

# 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 1476

SPONSOR: Senator Bennett

SUBJECT: Protection of Manatees

DATE: April 16, 2003

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Branning</u>	<u>Kiger</u>	<u>NR</u>	<u>Favorable</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

This bill provides that the proceeds in the Save the Manatee Trust Fund shall be used exclusively for funding law enforcement positions within the Fish and Wildlife Conservation Commission for enforcement of laws designed to protect manatee populations in certain counties. Provides for an annual report to identify the number of additional law enforcement positions which were funded and the counties to which such personnel were assigned.

This bill amends s. 370.12, F.S.

## II. Present Situation:

Section 9, Art. IV of the State Constitution requires the FWCC to:

...exercise the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and shall also exercise regulatory and executive powers of the state with respect to marine life, except that all license fees for taking wild animal life, fresh water aquatic life, and marine life and penalties for violating regulations of the commission shall be prescribed by general law.

Manatees are marine mammals that can be found in Florida's coastal and riverine waters throughout the year. The Florida manatee is listed as an endangered species under both state and federal law. Protection of manatees in Florida has been legislatively mandated since 1892. Current state efforts toward population recovery are guided by the Florida Manatee Sanctuary Act of 1978 and the federally-approved Florida Manatee Recovery Plan of 1995. The Florida Manatee Sanctuary Act declared the state to be a refuge and sanctuary for the manatee and subsequent amendments have given the Fish and Wildlife Conservation Commission (FWCC) a

wide range of responsibilities. The Recovery Plan lists 126 separate tasks that need to be accomplished. Many of these tasks are addressed through a cooperative effort among federal, state, and local governments. Manatees face a variety of threats including deaths from human-related causes (collisions with watercraft, crushings in water control gates and locks, and entanglements in fishing gear), as well as destruction and degradation of their habitat. Manatees have also died as a result of exposure to harmful algal blooms, the effects of cold water, and natural disease.

Pursuant to s. 370.12(2), F.S., the FWCC is directed to adopt rules to protect manatees from harmful collisions with motorboats or from harassment, due to the expansion of existing, or the construction of new, marine facilities and mooring or docking slips, or by the addition or construction of five or more powerboat slips. The FWCC may regulate the operation and speed of motorboat traffic only where manatee sightings are frequent and it can be generally assumed, based on available scientific information, that they inhabit the areas on a regular or continuous basis. The statutes specify a number of areas in several counties where such rules are to be considered; under this authority the FWCC has adopted a number of rules establishing zones and areas where motorboat operation is prohibited, limited, or regulated for manatee protection. Rules have also been developed to regulate motorboat operation in the vicinity of power plants or other sources of warm water that attract concentrations of manatees.

The Save the Manatee Club, Inc. and other environmental organizations filed suit against the U.S. Fish and Wildlife Service (FWS) in January of 2000 for failure to enforce the federal Endangered Species Act and the federal Marine 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 U.S. FWS 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 U.S. FWS 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 U.S. FWS noticed Final Designation of 13 Federal Manatee Protection Areas in eight Florida counties. In January 2003, the plaintiffs and the U.S. FWS 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.<sup>1</sup>

Section 320.0858, F.S., provides that the manatee license plate annual use fees must be deposited into the Save the Manatee Trust Fund created within the FWCC and shall be used only for the purposes specified in s.370.12(4), F.S.

Section 370.12(4), F.S., provides that each fiscal year the Save the Manatee Trust Fund shall be available to fund an impartial scientific benchmark census of the manatee population in the state. Weather permitting, the study shall be conducted annually by the FWCC and the results shall be made available to the President of the Senate, the Speaker of the House of Representatives, and

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<sup>1</sup> Staff analysis for SB 2586, Senate Natural Resources Committee

the Governor and Cabinet for use in the evaluation and development of manatee protection measures. In addition, the Save the Manatee Trust Fund shall be available for annual funding of:

- Activities of public and private organizations and those of the commission intended to provide manatee and marine mammal protection and recovery effort;
- Manufacture and erection of information and regulatory signs;
- Production, publication, and distribution of education materials;
- Participation in manatee and marine mammal research programs, including carcass salvage and other programs;
- Programs intended to assist the recovery of the manatee as an endangered species;
- Assist the recovery of the endangered or threatened marine mammals; and
- Prevent the endangerment of other species of marine mammals.

