

By the Committee on Community Affairs; and Senator Bennett

578-2663-07

1 A bill to be entitled

2 An act relating to the protection and

3 restoration of seagrass beds; creating a pilot

4 program for the restoration of seagrass beds

5 within specified counties and related natural

6 resources; providing definitions; providing

7 legislative findings and purposes; requiring

8 that damages recovered for injury to, and the

9 destruction of, seagrass beds in certain

10 counties, and related natural resources be

11 deposited into the Ecosystem Management and

12 Restoration Trust Fund; requiring the

13 Department of Environmental Protection to

14 expend the funds for restoration, assessment,

15 or rehabilitation of seagrass beds and natural

16 resources; providing criteria governing such

17 expenditures by the department; providing for

18 auditing and reporting by a private recipient

19 of funds; prohibiting any reduction of certain

20 appropriations to a state agency that receives

21 funds under the act; requiring that the

22 department report to the Legislature whether

23 the pilot program should be expanded;

24 authorizing rulemaking by the department;

25 amending s. 253.04, F.S.; providing that

26 careless operation of a vessel outside a marked

27 channel which causes propeller scarring in an

28 aquatic preserve is a civil infraction;

29 defining the terms "propeller scarring" and

30 "seagrasses"; providing that refusal to post

31 bond or sign a boating citation is a

1 second-degree misdemeanor; requiring that civil
2 penalties collected for the careless operation
3 of a vessel be deposited into the Internal
4 Improvement Trust Fund and used for specified
5 purposes; amending s. 327.73, F.S.; providing
6 civil penalties; requiring the Office of
7 Program Policy Analysis and Government
8 Accountability to evaluate the recreational
9 marine industry and report to the Legislature;
10 amending s. 327.803, F.S.; increasing the
11 number of members of the Boating Advisory
12 Council; adding a representative of the
13 recreational airboating community; amending s.
14 403.1651, F.S., relating to the Ecosystem
15 Management and Restoration Trust Fund;
16 conforming provisions to changes made by the
17 act; providing effective dates.

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

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21 Section 1. Pilot program for the restoration of
22 seagrass beds.--

23 (1) As used in this section, the term:

24 (a) "Damages" means money damages paid by any person,
25 whether voluntarily or as a result of administrative or
26 judicial action, to the state as compensation, restitution, or
27 punitive damages for causing injury to, or the destruction of,
28 the seagrass beds of Brevard County, Lee County, Manatee
29 County, Monroe County, or Pinellas County or to the natural
30 resources that depend on the health and productivity of those
31 seagrass beds.

1 **(b) "Fund" means the Ecosystem Management and**
2 **Restoration Trust Fund.**

3 **(c) "Natural resources" means land, air, water, ground**
4 **water, drinking water supplies, fish and their habitats,**
5 **wildlife and their habitats, biota, and other such resources**
6 **belonging to, managed by, held in trust by, appertaining to,**
7 **or otherwise controlled by the state.**

8 **(d) "Seagrass bed" means a community of flowering**
9 **underwater plants which is located in shallow marine waters,**
10 **such as in a bay or lagoon, or along the continental shelf in**
11 **the Gulf of Mexico.**

12 **(2) The Legislature finds that:**

13 **(a) The preservation of seagrass beds is critical to**
14 **protecting the marine life, water quality, and ocean-based**
15 **economy of this state. Seagrass beds maintain water quality**
16 **and provide food, habitat, and nursery areas for numerous**
17 **species of marine life. This state's multimillion-dollar**
18 **fishing and diving industries depend on the health and**
19 **productivity of the seagrass beds. Estimates indicate that**
20 **thousands of acres of seagrass beds in this state have been**
21 **scarred from boat propellers. Impacts from boat groundings**
22 **fragment the grass bed, restricting the movement of the marine**
23 **life that depends upon the habitat. Seagrass beds can take up**
24 **to a decade to recover from propeller scars.**

25 **(b) Seagrass beds and the natural resources that**
26 **depend on the health and productivity of seagrass beds are**
27 **subject to instantaneous injury or loss from a variety of**
28 **negligent and willful acts in ways that cannot be foreseen and**
29 **provided for in the normal budget process. Due to the**
30 **unforseeability of such incidents, funds have not been**
31 **available for reimbursement of extraordinary expenses incurred**

1 by the Department of Environmental Protection in seeking
2 compensation, on behalf of the residents of the state, for the
3 injury to, or destruction of, these natural resources. As a
4 result, a significant amount of monetary damages recovered by
5 the state for injury to, or destruction of, its seagrass beds
6 and the natural resources that depend on the health and
7 productivity of seagrass beds are deposited into the general
8 accounts of the State Treasury and are not specifically set
9 aside for the restoration or rehabilitation of the injured or
10 destroyed natural resources in areas of the state where the
11 injury or loss occurred.

12 (3) The purpose of this section is to establish a
13 pilot program that provides for the immediate stabilization
14 and restoration of seagrass beds in Brevard, Lee, Manatee,
15 Monroe, and Pinellas Counties where damage has occurred and to
16 remediate the injury to, or destruction of, natural resources
17 that are dependent upon the health and productivity of those
18 seagrass beds.

