saltwater products dealers;
 150 regulation.--

151 (3) OYSTER MANAGEMENT AND RESTORATION PROGRAMS
 152 ~~APALACHICOLA BAY OYSTER SURCHARGE.~~--

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

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

159 ~~(c)1. Each wholesale dealer shall certify, on such forms~~
 160 ~~as may be prescribed by the Department of Revenue, to any~~
 161 ~~subsequent purchasing wholesale dealer or other purchaser that~~

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162 ~~the surcharge imposed by this subsection has been paid or will~~
 163 ~~be paid by such wholesale dealer first receiving the oysters.~~

164 ~~2. In the case where the harvester is also the wholesale~~
 165 ~~dealer, such wholesale dealer shall maintain documentation, on~~
 166 ~~forms as may be prescribed by the Department of Revenue,~~
 167 ~~adequate to establish that the surcharge has been paid or will~~
 168 ~~be paid by such wholesale dealer.~~

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

175 ~~(d) Except for the collection allowance pursuant to s.~~
 176 ~~212.12 and estimated tax filing requirements pursuant to s.~~
 177 ~~212.11, the same duties and privileges imposed by chapter 212~~
 178 ~~upon dealers of tangible personal property respecting the~~
 179 ~~remission of the surcharge, the making of returns, penalties and~~
 180 ~~interest, the keeping of books, records and accounts, and the~~
 181 ~~compliance with the rules of the Department of Revenue in the~~
 182 ~~administration of chapter 212 shall apply and be binding upon~~
 183 ~~all wholesale dealers who are subject to the surcharge imposed~~
 184 ~~by this subsection.~~

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

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

190 ~~(g) The Department of Revenue is empowered to promulgate~~
 191 ~~rules, establish audit procedures for the audit of wholesale~~
 192 ~~dealers, assess for delinquency, and prescribe and publish such~~
 193 ~~forms as may be necessary to effectuate the provisions of this~~
 194 ~~subsection.~~

195 ~~(h) Annually, the Department of Agriculture and Consumer~~
 196 ~~Services and the Fish and Wildlife Conservation Commission shall~~
 197 ~~furnish the Department of Revenue with a current list of~~
 198 ~~wholesale dealers in the state.~~

199 ~~(i) Collections received by the Department of Revenue from~~
 200 ~~the surcharge shall be transferred quarterly to the General~~
 201 ~~Inspection Trust Fund of the Department of Agriculture and~~
 202 ~~Consumer Services, less the costs of administration.~~

203 ~~(j) The executive director of the Department of Revenue is~~
 204 ~~hereby authorized to adopt emergency rules pursuant to s.~~
 205 ~~120.54(4) for purposes of implementing this subsection.~~
 206 ~~Notwithstanding any other provisions of law, such emergency~~
 207 ~~rules shall remain effective for 6 months from the date of~~
 208 ~~adoption. Other rules of the Department of Revenue related to~~
 209 ~~and in furtherance of the orderly implementation of this~~
 210 ~~subsection shall not be subject to a s. 120.56(2) rule challenge~~
 211 ~~or a s. 120.54(3)(c)2. drawout proceeding but, once adopted,~~
 212 ~~shall be subject to a s. 120.56(3) invalidity challenge. Such~~
 213 ~~rules shall be adopted by the Governor and Cabinet and shall~~

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214 ~~become effective upon filing with the Department of State,~~
 215 ~~notwithstanding the provisions of s. 120.54(3)(e)6.~~

216 ~~(k)~~ The Department of Agriculture and Consumer Services
 217 shall use or distribute funds paid into the State Treasury to
 218 the credit of the General Inspection Trust Fund pursuant to s.
 219 201.15(11) generated by this surcharge, less reasonable costs of
 220 ~~collection and~~ administration, to fund the following oyster
 221 management and restoration programs in Apalachicola Bay and
 222 other oyster harvest areas in the state:

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

224 (b)2. Shell planting to construct or rehabilitate oyster
 225 bars.

226 (c)3. Education programs for licensed oyster harvesters on
 227 oyster biology, aquaculture, boating and water safety,
 228 sanitation, resource conservation, small business management,
 229 and other relevant subjects.

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

232 Section 4. Section 213.05, Florida Statutes, is amended to
 233 read:

234 213.05 Department of Revenue; control and administration
 235 of revenue laws.--The Department of Revenue shall have only
 236 those responsibilities for ad valorem taxation specified to the
 237 department in chapter 192, taxation, general provisions; chapter
 238 193, assessments; chapter 194, administrative and judicial
 239 review of property taxes; chapter 195, property assessment
 240 administration and finance; chapter 196, exemption; chapter 197,

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

266 Section 5. On the effective date of this act, the
267 Department of Revenue shall cease all efforts to collect any

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268 | uncollected revenues due or payable pursuant to the 50-cent-per-
269 | bag surcharge that is abolished by this act.

270 | Section 6. Except as otherwise expressly provided in this
271 | act, this act shall take effect upon becoming a law.