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LEGISLATIVE ACTION

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|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 03/03/2009 | . |       |
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The Committee on Environmental Preservation and Conservation  
(Sobel) recommended the following:

**Senate Amendment**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (d) of subsection (3) of section  
403.121, Florida Statutes, is amended to read:

403.121 Enforcement; procedure; remedies.—The department  
shall have the following judicial and administrative remedies  
available to it for violations of this chapter, as specified in  
s. 403.161(1).

(3) Except for violations involving hazardous wastes,



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12 asbestos, or underground injection, administrative penalties  
13 must be calculated according to the following schedule:

14 (d) For mangrove trimming or alteration violations, the  
15 department shall assess:

16 1. A penalty of \$5,000 per violation against any person who  
17 violates any provision of ss. 403.9321-403.9333 ~~the contractor~~  
18 ~~or agent of the owner or tenant that conducts mangrove trimming~~  
19 ~~or alteration without a permit as required by s. 403.9328.~~

20 However, for minor unauthorized trimming that otherwise would  
21 have qualified for a general permit under s. 403.9327 or that  
22 has only minimal or insignificant individual or cumulative  
23 adverse impacts on mangrove resources, the department shall  
24 assess a penalty of \$1,000 for the first offense. For purposes  
25 of this paragraph, the preparation or signing of a permit  
26 application by a person currently licensed under chapter 471 to  
27 practice as a professional engineer does shall not constitute a  
28 violation ~~make that person an agent of the owner or tenant.~~

29 2. For major unauthorized trimming or a second or  
30 subsequent violation of subparagraph 1., an additional penalty  
31 of \$100 for each mangrove illegally trimmed and \$250 for each  
32 mangrove illegally altered, not to exceed a total of \$10,000.

33 3. For major unauthorized trimming or a second or  
34 subsequent violation of subparagraph 1. by a professional  
35 mangrove trimmer, an additional penalty of \$250 for each  
36 mangrove illegally trimmed or altered, not to exceed a total of  
37 \$10,000.

38 Section 2. Subsection (3) of section 403.9323, Florida  
39 Statutes, is amended to read:

40 403.9323 Legislative intent.-



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41 (3) It is the intent of the Legislature to provide  
42 waterfront property owners their riparian right of view, and  
43 other rights of riparian property ownership as recognized by s.  
44 253.141 and any other provision of law, by allowing mangrove  
45 trimming in riparian mangrove fringes without prior government  
46 approval when conducted in conformance with the provisions of  
47 ss. 403.9321-403.9333 and the trimming activities will not  
48 result in the removal, defoliation, or destruction of the  
49 mangroves.

50 Section 3. Present subsections (1) through (6) of section  
51 403.9324, Florida Statutes, are redesignated as subsections (2)  
52 through (7), respectively, a new subsection (1) is added to that  
53 section, and present subsections (1) and (4) of that section are  
54 amended, to read:

55 403.9324 Mangrove protection rule; delegation of mangrove  
56 protection to local governments.-

57 (1) The department may adopt rules providing for exemptions  
58 and general permits authorizing activities that have, singularly  
59 or cumulatively, a minimal adverse effect on the water resources  
60 of the state. This subsection does not grant the department the  
61 authority to adopt rules for the exemptions and general permits  
62 provided in ss. 403.9326 and 403.9327.

63 (2)~~(1)~~ Sections 403.9321-403.9333 and any lawful  
64 regulations adopted in accordance with this section by a local  
65 government that receives a delegation of the department's  
66 authority to administer and enforce the regulation of mangroves  
67 as provided by this section shall be the sole regulations in  
68 this state for the trimming and alteration of mangroves on  
69 privately or publicly owned lands. All other state and local



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70 regulation of mangrove is as provided in subsection (4) ~~(3)~~.

71 (5) ~~(4)~~ Within 45 days after receipt of a written request  
72 for delegation from a local government, the department shall  
73 grant or deny the request in writing. The request is deemed  
74 approved if the department fails to respond within the 45-day  
75 ~~time~~ period. In reviewing requests for delegation, the  
76 department shall limit its review to whether the request  
77 complies with the requirements of subsection (3) ~~(2)~~. The  
78 department shall set forth in writing with specificity the  
79 reasons for denial of a request for delegation. The department's  
80 determination regarding delegation constitutes final agency  
81 action and is subject to review under chapter 120.

82 Section 4. Subsection (5) of section 403.9329, Florida  
83 Statutes, is amended to read:

84 403.9329 Professional mangrove trimmers.—

85 (5) A professional mangrove trimmer status granted under  
86 ss. 403.9321-403.9333 or by the department may be revoked by the  
87 department for any person who is responsible for any violations  
88 of ss. 403.9321-403.9333 or any adopted mangrove rules.

89 Section 5. Subsection (3) is added to section 403.9331,  
90 Florida Statutes, to read:

91 403.9331 Applicability; rules and policies.—

92 (3) Pursuant to s. 403.9323(2), the provisions of ss.  
93 403.9321-403.9333 do not allow the trimming of mangroves on  
94 uninhabited islands that are publicly owned or on lands that are  
95 set aside for conservation and preservation or mitigation,  
96 except where necessary to protect the public health, safety, and  
97 welfare or to enhance public use of, or access to, conservation  
98 areas in accordance with approved management plans.



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Section 6. This act shall take effect July 1, 2009.