

By Senator Bennett

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1                   A bill to be entitled  
2           An act relating to the protection and restoration of  
3           seagrass beds; creating a pilot program for the  
4           restoration of seagrass beds within specified counties and  
5           related natural resources; providing definitions;  
6           providing legislative findings and purposes; requiring  
7           that damages recovered for injury to, and the destruction  
8           of, seagrass beds in certain counties and related natural  
9           resources be deposited into the Ecosystem Management and  
10          Restoration Trust Fund; requiring the Department of  
11          Environmental Protection to expend the funds for  
12          restoration, assessment, or rehabilitation of seagrass  
13          beds and natural resources; providing criteria governing  
14          such expenditures by the department; providing for  
15          auditing and reporting by a private recipient of funds;  
16          prohibiting any reduction of other appropriations to a  
17          state agency that receives funds under the act; requiring  
18          that the department report to the Legislature whether the  
19          pilot program should be expanded; authorizing rulemaking  
20          by the department; amending s. 253.04, F.S.; providing  
21          that careless operation of a vessel outside a marked  
22          channel which causes propeller scarring in an aquatic  
23          preserve is a civil infraction; defining the terms  
24          "propeller scarring" and "seagrasses"; providing that  
25          refusal to post bond or sign a boating citation is a  
26          second-degree misdemeanor; requiring that civil penalties  
27          collected for the careless operation of a vessel be  
28          deposited into the Internal Improvement Trust Fund and  
29          used for specified purposes; amending s. 327.73, F.S.;

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30 providing civil penalties; requiring the Office of Program  
31 Policy Analysis and Government Accountability to evaluate  
32 the recreational marine industry and report to the  
33 Legislature; amending s. 327.803, F.S.; increasing the  
34 number of members of the Boating Advisory Council; adding  
35 a representative of the recreational airboating community;  
36 amending s. 403.1651, F.S., relating to the Ecosystem  
37 Management and Restoration Trust Fund; conforming  
38 provisions to changes made by the act; providing effective  
39 dates.

40  
41 Be It Enacted by the Legislature of the State of Florida:

42  
43 Section 1. Pilot program for the restoration of seagrass  
44 beds.--

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

46 (a) "Damages" means money damages paid by any person,  
47 whether voluntarily or as a result of administrative or judicial  
48 action, to the state as compensation, restitution, or punitive  
49 damages for causing injury to or the destruction of the seagrass  
50 beds of Brevard County, Lee County, Manatee County, Monroe  
51 County, or Pinellas County or the natural resources that depend  
52 on the health and productivity of those seagrass beds.

53 (b) "Fund" means the Ecosystem Management and Restoration  
54 Trust Fund.

55 (c) "Natural resources" means land, air, water, ground  
56 water, drinking water supplies, fish and their habitats, wildlife  
57 and their habitats, biota, and other such resources belonging to,  
58 managed by, held in trust by, appertaining to, or otherwise

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59 controlled by the state.

60 (d) "Seagrass bed" means a community of flowering  
61 underwater plants which is located in shallow marine waters, such  
62 as in a bay or lagoon, or along the continental shelf in the Gulf  
63 of Mexico.

64 (2) The Legislature finds that:

65 (a) The preservation of seagrass beds is critical to  
66 protecting the marine life, water quality, and ocean-based  
67 economy of this state. Seagrass beds maintain water quality and  
68 provide food, habitat, and nursery areas for numerous species of  
69 marine life. This state's multimillion-dollar fishing and diving  
70 industries depend on the health and productivity of the seagrass  
71 beds. Estimates indicate that thousands of acres of seagrass beds  
72 in this state have been scarred from boat propellers. Impacts  
73 from boat groundings fragment the grass bed, restricting the  
74 movement of the marine life that depends upon the habitat.  
75 Seagrass beds can take up to a decade to recover from propeller  
76 scars.

77 (b) Seagrass beds and the natural resources that depend on  
78 the health and productivity of seagrass beds are subject to  
79 instantaneous injury or loss from a variety of negligent and  
80 willful acts in ways that cannot be foreseen and provided for in  
81 the normal budget process. Due to the unforeseeability of such  
82 incidents, funds have not been available for reimbursement of  
83 extraordinary expenses incurred by the Department of  
84 Environmental Protection in seeking compensation, on behalf of  
85 the residents of the state, for the injury to or destruction of  
86 these natural resources. As a result, a significant amount of  
87 monetary damages recovered by the state for injury to or

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88 destruction of its seagrass beds and the natural resources that  
89 depend on the health and productivity of seagrass beds are  
90 deposited into the general accounts of the State Treasury and are  
91 not specifically set aside for the restoration or rehabilitation  
92 of the injured or destroyed natural resources in areas of the  
93 state where the injury or loss occurred.