The FWCC shall annually solicit advisory recommendations from the Save the Manatee Committee affiliated with the Save the Manatee Club on the use of funds from the Save the Manatee Trust Fund. By December 1 each year, the FWCC shall provide to the President of the Senate and the Speaker of the House of Representatives a written report enumerating the amounts and purposes for which all proceeds in the Save the Manatee Trust Fund for the fiscal year are expended, in a manner consistent with those recovery tasks enumerated within the manatee recovery plan as required by the Endangered Species Act.

In addition to fish and wildlife management, the FWCC is responsible for boating safety and navigation. With 8,426 miles of tidal coastline, 11,909 miles of freshwater rivers and streams, 4,442 square miles of lakes and ponds and 15,600 square miles of saltwater bays, sounds, estuaries and offshore waters, Florida is an attractive destination for boating enthusiasts.<sup>2</sup>

In the creation of the FWCC 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 FWCC. The FWCC 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 FWCC 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.<sup>3</sup>

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

This bill amends s. 370.12(4), F.S., to provide that each fiscal year the Save the Manatee Trust Fund shall be available to fund law enforcement positions within the FWCC for the purpose of

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<sup>2</sup> Florida Fish and Wildlife Conservation Commission website: <http://floridaconservation.org/codebook/FYIfwc.pdf>

<sup>3</sup> Staff analysis for SB 2586, Senate Natural Resources Committee

enforcing laws designed to protect manatee populations. Persons employed in such positions shall be assigned to perform their law enforcement duties in counties having the highest incidences of manatee deaths and injuries. The bill deletes the requirement that funds from the Save the Manatee Trust Fund are to be available to fund the scientific benchmark census of the manatee population in the state each year and provide the results to the President of the Senate, the Speaker of the House of Representatives, and the Governor and the Cabinet. Also, the bill deletes the provision that allows the trust fund to be used for the other specified activities in subsection (4) of s. 370.12, F.S.

The bill provides that the FWCC by December 1 of each year must provide to the President of the Senate, the Speaker of the House of Representatives a written report enumerating the amounts and purposes for which all proceeds in the Save the Manatee Trust Fund for the previous fiscal year are expended. The report shall identify the number of additional law enforcement positions which were funded and shall provide a list of the counties to which the personnel were assigned. Currently, that report identifies the recovery task enumerated within the manatee recovery plan as required by the Endangered Species Act.

#### **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:

Unknown.

C. Government Sector Impact:

The following revenue and expenditure information was provided by the FWCC.\*

	<b>FY 2003-04/FTE</b>	<b>FY 2004-05/FTE</b>	<b>FY 2005-06/FTE</b>
<b>Estimated Revenues</b>			
Recurring:			
Vessel Reg.	\$1,795,255	\$1,813,207	\$1,831,339
Trans-HSMV (Manatee tags)	1,738,876	1,634,544	1,536,471
Donations	75,000	75,000	75,000
Interest	100,000	95,000	90,000
Misc.	10,000	10,000	10,000
<b>TOTALS</b>	<b><u>\$3,719,131</u></b>	<b><u>\$3,627,751</u></b>	<b><u>\$3,543,810</u></b>
<b>Estimated Expend.</b>			
Outdoor Ed./Info	(\$274,109)/(1)	0	0
Env. Services	(\$1,459,727)/(12)	0	0
Env. Services	(4) OPS		
Law Enforcement	Unknown	Unknown	Unknown
FMRI	(\$2,073,408)/(17)	0	0
FMRI	(14.5) OPS		
<b>TOTALS</b>	<b><i>(\$3,807,244)/(30) FTE and (18.5) OPS</i></b>		
<b>Non-Op. Exp.</b>	<b><u>(\$491,150)</u></b>		
Est. Cash Bal. 7/1/03	<u>\$657,660</u>		
<b>Est. Cash Bal. 6/30/04</b>	<b><u>\$78,397</u></b>		

*\*Source: FWCC Fiscal Note to Senate Appropriations Committee, 3/12/03*

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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