

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2586  
 SPONSOR: Senator Dockery  
 SUBJECT: Fish & Wildlife Conservation Commission  
 DATE: April 9, 2003      REVISED: 04/14/2003 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Molloy</u>	<u>Kiger</u>	<u>NR</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This bill creates the Office of Boating and Waterways (Office) within the Fish & Wildlife Conservation Commission (FWC). The bill directs the Commission to assign powers, duties, and responsibilities to the Office that are necessary to manage and promote the use of state waterways for safe and enjoyable boating.

The bill provides for the transfer of motor and diesel fuel taxes collected through sales at marinas from the Fuel Tax Collection Trust Fund to the Marine Resources Conservation Trust Fund (MRCTF) in the FWC, beginning in fiscal year 2003-2004. The purposes for which the funds may be used include additional water-related law enforcement such as enforcement of laws and regulations relating to the protection of manatees.

The bill requires that the FWC develop and administer a competitive grant program funded with fuel taxes deposited into the MRCTF. Grants can be awarded for the construction and maintenance of publicly owned boat ramps, docks, and piers, and the deployment of manatee technical avoidance technology, among other purposes.

This bill amends ss. 20.331, 206.606, and 370.0603, Florida Statutes, and creates s. 327.47, Florida Statutes.

## II. Present Situation:

### **Recreational Boating**

Recreational boating in Florida is big business. The recreational boating registration statistics kept by the FWC, the revenue reports of the Department of Highway Safety and Motor Vehicles (DHSMV), the amount of sales tax collected from the sale of fuel at marinas as estimated by the Department of Transportation, and the March 2001 report prepared by Thomas J. Murray and Associates for the Marine Industries Association of Florida, Inc. entitled "Florida's Recreational Marine Industry - Economic Impact and Growth 1980-2000" all provide evidence of that statement.

The FWC's annual "Florida Boating Accident Statistical Report" shows the rate of growth in recreational boating, and tracks recreational boating accidents, information that is useful in determining if the boating safety and education programs of the FWC are successful. In 1993, Florida registered 677,581 recreational and commercial vessels, and reported 1,017 recreational boating accidents. In 1998, Florida registered 809,160 vessels in total, and reported 1,282 recreational boating accidents. In 2001, Florida registered 943,611 vessels in total (902,964 of which were recreational) and reported 1,093 recreational boating accidents. Counties registering the highest number of recreational vessels were Miami-Dade, Pinellas, Broward, and Hillsborough. Only Hillsborough County is not included in the top ten counties that reported boating accidents in 2001.

The DHSMV Revenue Report for fiscal year 2001-2002 indicates that recreational vessel registration fees generated over \$18 million in revenue. Of that, about \$1.3 million was transferred to the Save the Manatee Trust Fund pursuant to the provisions of s. 328.72, F.S. The report also indicates that sales of the Save the Manatee specialty license plate generated more than \$1.9 million in revenue for the Save the Manatee Trust Fund.

The report prepared for the Marine Industries Association estimates the economic impact of the marine industry to be more than \$14 billion in manufacturing, wholesale and retail trade, dockage, and marine services. The report also shows that an estimated 39,300 direct jobs were created during the same period.

### **Fuel Taxes**

Section 206.606, F.S., provides that taxes deposited into the Fuel Tax Collection Trust Fund are transferred to the State Transportation Trust Fund after service charges and administrative costs are deducted, except for:

- \$6.3 million that is transferred to the Department of Environmental Protection's Invasive Plant Control Trust Fund each fiscal year to be used for aquatic plant management, and
- \$2.5 million that is transferred to the State Game Trust Fund in the FWC in equal monthly amounts beginning on July 1 of each fiscal year to be used as follows:
  - A minimum of \$1.25 million must be used to fund local projects to provide recreational channel marking, public launching facilities, aquatic plant control, and other local boating related activities. Priority consideration must be given to the unmet needs of counties with populations of 100,000 or less, and the unmet needs in coastal counties with a high level of boating related activities from individuals residing in other counties.

- The remaining \$1.25 million may be used for recreational boating activities, and freshwater fisheries management and research.