94 (3) The purpose of this section is to establish a pilot  
95 program that provides for the immediate stabilization and  
96 restoration of seagrass beds in Brevard, Lee, Manatee, Monroe,  
97 and Pinellas Counties where damage has occurred and to remediate  
98 the injury to or destruction of natural resources that are  
99 dependent upon the health and productivity of those seagrass  
100 beds.

101 (4) (a) All damages recovered by or on behalf of the state  
102 for injury to or destruction of the seagrass beds in Brevard,  
103 Lee, Manatee, Monroe, and Pinellas Counties, or the natural  
104 resources that depend on the health and productivity of those  
105 seagrass beds which would otherwise be deposited into the general  
106 revenue accounts of the State Treasury or into the Internal  
107 Improvement Trust Fund shall be deposited into the Ecosystem  
108 Management and Restoration Trust Fund and shall remain in that  
109 fund until expended by the Department of Environmental Protection  
110 under the pilot program established in this section.

111 (b) Moneys in the fund shall be expended only for  
112 restoration, assessment, or rehabilitation of such injured or  
113 destroyed seagrass beds and natural resources through a contract  
114 with a qualified person. In order to prevent further erosion,  
115 turbidity, and potential loss of natural resources, each contract  
116 must require assessment and stabilization of the seagrass bed

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117 within 30 days after an incident that damages the seagrass bed  
118 occurs, must use a stabilization protocol following the  
119 guidelines in the Final Programmatic Environmental Impact  
120 Statement for Seagrass Restoration in the Florida Keys National  
121 Marine Sanctuary, and must use only those stabilization  
122 techniques that are scientifically proven and published in peer-  
123 reviewed literature.

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

129 (b) When payments are made to a state agency from the fund  
130 under paragraph (4) (a), such payments shall be considered as  
131 payments for extraordinary expenses, and other appropriations to  
132 that agency may not be reduced by any amount as a result of such  
133 payments.

134 (6) The Department of Environmental Protection shall  
135 evaluate the pilot program and report to the President of the  
136 Senate and the Speaker of the House of Representatives on whether  
137 the pilot program should be expanded in order to restore  
138 additional areas of the state's seagrass beds and natural  
139 resources. The report on the pilot program is due by January 1,  
140 2010.

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

144 Section 2. Effective October 1, 2008, present subsections  
145 (4), (5), (6), and (7) of section 253.04, Florida Statutes, are

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146 redesignated as subsections (5), (6), (7), and (8), respectively,  
147 and a new subsection (4) is added to that section, to read:

148       253.04 Duty of board to protect, etc., state lands; state  
149 may join in any action brought.--

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

155       1. "Propeller scarring" means damage caused by the  
156 operation of a vessel in waters supporting seagrasses, resulting  
157 in the destruction of roots, shoots, or stems of seagrass plants,  
158 which causes denuding of vegetation in tracks of sediment  
159 commonly referred to as prop-scars or propeller scars.

160       2. "Seagrasses" means Cuban shoal grass (Halodule  
161 wrightii), turtle grass (Thalassia testudinum), manatee grass  
162 (Syringodium filiforme), star grass (Halophila engelmannii),  
163 paddle grass (Halophila decipiens), Johnson's seagrass (Halophila  
164 johnsonii), or widgeon grass (Ruppia maritima).

165       (b) Any violation of this subsection is a violation of the  
166 boating laws of this state and shall be charged on a uniform  
167 boating citation as provided in s. 327.74. Any person who refuses  
168 to post a bond or accept and sign a uniform boating citation  
169 commits a misdemeanor of the second degree as provided in s.  
170 327.73(3), punishable as provided in s. 775.082 or s. 775.083.

171       (c) All civil penalties imposed and collected pursuant to  
172 this subsection shall be deposited into the Internal Improvement  
173 Trust Fund and used solely to implement, administer, and enforce  
174 this subsection; provide for seagrass restoration; and conduct a

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175 program to educate vessel operators about the need to protect  
176 seagrasses from damage caused by the operation of vessels.

