

**STORAGE NAME:** s0186s1z.wrm  
**DATE:** June 20, 2000

**\*\*AS PASSED BY THE LEGISLATURE\*\***  
**CHAPTER #:**2000-197, Laws of Florida

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
WATER & RESOURCE MANAGEMENT  
FINAL ANALYSIS**

**BILL #:** CS/SB 186, 2nd Engrossed  
**RELATING TO:** Environmental Reorganization  
**SPONSOR(S):** Senate Committee on Natural Resources  
**TIED BILL(S):** None

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) Natural Resources YEAS 6 NAYS 0
  - (2) Fiscal Policy (W/D)
  - (3)
  - (4)
  - (5)
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**I. SUMMARY:**

CS/SB 186, 2nd Engrossed, contains technical revisions to provisions in statute which are necessary due to the creation of the Fish & Wildlife Conservation Commission (FWCC) as required by the passage of Revision #5 to the State Constitution during the November 1998 General Election. The FWCC was created by the Legislature during the 1999 General Session by the passage of CS/CS/SB 864, enacted as Chapter 99-245, Laws of Florida (L.O.F.).

CS/SB 186, 2nd Engrossed, amends chapter 370, Florida Statutes, relating to saltwater fisheries to show the transfer of regulatory authority for marine life from the Department of Environmental Protection (DEP) to the FWCC, and amends chapter 372, Florida Statutes, relating to hunting and freshwater fishing, to correct references to the former Game & Fresh Water Fish Commission (GFC). The bill aligns the administrative structure of DEP with organizational restructuring due to the merger, clarifies conditions under which the FWCC must adopt rules pursuant to chapter 120, Florida Statutes, and corrects cross references.

CS/SB 186, 2nd Engrossed, repeals provisions in chapter law requiring the FWCC to reduce recurring expenditures by 5 percent for fiscal year 2000-2001. Lastly, the bill repeals s. 258.398, Florida Statutes, 1997 edition, designating Lake Weir as an aquatic preserve, and additional outdated statutory provisions.

CS/SB 186, 2nd Engrossed, does have a recurring fiscal impact on the state's general revenue fund by providing that \$2 million of documentary stamp tax revenues will be credited annually to the Marine Resources Conservation Trust Fund at the FWCC to be used for specified purposes. However, the bill does not trigger local-government mandate requirements, or raise constitutional and rulemaking issues.

CS/SB 186, 2nd Engrossed, takes effect upon becoming a law.

(NOTE: HB 1071, the House companion to CS/SB 186, 2nd Engrossed, was withdrawn from further consideration on April 27, 2000.)

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

**FWCC**

The FWCC was created by the Legislature during the 1999 Regular Session as a result of the passage of Revision #5 to the State Constitution during the November 1998 General Election. Chapter 99-245, L.O.F., was enacted to transfer the responsibilities of the GFC and the Marine Fisheries Commission (MFC) to the FWCC in accordance with the provisions of the constitutional amendment requiring that one entity regulate wild animal life, freshwater aquatic life, and marine life.

Effective July 1, 1999, the MFC and the GFC were merged into the FWCC. Portions of the Division of Marine Resources and the Division of Law Enforcement at DEP also were transferred to the FWCC. The FWCC, which now is responsible for the regulation of wild animal life, freshwater aquatic life, and marine life, has more than 1,700 employees and a FY 2000-2001 budget of approximately \$168 million.

**Aquatic Preserves**

In 1975, the Legislature enacted the Florida Aquatic Preserve Act, Part II of Chapter 258, F.S. (Chapter 75-172, L.O.F.), to designate waterbodies and submerged areas meeting certain conditions as areas needing special protection. The Governor and Cabinet, acting as the Board of Trustees of the Internal Improvement Trust Fund, may designate areas to be included in the state's aquatic preserve system, subject to confirmation by the Legislature. There are 42 aquatic preserves listed in Part II of chapter 258, F.S. Only two are freshwater aquatic preserves: Lake Weir in Marion County (designated in 1988) and Lake Jackson in Leon County (one of the original aquatic preserves).

Section 28 of chapter 99-245, L.O.F., de-designated Lake Weir as an aquatic preserve. A lawsuit was filed challenging the de-designation claiming that the notice requirements of s. 258.41(6), F.S., were not met. For the 2000 legislative session, supporters of the repeal published notification of the proposed de-designation of Lake Weir as an aquatic preserve in a Marion County newspaper 30 days prior to the proposal's introduction in the Legislature.

The Save the Manatee Trust Fund (STMTF), administered by the FWCC, is funded from the sale of manatee license plates, noncommercial vessel registration fees, county option registration fees, donations, and interest earnings on the investment of funds deposited into the trust fund. The purpose of the STMTF is to provide funding for manatee and marine mammal research, protection, recovery, rescue, rehabilitation and release.

