

House Bill No. 1249

An act relating to funding for oyster management and restoration programs in Apalachicola Bay and other areas; amending s. 201.15, F.S.; increasing the distribution of certain revenues from the excise tax on documents; authorizing the distribution of such revenues to the General Inspection Trust Fund of the Department of Agriculture and Consumer Services; providing for such funds to be used for oyster management and restoration programs in Apalachicola Bay and other areas; amending s. 370.07, F.S.; abolishing a surcharge upon oysters harvested from Apalachicola Bay; deleting certain requirements related to the surcharge; providing for the use of moneys from the General Inspection Trust Fund for oyster management and restoration programs in Apalachicola Bay and other areas; prohibiting the Department of Revenue from collecting uncollected moneys payable from the surcharge; amending s. 213.05, F.S., to conform; providing effective dates.

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

Section 1. Paragraph (e) of subsection (1), paragraph (a) of subsection (2), and subsection (11) of section 201.15, Florida Statutes, are amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter shall be distributed as follows and shall be subject to the service charge imposed in s. 215.20(1), except that such service charge shall not be levied against any portion of taxes pledged to debt service on bonds to the extent that the amount of the service charge is required to pay any amounts relating to the bonds:

(1) Sixty-two and sixty-three hundredths percent of the remaining taxes collected under this chapter shall be used for the following purposes:

(e) The remainder of the moneys distributed under this subsection, after the required payments under paragraphs (a), (b), (c), and (d), shall be paid into the State Treasury to the credit of the General Revenue Fund of the state to be used and expended for the purposes for which the General Revenue Fund was created and exists by law or to the Ecosystem Management and Restoration Trust Fund, ~~or to the Marine Resources Conservation Trust Fund, or the General Inspection Trust Fund~~ as provided in subsection (11).

(2) Seven and fifty-six hundredths percent of the remaining taxes collected under this chapter shall be used for the following purposes:

(a) Beginning in the month following the final payment for a fiscal year under paragraph (1)(c), available moneys shall be paid into the State Treasury to the credit of the General Revenue Fund of the state to be used and expended for the purposes for which the General Revenue Fund was created and exists by law or to the Ecosystem Management and Restoration Trust Fund, ~~or to the Marine Resources Conservation Trust Fund, or the General~~

Inspection Trust Fund as provided in subsection (11). Payments made under this paragraph shall continue until the cumulative amount credited to the General Revenue Fund for the fiscal year under this paragraph equals the cumulative payments made under paragraph (1)(c) for the same fiscal year.

(11) From the moneys specified in paragraphs ~~(1)(e)~~ ~~(1)(d)~~ and (2)(a) and prior to deposit of any moneys into the General Revenue Fund, \$30 million shall be paid into the State Treasury to the credit of the Ecosystem Management and Restoration Trust Fund in fiscal year 2000-2001 and each fiscal year thereafter, to be used for the preservation and repair of the state's beaches as provided in ss. 161.091-161.212, \$2 million shall be paid into the State Treasury to the credit of the Marine Resources Conservation Trust Fund to be used for marine mammal care as provided in s. 370.0603(3), and \$300,000 shall be paid into the State Treasury to the credit of the General Inspection Trust Fund in fiscal year 2006-2007 and each fiscal year thereafter, to be used to fund oyster management and restoration programs as provided in s. 370.07(3).

Section 2. Effective July 1, 2007, paragraph (e) of subsection (1) of section 201.15, Florida Statutes, as amended by section 26 of chapter 2005-290, Laws of Florida, and subsections (2), (11), and (13) of section 201.15, Florida Statutes, as amended by section 1 of chapter 2005-92, Laws of Florida, are amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter shall be distributed as follows and shall be subject to the service charge imposed in s. 215.20(1), except that such service charge shall not be levied against any portion of taxes pledged to debt service on bonds to the extent that the amount of the service charge is required to pay any amounts relating to the bonds:

(1) Sixty-two and sixty-three hundredths percent of the remaining taxes collected under this chapter shall be used for the following purposes:

(e) The remainder of the moneys distributed under this subsection, after the required payments under paragraphs (a), (b), (c), and (d) shall be paid into the State Treasury to the credit of the General Revenue Fund to be used and expended for the purposes for which the General Revenue Fund was created and exists by law or to the Ecosystem Management and Restoration Trust Fund, ~~or to the Marine Resources Conservation Trust Fund, or the General Inspection Trust Fund~~ as provided in subsection (11).