177 Section 3. Effective October 1, 2008, paragraph (x) is  
178 added to subsection (1) of section 327.73, Florida Statutes, and  
179 subsection (8) of that section is amended, to read:

180 327.73 Noncriminal infractions.--

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

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

186 1. Fifty dollars upon conviction for a first offense.

187 2. Two hundred and fifty dollars upon conviction for a  
188 second offense occurring within 12 months after a prior  
189 conviction.

190 3. Five hundred dollars upon conviction for a third offense  
191 occurring within 36 months after a prior conviction.

192 4. One thousand dollars upon conviction for a fourth or  
193 subsequent offense.

194  
195 Any person cited for a violation of any such provision shall be  
196 deemed to be charged with a noncriminal infraction, shall be  
197 cited for such an infraction, and shall be cited to appear before  
198 the county court. The civil penalty for any such infraction is  
199 \$50, except as otherwise provided in this section. Any person who  
200 fails to appear or otherwise properly respond to a uniform  
201 boating citation shall, in addition to the charge relating to the  
202 violation of the boating laws of this state, be charged with the  
203 offense of failing to respond to such citation and, upon

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204 conviction, be guilty of a misdemeanor of the second degree,  
205 punishable as provided in s. 775.082 or s. 775.083. A written  
206 warning to this effect shall be provided at the time such uniform  
207 boating citation is issued.

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

213 Section 4. The Office of Program Policy Analysis and  
214 Government Accountability shall evaluate the recreational marine  
215 industry in this state and report its findings to the Legislature  
216 by January 1, 2009. The evaluation must:

217 (1) Include a review of the incentives that are currently  
218 available to retain or expand businesses associated with  
219 recreational marine industry in this state and a comparison of  
220 such incentives to incentives available to retain or expand such  
221 businesses in states having a notable recreational marine-  
222 industry presence, including North Carolina, Maryland, and  
223 Washington.

224 (2) Examine how many recreational marine-industry  
225 businesses have left this state and relocated out of state and  
226 identify potential policies to retain and expand recreational  
227 marine businesses in this state.

228 (3) Examine the economic effects of the recreational marine  
229 industry in total dollars and jobs and review efforts related to  
230 workforce retention and attraction, slip shortages, ramp  
231 accessibility and shortages, and the significance of boaters who  
232 are residents in comparison to boaters who are transients.

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

235 327.803 Boating Advisory Council.--

236 (1) The Boating Advisory Council is created within the Fish  
237 and Wildlife Conservation Commission and shall be composed of 19  
238 ~~18~~ members. The members include:

239 (a) One representative from the Fish and Wildlife  
240 Conservation Commission, who shall serve as the chair of the  
241 council.

242 (b) One representative each from the Department of  
243 Environmental Protection, the United States Coast Guard  
244 Auxiliary, the United States Power Squadron, and the inland  
245 navigation districts.

246 (c) One representative of manatee protection interests, one  
247 representative of the marine industries, one representative of  
248 water-related environmental groups, one representative of canoe  
249 or kayak enthusiasts, one representative of marine manufacturers,  
250 one representative of commercial vessel owners or operators, one  
251 representative of marine special events, one representative  
252 actively involved and working full-time in the scuba diving  
253 industry who has experience in recreational boating, one  
254 representative of either the commercial fishing industry or the  
255 commercial shellfishing industry, one representative of the  
256 recreational airboating community, and two representatives of the  
257 boating public, each of whom shall be nominated by the executive  
258 director of the Fish and Wildlife Conservation Commission and  
259 appointed by the Governor to serve staggered 3-year terms.  
260 Members appointed by the Governor may serve no more than two full  
261 consecutive terms.

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262 (d) One member of the House of Representatives, who shall  
263 be appointed by the Speaker of the House of Representatives.

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

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

269 403.1651 Ecosystem Management and Restoration Trust Fund.--

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

273 (f) Funding the expenditures authorized under section 1 of  
274 this act.

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

277 (b) For injury to or destruction of coral reefs, sea grass  
278 beds, or natural resources under section 1 of this act and s.  
279 380.0558, which moneys would otherwise be deposited into the  
280 General Revenue Fund or the Internal Improvement Trust Fund.

281 Section 7. Except as otherwise expressly provided in this  
282 act, this act shall take effect July 1, 2008.