For fiscal year 1998-1999, STMTF revenues were:

Sale of Save the Manatee License Plates	\$ 1,900,000
Vessel registration fees (\$1.50/vessel)	\$ 1,033,000
Decals/Donations	\$ 400,000
Interest earnings	\$ 127,000

The Marine Resources Conservation Trust Fund (MRCTF), also administered by the FWCC, is the primary repository for fees related to saltwater fishing. The MRCTF is funded from the sale of saltwater fishing licenses, commercial and noncommercial vessel registration fees, the sale of saltwater products licenses, tarpon and snook tags, the sale of turtle stickers and license plates, and penalties, fines, or judgments assessed for violation of saltwater fishing laws. The purpose of the MRCTF is to provide funding for marine-related activities including, but not limited to, marine research, fishery enhancement, marine law enforcement, the development of artificial reefs, and the management of aquatic preserves.

For fiscal year 1998-1999, the sale of recreational saltwater fishing licenses, vessel registration fees, and additional permits and tags related to marine products, generated more than \$13.5 million in revenue for the MRCTF.

**C. EFFECT OF PROPOSED CHANGES:**

CS/SB 186, 2nd Engrossed, does the following:

- o Provides technical revisions to laws governing DEP.
- o Provides technical revisions to laws governing the Department of Agriculture and Consumer Services (DACS).
- o Conforms sections of Florida Statutes to provisions contained in Chapter 99-245, L.O.F., creating the FWCC and providing for the transfer of certain responsibilities from DEP, the former GFC, and the former MFC to the FWCC.
- o Provides that \$2 million of documentary stamp tax revenues will be credited to the MRCTF annually to be used for the rescue and full-time acute care rehabilitation of manatees, and to fund programs at the University of Florida related to training in the care, treatment and rehabilitation of marine mammals.
- o Revises purposes for which funds deposited into the STMTF may be used.
- o Repeals provisions in chapter law requiring the FWCC to reduce recurring expenditures for FY 2000-2001 by 5 percent of the recurring budget appropriated to the FWCC for FY 1999-2000.
- o Repeals s. 258.398, F.S., 1997 edition, designating Lake Weir as an aquatic preserve.

- o Repeals other outdated statutory provisions.

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1.** Amends s. 20.255, F.S., to align the administrative structure of DEP with the organizational restructuring required due to the creation of the FWCC.

**Section 2.** Transfers and renumbers s. 370.0205, F.S., relating to citizen support organizations, as s. 20.2551, F.S.

**Section 3.** Amends s. 20.331, F.S., to clarify conditions under which the FWCC must adopt rules pursuant to the provisions of chapter 120, F.S., also known as the Administrative Procedures Act.

**Section 4.** Amends s. 161.031, F.S., to delete a reference to DEP's defunct Division of Marine Resources.

**Section 5.** Amends s. 161.36, F.S., to delete a reference to DEP's defunct Division of Marine Resources.

**Section 6.** Amends s. 212.08, F.S., to correct a cross reference.

**Section 7.** Amends s. 259.101, F.S., to provide that the FWCC will receive the former GFC distribution under the Preservation 2000 program.

**Section 8.** Amends s. 288.109, F.S., to provide that the FWCC instead of the GFC will be integrated into the One-Stop Permitting Program by January 1, 2001.

**Section 9.** Amends s. 323.001, F.S., to correct a cross-reference. (Please see Comments section of bill analysis).

**Section 10.** Amends s. 370.021, F.S., to clarify that penalties will be imposed for any violation of chapter 370, F.S., or for violations of FWCC rules relating to the conservation of marine resources.

**Section 11.** Transfers and renumbers s. 370.041, F.S., as s. 161.242, F.S.

**Section 12.** Amends s. 370.07, F.S., to provide that the FWCC will issue wholesale and retail dealers saltwater products licenses previously issued by DEP. Provides that the Apalachicola Bay Oyster Surcharge will be deposited into the DACS General Inspection Trust Fund by the Department of Revenue (DOR). Provides that DACS will furnish DOR with a current list of wholesale dealers annually.

**Section 13.** Amends s. 370.101, F.S. to transfer authority for establishing weight equivalencies for artificially cultivated saltwater fish to the FWCC. This was a responsibility of DEP's defunct Division of Marine Resources.

**Section 14.** Amends s. 370.11, F.S. to provide that the FWCC may issue permits for the taking of tarpon for scientific purposes. This was a responsibility of DEP's defunct Division of Marine Resources.