(2) The lesser of seven and fifty-six hundredths percent of the remaining taxes collected under this chapter or \$84.9 million in each fiscal year shall be used for the following purposes:

(a) Beginning in the month following the final payment for a fiscal year under paragraph (1)(c), available moneys shall be paid into the State Treasury to the credit of the General Revenue Fund to be used and expended for the purposes for which the General Revenue Fund was created and exists by law or to the Ecosystem Management and Restoration Trust Fund, ~~or to the Marine Resources Conservation Trust Fund, or the General Inspection~~

Trust Fund as provided in subsection (11). Payments made under this paragraph shall continue until the cumulative amount credited to the General Revenue Fund for the fiscal year under this paragraph equals the cumulative payments made under paragraph (1)(c) for the same fiscal year.

(b) The remainder of the moneys distributed under this subsection shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Sums deposited in the fund pursuant to this subsection may be used for any purpose for which funds deposited in the Land Acquisition Trust Fund may lawfully be used.

(11) From the moneys specified in paragraphs ~~(1)(e)~~ ~~(1)(d)~~ and (2)(a) and prior to deposit of any moneys into the General Revenue Fund, \$30 million shall be paid into the State Treasury to the credit of the Ecosystem Management and Restoration Trust Fund in fiscal year 2000-2001 and each fiscal year thereafter, to be used for the preservation and repair of the state's beaches as provided in ss. 161.091-161.212, and \$2 million shall be paid into the State Treasury to the credit of the Marine Resources Conservation Trust Fund to be used for marine mammal care as provided in s. 370.0603(3), and \$300,000 shall be paid into the State Treasury to the credit of the General Inspection Trust Fund in fiscal year 2006-2007 and each fiscal year thereafter, to be used to fund oyster management and restoration programs as provided in s. 370.07(3).

(13) The distribution of proceeds deposited into the Water Management Lands Trust Fund and the Conservation and Recreation Lands Trust Fund, pursuant to subsections (4) and (5), shall not be used for land acquisition, but may be used for preacquisition costs associated with land purchases. The Legislature intends that the Florida Forever program supplant the acquisition programs formerly authorized under ss. 259.032 and 373.59. ~~Prior to the 2005 Regular Session of the Legislature, the Acquisition and Restoration Council shall review and make recommendations to the Legislature concerning the need to repeal this provision. Based on these recommendations, the Legislature shall review the need to repeal this provision during the 2005 Regular Session.~~

Section 3. Subsection (3) of section 370.07, Florida Statutes, is amended to read:

370.07 Wholesale and retail saltwater products dealers; regulation.—

(3) OYSTER MANAGEMENT AND RESTORATION PROGRAMS APALACHICOLA BAY OYSTER SURCHARGE.—

~~(a) For purposes of this section, “bag” means an amount of oysters with shells weighing approximately 60 pounds.~~

~~(b) Effective October 1, 1989, there shall be assessed a surcharge of 50 cents on each bag of oysters to be paid by the wholesale dealer first receiving, using, or selling the oysters after harvesting from the waters of Apalachicola Bay.~~

~~(c)1. Each wholesale dealer shall certify, on such forms as may be prescribed by the Department of Revenue, to any subsequent purchasing whole-~~

sale dealer or other purchaser that the surcharge imposed by this subsection has been paid or will be paid by such wholesale dealer first receiving the oysters.

~~2. In the case where the harvester is also the wholesale dealer, such wholesale dealer shall maintain documentation, on forms as may be prescribed by the Department of Revenue, adequate to establish that the surcharge has been paid or will be paid by such wholesale dealer.~~

~~3. In such case where the wholesale dealer is also the retail dealer under paragraph (1)(b), such wholesale dealer shall maintain documentation, on forms as may be prescribed by the Department of Revenue, adequate to establish that the surcharge has been paid or will be paid by such wholesale dealer.~~

~~(d) Except for the collection allowance pursuant to s. 212.12 and estimated tax filing requirements pursuant to s. 212.11, the same duties and privileges imposed by chapter 212 upon dealers of tangible personal property respecting the remission of the surcharge, the making of returns, penalties and interest, the keeping of books, records and accounts, and the compliance with the rules of the Department of Revenue in the administration of chapter 212 shall apply and be binding upon all wholesale dealers who are subject to the surcharge imposed by this subsection.~~