19 (4)(a) All damages recovered by or on behalf of the
20 state for injury to, or destruction of, the seagrass beds in
21 Brevard, Lee, Manatee, Monroe, and Pinellas Counties, or to
22 the natural resources that depend on the health and
23 productivity of those seagrass beds, which would otherwise be
24 deposited into the general revenue accounts of the State
25 Treasury or into the Internal Improvement Trust Fund shall be
26 deposited into the Ecosystem Management and Restoration Trust
27 Fund and shall remain in that fund until expended by the
28 Department of Environmental Protection under the pilot program
29 established in this section.

30 (b) Moneys in the fund shall be expended only for
31 restoration, assessment, or rehabilitation of such injured or

1 destroyed seagrass beds and natural resources through a
2 contract with a qualified person. In order to prevent further
3 erosion, turbidity, and potential loss of natural resources,
4 each contract must require assessment and stabilization of the
5 seagrass bed within 30 days after an incident that damages the
6 seagrass bed occurs, must use a stabilization protocol
7 following the guidelines in the Final Programmatic
8 Environmental Impact Statement for Seagrass Restoration in the
9 Florida Keys National Marine Sanctuary, and must use only
10 those stabilization techniques that are scientifically proven
11 and published in peer-reviewed literature.

12 (5)(a) Each recipient of disbursements from the fund
13 must agree in advance that its accounts and records of
14 expenditures of such moneys are subject to audit at any time
15 by appropriate state officials and shall submit a final
16 written report describing its expenditures within 90 days
17 after the moneys are expended.

18 (b) When payments are made to a state agency from the
19 fund under paragraph (4)(a), such payments shall be considered
20 as payments for extraordinary expenses, and other
21 appropriations to that agency may not be reduced by any amount
22 as a result of such payments.

23 (6) The Department of Environmental Protection shall
24 evaluate the pilot program and report to the President of the
25 Senate and the Speaker of the House of Representatives on
26 whether the pilot program should be expanded in order to
27 restore additional areas of the state's seagrass beds and
28 natural resources. The report on the pilot program is due by
29 January 1, 2009.

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1 (7) The Department of Environmental Protection may
2 adopt rules under ss. 120.536(1) and 120.54, Florida Statutes,
3 to administer this section.

4 Section 2. Effective October 1, 2007, present
5 subsections (4), (5), (6), and (7) of section 253.04, Florida
6 Statutes, are redesignated as subsections (5), (6), (7), and
7 (8), respectively, and a new subsection (4) is added to that
8 section, to read:

9 253.04 Duty of board to protect, etc., state lands;
10 state may join in any action brought.--

11 (4)(a) Any person operating a vessel outside a
12 lawfully marked channel in a careless manner that causes
13 propeller scarring within an aquatic preserve commits a civil
14 infraction, punishable as provided in s. 327.73. Each
15 violation is a separate offense. As used in this subsection,
16 the term:

17 1. "Propeller scarring" means damage caused by the
18 operation of a vessel in waters supporting seagrasses,
19 resulting in the destruction of roots, shoots, or stems of
20 seagrass plants, which causes denuding of vegetation in tracks
21 of sediment commonly referred to as prop-scars or propeller
22 scars.

23 2. "Seagrasses" means Cuban shoal grass (Halodule
24 wrightii), turtle grass (Thalassia testudinum), manatee grass
25 (Syringodium filiforme), star grass (Halophila engelmannii),
26 paddle grass (Halophila decipiens), Johnson's seagrass
27 (Halophila johnsonii), or widgeon grass (Ruppia maritima).

28 (b) Any violation of this subsection is a violation of
29 the boating laws of this state and shall be charged on a
30 uniform boating citation as provided in s. 327.74. Any person
31 who refuses to post a bond or accept and sign a uniform

1 boating citation commits a misdemeanor of the second degree as
2 provided in s. 327.73(3), punishable as provided in s. 775.082
3 or s. 775.083.

4 (c) All civil penalties imposed and collected pursuant
5 to this subsection shall be deposited into the Internal
6 Improvement Trust Fund and used solely to implement,
7 administer, and enforce this subsection; provide for seagrass
8 restoration; and conduct a program to educate vessel operators
9 about the need to protect seagrasses from damage caused by the
10 operation of vessels.

11 Section 3. Effective October 1, 2007, paragraph (x) is
12 added to subsection (1) of section 327.73, Florida Statutes,
13 and subsection (8) of that section is amended, to read:

14 327.73 Noncriminal infractions.--

15 (1) Violations of the following provisions of the
16 vessel laws of this state are noncriminal infractions:

17 (x) Section 253.04(4)(a), relating to carelessly
18 causing propeller scarring in an aquatic preserve, for which
19 the civil penalty is:

20 1. Fifty dollars upon conviction for a first offense;

21 2. Two hundred and fifty dollars upon conviction for a
22 second offense occurring within 12 months after a prior
23 conviction;

24 3. Five hundred dollars upon conviction for a third
25 offense occurring within 36 months after a prior conviction;

26 4. One thousand dollars upon conviction for a fourth
27 or subsequent offense.