**Section 15.** Amends s. 370.1107, F.S., to conform with the authority of the FWCC to license saltwater fisheries traps.

**Section 16.** Amends s. 370.1405, F.S., to provide that seafood dealers will submit certain crawfish reports to the FWCC instead of DEP.

**Section 17.** Amends s. 372.021, F.S., to correct a reference to the former GFC.

**Section 18.** Amends s. 372.05, F.S., to clarify the duties of the executive director of the FWCC.

**Section 19.** Amends s. 372.07, F.S., to clarify that the authority of the FWCC to enforce laws relating to marine life.

**Section 20.** Amends s. 372.121, F.S., to clarify the authority of the FWCC to adopt rules or regulations relating to the control and management of state game lands.

**Section 21.** Amends s. 372.991, F.S., to correct a reference to the former GFC.

**Section 22.** Amends s. 373.4149, F.S., to provide that the FWCC instead of the former GFC will sit on the Miami-Dade County Lake Belt Plan Implementation Committee.

**Section 23.** Amends s. 373.41492, F.S., to provide that the FWCC instead of the former GFC will sit on the interagency committee approving expenditures for the Miami-Dade County Lake Belt Mitigation Plan.

**Section 24.** Amends s. 403.141, F.S., to provide that the FWCC instead of the former GFC will establish tables of values with DEP to determine the value of fish in assessing damages for fish killed due to discharge or pollution violations.

**Section 25.** Amends s. 403.707, F.S., to correct a cross reference.

**Section 26.** Amends s. 570.235, F.S., to provide that the FWCC instead of the former GFC will sit on the Pest Control Advisory Board.

**Section 27.** Amends s. 590.02, F.S., to provide that the FWCC instead of the former GFC will sit on the program advisory committee for the Florida Center for Wildfire and Forest Resources Management Training.

**Section 28.** Amends s. 705.101, F.S., to provide that the FWCC instead of DEP will determine vessels to be derelict.

**Section 29.** Amends s. 705.103, F.S., to provide that certificates of registration for boats may not be issued by the Department of Highway Safety and Motor Vehicles to persons whose boat registration privileges or motor vehicles privileges have been revoked for failure to pay costs of removal and storage of boats declared to be abandoned or lost property.

**Section 30.** Amends s. 832.06, F.S. to provide that county tax collectors may work with the FWCC instead of the former GFC when prosecuting violators delivering worthless checks for licenses or taxes.

**Section 31.** Amends s. 260.016, F.S., to provide that DEP may receive or accept from any legal source, grants for the purpose of providing or improving public greenways and trails.

**Section 32.** Amends s. 375.075, F.S., to correct a cross reference.

**Section 33.** Amends s. 201.15, F.S., to provide that \$2 million of documentary stamp tax revenues shall be paid to the credit of the MRCTF to be used for specific purposes.

**Section 34.** Amends s. 201.15, F.S., effective July 1, 2001, to conform with changes enacted in section 2 of chapter 99-247, L.O.F.

**Section 35.** Amends s. 370.0603, F.S., to create a new subsection (3) to provide that documentary stamp tax revenues credited to the MRCTF must be used for specific purposes relating to the care, rehabilitation, and release of manatees, and the training and care of marine mammals.

**Section 36.** Amends s. 370.12, F.S., to provide that the use of funds deposited into the STMTF for reimbursement to facilities that rescue, rehabilitate, and release manatees is no longer mandatory. Such funds may now be expended at the discretion of the FWCC.

**Section 37.** Provides a specific appropriation of \$810,000 from the MRCTF to the Whitney Laboratory and the Veterinary School of Medicine at the University of Florida for the care of marine mammals. Provides a specific appropriation of \$1.15 million from the MRCTF for the care of marine mammals at licensed research facilities pursuant to the provisions of s. 370.0603(3), F.S. Provides an appropriation of up to \$40,000 for the FWCC's program administrative costs.

**Section 38.** Reinstates subsections (10) and (11) of s. 370.14, F.S., relating to the \$2 recreational crawfish stamp, erroneously repealed in CS/CS/SB 386, enacted in the 2000 Regular Session of the Legislature.

**Section 39.** Repeals section 12 of chapter 99-245, L.O.F., which provided that for fiscal year 2000-2001, the total amount of funds expended by the FWCC for all budget categories could not exceed 95 percent of the total recurring budget appropriated for fiscal year 1999-2000.