~~(e) The Department of Revenue shall keep records showing the amount of the surcharge collected.~~

~~(f) The Department of Revenue shall collect the surcharge for transfer into the General Inspection Trust Fund of the Department of Agriculture and Consumer Services.~~

~~(g) The Department of Revenue is empowered to promulgate rules, establish audit procedures for the audit of wholesale dealers, assess for delinquency, and prescribe and publish such forms as may be necessary to effectuate the provisions of this subsection.~~

~~(h) Annually, the Department of Agriculture and Consumer Services and the Fish and Wildlife Conservation Commission shall furnish the Department of Revenue with a current list of wholesale dealers in the state.~~

~~(i) Collections received by the Department of Revenue from the surcharge shall be transferred quarterly to the General Inspection Trust Fund of the Department of Agriculture and Consumer Services, less the costs of administration.~~

~~(j) The executive director of the Department of Revenue is hereby authorized to adopt emergency rules pursuant to s. 120.54(4) for purposes of implementing this subsection. Notwithstanding any other provisions of law, such emergency rules shall remain effective for 6 months from the date of adoption. Other rules of the Department of Revenue related to and in furtherance of the orderly implementation of this subsection shall not be subject to a s. 120.56(2) rule challenge or a s. 120.54(3)(c)2. drawout proceeding but, once adopted, shall be subject to a s. 120.56(3) invalidity challenge. Such rules~~

shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(3)(e)6.

(k) The Department of Agriculture and Consumer Services shall use or distribute funds paid into the State Treasury to the credit of the General Inspection Trust Fund pursuant to s. 201.15(11) generated by this surcharge, less reasonable costs of collection and administration, to fund the following oyster management and restoration programs in Apalachicola Bay and other oyster harvest areas in the state:

- (a)~~1.~~ The relaying and transplanting of live oysters.
- (b)~~2.~~ Shell planting to construct or rehabilitate oyster bars.
- (c)~~3.~~ Education programs for licensed oyster harvesters on oyster biology, aquaculture, boating and water safety, sanitation, resource conservation, small business management, and other relevant subjects.
- (d)~~4.~~ Research directed toward the enhancement of oyster production in the bay and the water management needs of the bay.

Section 4. Section 213.05, Florida Statutes, is amended to read:

213.05 Department of Revenue; control and administration of revenue laws.—The Department of Revenue shall have only those responsibilities for ad valorem taxation specified to the department in chapter 192, taxation, general provisions; chapter 193, assessments; chapter 194, administrative and judicial review of property taxes; chapter 195, property assessment administration and finance; chapter 196, exemption; chapter 197, tax collections, sales, and liens; chapter 199, intangible personal property taxes; and chapter 200, determination of millage. The Department of Revenue shall have the responsibility of regulating, controlling, and administering all revenue laws and performing all duties as provided in s. 125.0104, the Local Option Tourist Development Act; s. 125.0108, tourist impact tax; chapter 198, estate taxes; chapter 201, excise tax on documents; chapter 202, communications services tax; chapter 203, gross receipts taxes; chapter 206, motor and other fuel taxes; chapter 211, tax on production of oil and gas and severance of solid minerals; chapter 212, tax on sales, use, and other transactions; chapter 220, income tax code; chapter 221, emergency excise tax; ss. 336.021 and 336.025, taxes on motor fuel and special fuel; s. ~~370.07(3), Apalachicola Bay oyster surcharge~~; s. 376.11, pollutant spill prevention and control; s. 403.718, waste tire fees; s. 403.7185, lead-acid battery fees; s. 538.09, registration of secondhand dealers; s. 538.25, registration of secondary metals recyclers; s. 624.4621, group self-insurer's fund premium tax; s. 624.5091, retaliatory tax; s. 624.475, commercial self-insurance fund premium tax; ss. 624.509-624.511, insurance code: administration and general provisions; s. 624.515, State Fire Marshal regulatory assessment; s. 627.357, medical malpractice self-insurance premium tax; s. 629.5011, reciprocal insurers premium tax; and s. 681.117, motor vehicle warranty enforcement.

Section 5. On the effective date of this act, the Department of Revenue shall cease all efforts to collect any uncollected revenues due or payable pursuant to the 50-cent-per-bag surcharge that is abolished by this act.

Section 6. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor June 12, 2006.

Filed in Office Secretary of State June 12, 2006.