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29 Any person cited for a violation of any such provision shall
30 be deemed to be charged with a noncriminal infraction, shall
31 be cited for such an infraction, and shall be cited to appear

1 before the county court. The civil penalty for any such
2 infraction is \$50, except as otherwise provided in this
3 section. Any person who fails to appear or otherwise properly
4 respond to a uniform boating citation shall, in addition to
5 the charge relating to the violation of the boating laws of
6 this state, be charged with the offense of failing to respond
7 to such citation and, upon conviction, be guilty of a
8 misdemeanor of the second degree, punishable as provided in s.
9 775.082 or s. 775.083. A written warning to this effect shall
10 be provided at the time such uniform boating citation is
11 issued.

12 (8) Except as otherwise provided in s. 253.04(4)(c),
13 all fees and civil penalties assessed and collected pursuant
14 to this section shall be remitted by the clerk of the court to
15 the Department of Revenue to be deposited into the Marine
16 Resources Conservation Trust Fund for boating safety education
17 purposes.

18 Section 4. The Office of Program Policy Analysis and
19 Government Accountability shall evaluate the overall impact of
20 the recreational marine industry in this state and report its
21 findings to the Legislature by January 1, 2008. The evaluation
22 must:

23 (1) Include a review of the incentives that are
24 currently available to retain or expand businesses associated
25 with recreational marine industry in this state and a
26 comparison of such incentives to incentives available to
27 retain or expand such businesses in states having a notable
28 recreational marine-industry presence, including North
29 Carolina, Maryland, and Washington.

30 (2) Examine how many recreational marine-industry
31 businesses have left this state and relocated out of state and

1 identify potential policies to retain and expand recreational
2 marine businesses in this state.

3 (3) Examine the economic impact of the recreational
4 marine industry in total dollars and jobs and review efforts
5 related to workforce retention and attraction, slip shortages,
6 ramp accessibility and shortages, and the impacts of boaters
7 who are residents in comparison to boaters who are transients.

8 Section 5. Subsection (1) of section 327.803, Florida
9 Statutes, is amended to read:

10 327.803 Boating Advisory Council.--

11 (1) The Boating Advisory Council is created within the
12 Fish and Wildlife Conservation Commission and shall be
13 composed of 19 ~~18~~ members. The members include:

14 (a) One representative from the Fish and Wildlife
15 Conservation Commission, who shall serve as the chair of the
16 council.

17 (b) One representative each from the Department of
18 Environmental Protection, the United States Coast Guard
19 Auxiliary, the United States Power Squadron, and the inland
20 navigation districts.

21 (c) One representative of manatee protection
22 interests, one representative of the marine industries, one
23 representative of water-related environmental groups, one
24 representative of canoe or kayak enthusiasts, one
25 representative of marine manufacturers, one representative of
26 commercial vessel owners or operators, one representative of
27 marine special events, one representative actively involved
28 and working full-time in the scuba diving industry who has
29 experience in recreational boating, one representative of
30 either the commercial fishing industry or the commercial
31 shellfishing industry, one representative of the recreational

1 airboating community, and two representatives of the boating
2 public, each of whom shall be nominated by the executive
3 director of the Fish and Wildlife Conservation Commission and
4 appointed by the Governor to serve staggered 3-year terms.
5 Members appointed by the Governor may serve no more than two
6 full consecutive terms.

7 (d) One member of the House of Representatives, who
8 shall be appointed by the Speaker of the House of
9 Representatives.

10 (e) One member of the Senate, who shall be appointed
11 by the President of the Senate.

12 Section 6. Paragraph (f) is added to subsection (1) of
13 section 403.1651, Florida Statutes, and paragraph (b) of
14 subsection (2) of that section is amended, to read:

15 403.1651 Ecosystem Management and Restoration Trust
16 Fund.--

17 (1) There is created the Ecosystem Management and
18 Restoration Trust Fund to be administered by the Department of
19 Environmental Protection for the purposes of:

20 (f) Funding the expenditures authorized under section
21 1 of this act.

22 (2) The trust fund shall be used for the deposit of
23 all moneys recovered by the state:

24 (b) For injury to or destruction of coral reefs, sea
25 grass beds, or natural resources under section 1 of this act
26 and s. 380.0558, which moneys would otherwise be deposited
27 into the General Revenue Fund or the Internal Improvement
28 Trust Fund.

29 Section 7. Except as otherwise expressly provided in
30 this act, this act shall take effect July 1, 2007.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 2178

The committee substitute increases the number of members on the Florida Boating Advisory Council from 18 members to 19 members and adds a representative of the recreational airboating community to the council. The committee substitute creates a noncriminal violation for careless operation of a vessel outside a marked channel in an aquatic preserve, and requires that penalties collected for violations be deposited into the Internal Improvement Trust Fund to be used for specified purposes. The Legislature's Office of Program Policy Analysis and Government Accountability is directed to evaluate the recreational marine industry and report back to the Legislature.