According to information provided by the Department of Transportation (DOT), the Department of Revenue does not differentiate between fuel sold at marinas and fuel sold at gas stations, so the data on tax collection is not available. However, the DOT has developed a model that estimates net fuel tax revenues generated by recreational boating. The model is based on a national Recreational Boating Survey commissioned by the US Coast Guard. The survey estimated recreational boating fuel consumption in Florida from December, 1990 through November, 1991 to be 104.3 million gallons of motor fuel, and 14.5 million gallons of diesel fuel.

For fiscal year 2001-2002, DOT estimated total marina fuel taxes of \$36.4 million. For fiscal year 2002-2003, the estimated amount is \$37.9. For fiscal year 2005-2006, DOT estimates the marina fuel tax to be \$43.3 million.<sup>1</sup>

### **Law Enforcement**

In the creation of the FWC during the 1999 Regular Session, the Legislature elected to move the Florida Marine Patrol from the Division of Law Enforcement at the Department of Environmental Protection to the Division of Law Enforcement at the FWC. The FWC was directed to cross-train all officers so that any officer can be assigned to any area where enforcement efforts may need extra help. Water-related law enforcement activities of the FWC include boating safety enforcement, investigating boating accidents, search and rescue missions, enforcement of manatee protection laws, enforcement of saltwater fishing laws and rules, general patrol over the state's coastline, rivers and streams, and most recently, domestic security issues.

The Division of Law Enforcement has 711 sworn positions, 25 of which were added during the 2001-2002 fiscal year as a commitment by the state to provide additional manatee protection. These positions are funded with money transferred from the Coastal Protection Trust Fund at the Department of Environmental Protection.

### **Save the Manatee Club v USFWS - Revised Settlement Agreement**

Save the Manatee Club, Inc. and other environmental organizations filed suit against the USFWS in January of 2000 for failure to enforce the federal Endangered Species Act and the federal Marina Mammal Protection Act by allowing the "incidental taking of manatees" when dock and marina development was permitted in Florida. A settlement was reached in 2001 when the USFWS agreed to create additional manatee sanctuaries and refuges, and to create proposed incidental take regulations.

Although the lawsuit was settled in early 2001, in October of 2001, the plaintiffs filed a formal Notice of Controversy alleging that USFWS was not fulfilling the terms of the Settlement Agreement by not designating refuges and sanctuaries as required. In July, 2002, the US District Court Judge agreed with the plaintiffs. In November 2002, the USFWS noticed Final

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<sup>1</sup> "Estimated Boat Gas Tax Collections Net Fuel Tax Revenues Generated by Recreational Boats in Florida", prepared by the Florida Department of Transportation

Designation of 13 Federal Manatee Protection Areas in eight Florida counties. In January 2003, the plaintiffs and the USFWS entered into a Stipulated Order which among other issues, provided for 3 additional manatee protection areas. The proposed rule for the creation of those areas is open for public comment until June 2, 2003.

Also in November 2002, the USFWS published "Proposed Incidental Take Regulations". For the Southwest stock in Florida, the Service proposal noted that the operation of watercraft and the construction of watercraft access facilities would have more than a negligible impact on the species. This negative finding under the MMPA meant that the Service could not authorize incidental take for this stock under the proposed rule. The Service is required to prepare an Environmental Impact Statement (EIS) which will be used to make a decision on the final Incidental Take rule in May of this year. In the meantime, USFWS continues to review permit applications for docks, piers, and marinas on a case-by-case basis.

Finally, in the detailed economic analysis included in the EIS, the USFWS estimates that development and enforcement of manatee protection areas over the next five years will cost USFWS and the FWC approximately \$18 million, agency costs monitoring, reporting, and research are estimated at \$15 million over the next five years, and permitting efforts will cost the USFWS around \$3 million, and the FWC around \$1 million over the next five years.

### **III. Effect of Proposed Changes:**

**Section 1:** Amends s. 20.331, F.S., to create the Office of Boating and Waterways in the FWC. Provides that the Commission will assign duties and responsibilities to the FWC as are necessary to manage and promote the use of state waterways for safe and enjoyable boating. Duties and responsibilities will include oversight and coordination of waterway markers on state waters, providing boating education and boating safety programs, improving boating access, coordinating the removal of derelict vessels from the state waters, economic development of initiatives to promote boating in the state, and coordination of the submission of state comments on marine events.