**Section 40.** Establishes legislative intent.

**Section 41.** Repeals s. 258.398, F.S., 1997 edition, designating Lake Weir as an aquatic preserve.

**Section 42.** Repeals the following provisions:

- o s. 370.013, F.S., providing general functions for DEP;
- o s. 370.017, F.S., providing general functions of the DEP Secretary;
- o s. 370.032, F.S., providing definitions;
- o s. 370.033, F.S., providing legislative intent with regard to dredge and fill activities;
- o s. 370.034, F.S., providing for certificates of registration authorizing the use of dredge and fill equipment;
- o s. 370.036, F.S., providing requirements for maintaining records of dredge and fill activities;
- o s. 370.037, F.S., providing standards for denial, suspension, or revocation of certificates for registration for dredge and fill equipment;

- o s. 370.038, F.S., providing DEP with rulemaking authority to carry out dredge and fill regulation;
- o s. 370.0606, F.S., providing authorization for subagents to sell saltwater fishing licenses;
- o s. 370.0805, F.S., providing for the Net Ban Assistance Program;
- o s. 372.04, F.S., authorizing the former GFC to appoint a commission director;
- o s. 372.061, F.S., authorizing the former GFC to hold meetings at any location within the state;
- o s. 373.197, F.S., providing for the Kissimmee River Valley and Taylor Creek-Nubbins Slough Restudy authorization;
- o s. 403.261, F.S., providing for the repeal of rulemaking jurisdiction over air and water pollution by other state agencies;
- o s. 370.021(6), F.S., providing for the admissibility of rules as evidence; and
- o s. 370.14(12), F.S., providing that the 2-day spiny lobster sports season be named after Bob Hector.

**Section 43.** Provides that the bill shall take effect upon becoming a law.

III. **FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

CS/SB 186, 2nd Engrossed, specifies that beginning with fiscal year 2000-2001, \$2 million in documentary stamp tax revenues previously deposited into the general revenue fund will be paid into the State Treasury for credit to the MRCTF.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Under the current provisions of s. 370.12(4)(b), F.S., portions of the STMTF are required to be spent on reimbursing facilities that rescue, care for, rehabilitate and release manatees. This set-aside funding is repealed in CS/SB 186, 2nd Engrossed. Future contracts for those services funded out of the STMTF are left to the discretion of the FWCC.

The bill specifies that \$2 million in documentary stamp tax revenues is to be credited to the MRCTF to be used for marine mammal care. Funding in the amount of \$810,000 is appropriated for training on the care, treatment, and rehabilitation of marine mammals at the Whitney Laboratory and the Veterinary School of Medicine at the University of Florida. An additional \$1.15 million is appropriated for the care of marine mammals at licensed research facilities that rescue, care for, rehabilitate, and release manatees.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The mandates provision is not applicable to CS/SB 186, 2nd Engrossed, because the bill does not require cities or counties to expend funds, or to take actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

CS/SB 186, 2nd Engrossed, does not reduce the revenue-raising authority of counties or municipalities.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

CS/SB 186, 2nd Engrossed, does not reduce the state tax revenues shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

Section 9 of CS/SB 186, 2nd Engrossed, contains a cross reference correction designating a section of statute which does not exist but which was created in HB 1071, a bill which was withdrawn from consideration. This inadvertent error should be corrected by the Division of Statutory Revision.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

SB 186, as filed on October 6, 1999, amended and repealed various sections of statutes to conform to the creation of the FWCC and the transfer of responsibilities for marine life from DEP to the FWCC.



On March 6, 2000, the Senate Natural Resources Committee considered SB 186 and adopted amendments which incorporated revised sections of statute which were contained in HB 1071. The bill was reported out as CS/SB 186.

On April 27, 2000, CS/SB 186 was read a second time and the Florida Senate adopted amendments that provided the following:

- o Provisions amending sections of statute relating to crawfish were removed.
- o DEP was granted authority to receive or accept grants from any legal source for specified purposes involving public greenways and trails.
- o The Governor was required to provide reasonable representation from all sections of the state when making appointments to the Environmental Regulation Commission.

The amendments were engrossed and on May 2, 2000, the Senate adopted CS/SB 186, 1st Engrossed, by a vote of 39-0 and the bill was forwarded to the House for consideration.

On May 5, 2000, CS/SB 186, 1st Engrossed, was read a second time and the House adopted a "strike-everything" amendment which is the subject of this bill analysis. The bill, as amended, was read a third time and passed by the House with a vote of 119-0.

On May 5, 2000, the Senate concurred with House amendments and the bill was passed by a vote of 38-0.

On June 5, 2000, CS/SB 186, 2nd Engrossed, was approved by Governor Bush and designated as chapter 2000-197, L.O.F.

VII. SIGNATURES:

**FINAL ANALYSIS PREPARED BY THE COMMITTEE ON WATER & RESOURCE MANAGEMENT:**

Prepared by:

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Karon A. Molloy

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Joyce Pugh