**Section 2:** Amends s. 206.606, F.S., to provide that a portion of the fuel taxes assessed for the privilege of selling motor and diesel fuel at marinas shall be transferred from the Fuel Tax Collection Trust Fund in the State Treasury to the MRCTF at the FWC, beginning with \$5 million in fiscal year 2003-2004, and increasing to \$13.4 million in fiscal year 2006-2007 and each year thereafter.

**Section 3:** Amends s. 370.0603, F.S., to provide that the MRCTF shall serve as a broad-based depository for funds from various boating-related activities as well as marine-related activities, and shall be administered by the FWC for the purpose of providing funding for boating-related programs and activities and for law enforcement on state waters. Motor and diesel fuel taxes transferred to the MRCTF shall be used for the following purposes:

- Additional water-related law enforcement, including enforcement of laws and regulations related to the protection of manatees.
- The placement of uniform waterway markers on state waters.

- Funding for construction and maintenance of publicly owned boat ramps, piers, and docks, directly and through grants to cities and counties.
- To implement and administer programs, including competitive grants programs, relating to boating safety and education, manatee technical avoidance technology, and economic development initiatives to promote boating in the state.
- For other activities of the Office of Boating and Waterways.

Funds not used in any fiscal year must be carried forward.

**Section 4:** Creates s. 327.47, F.S., to require that the FWC develop and administer competitive grant programs using funds transferred to the MRCTF to award grants for the construction and maintenance of publicly owned boat ramps, piers, and docks, boater education, deployment of manatee technical avoidance technology, and economic development incentives that promote boating in the state. The FWC is authorized to adopt rules to implement this section.

**Section 5:** Provides that the bill will take effect on July 1, 2003, if enacted by the Legislature.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill authorizes competitive grant programs for manatee technical avoidance technology, boating safety and education, and provides for economic development incentives to promote boating in the state.

C. Government Sector Impact:

**Revenue reduction to the Fuel Tax Collection Trust Fund**

<u>FY 03-04</u>	<u>FY 04-05</u>	<u>FY 05-06</u>	<u>FY 06-07 and thereafter</u>
\$5 million	\$8.5 million	\$10.9 million	\$13.4 million

**Impact on Counties and Cities**

Provides direct funding and grants awarded to cities and counties for construction and maintenance of publicly owned boat ramps, piers, and docks.

**Revenue increase to the Marine Resources Conservation Trust Fund - FWC**

FY 2003-2004: \$5 million of which \$1.7 million is for 10 new law enforcement positions including salaries, benefits, training, equipment and expense.

FY 2004-2005: \$8.5 million of which \$1.3 million is for 7 new law enforcement positions, including salaries, benefits, training, equipment and expense, and \$750,000 is continuation funding for 10 officers from previous year.

FY 2005-2006: \$10.9 million of which \$790,000 is for 4 new law enforcement positions, including salaries, benefits, training, equipment and expense, and \$1.3 million is continuation funding for 17 officers from previous two years.

FY 2006-2007: \$13.4 million of which \$836,000 is for 4 new law enforcement positions, including salaries, benefits, training, equipment and expense, and \$1.6 million is continuation funding for 21 officers from previous three years.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Natural Resources:

- Clarifies provisions of the bill relating to the transfer of fuel tax moneys from the Fuel Tax Collection Trust Fund to the Marine Resources Conservation Trust Fund.
- Revised the amounts transferred to the Marine Resources Conservation Trust Fund to provide that \$2.5 million is to be transferred in FY 2003-2004, \$5 million is to be transferred in FY 2004-2005, \$8.5 million is to be transferred in FY 2005-2006, \$10.9 million is to be transferred in FY 2006-2007, and \$13.4 million transferred in each fiscal year thereafter.
- Clarifies the purposes for which funds transferred to the Marine Resources Conservation Trust Fund may be used.
- Clarifies provisions relating to the Competitive Grant Program which the FWC is authorized to develop and administer.