

By Senator Laurent

17-980A-00

See HB 991

1 A bill to be entitled
2 An act relating to Lake Okeechobee; amending s.
3 373.4595, F.S.; providing legislative findings
4 and intent; providing definitions; providing
5 for implementation of a Lake Okeechobee
6 Protection Program; requiring completion of a
7 Lake Okeechobee Protection Plan by a specified
8 date; requiring implementation of a regional
9 water quality treatment construction project;
10 requiring completion of research and rulemaking
11 related to Lake Okeechobee; requiring regional
12 water quality monitoring; requiring a
13 phosphorus control program and implementation
14 of a best management practices program;
15 providing for interagency agreements and for
16 interim measures; providing for protection of
17 native flora and fauna; providing for a study
18 regarding phosphorus removal; requiring annual
19 reports; requiring certain permits for
20 activities in the Lake Okeechobee watershed;
21 preserving all existing state water quality
22 standards; preserving existing authority;
23 amending s. 373.406, F.S.; providing exemptions
24 from regulation under pt. IV of ch. 373, F.S.,
25 relating to management and storage of surface
26 waters; providing the South Florida Water
27 Management District with certain authority to
28 manage lands it acquires for the Kissimmee
29 River Revitalization Project; encouraging less
30 than fee title acquisition under certain
31 circumstances; providing an effective date.

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

2

3 Section 1. Section 373.4595, Florida Statutes, is
4 amended to read:

5 (Substantial rewording of section. See

6 s. 373.4595, F.S., for present text.)

7 373.4595 Lake Okeechobee Protection Program.--

8 (1) FINDINGS AND INTENT.--

9 (a) The Legislature finds that Lake Okeechobee is one
10 of the most important water resources of the state, providing
11 many functions benefiting the public interest, including
12 agricultural, public, and environmental water supply; flood
13 control; fishing; navigation and recreation; and habitat to
14 endangered and threatened species and other flora and fauna.

15 (b) The Legislature finds that land uses in the Lake
16 Okeechobee watershed and the construction of the Central and
17 Southern Florida Project have resulted in adverse changes to
18 the hydrology and water quality of Lake Okeechobee. These
19 hydrology and water quality changes have resulted in algal
20 blooms and other adverse impacts to water quality both in Lake
21 Okeechobee and in downstream receiving waters.

22 (c) The Legislature finds that improvement to the
23 hydrology and water quality of Lake Okeechobee is essential to
24 the protection of the Everglades.

25 (d) The Legislature also finds that it is imperative
26 for the state, local governments, and agricultural and
27 environmental communities to commit to restoring and
28 protecting Lake Okeechobee and downstream receiving waters,
29 and that a watershed-based approach to address these issues
30 must be developed and implemented immediately.

31

1 (e) The Legislature finds that phosphorus loads from
2 the Lake Okeechobee watershed have contributed to excessive
3 phosphorus levels in Lake Okeechobee and downstream receiving
4 waters and that a reduction in levels of phosphorus will
5 benefit the ecology of these systems. The excessive levels of
6 phosphorus have also resulted in an accumulation of phosphorus
7 in the sediments of Lake Okeechobee. If not removed, internal
8 phosphorus loads from the sediments are expected to delay
9 responses of the lake to external phosphorus reductions.

10 (f) The Legislature finds that the Lake Okeechobee
11 phosphorus loads set forth in the South Florida Water
12 Management District's Technical Publication 81-2 represent an
13 appropriate basis for the initial phase of phosphorus load
14 reductions to Lake Okeechobee and that subsequent phases of
15 phosphorus load reductions shall be determined by the total
16 maximum daily loads established in accordance with s. 403.067.

17 (g) The Legislature finds that this section, in
18 conjunction with s. 403.067, provides a reasonable means of
19 achieving and maintaining compliance with state water quality
20 standards.

21 (h) The Legislature finds that the implementation of
22 the programs contained in this section is for the benefit of
23 the public health, safety, and welfare and is in the public
24 interest.

25 (i) The Legislature finds that sufficient research has
26 been conducted and sufficient plans developed to immediately
27 initiate the first phase of a program to address the hydrology
28 and water quality problems in Lake Okeechobee and downstream
29 receiving waters.

30 (j) It is the intent of the Legislature to achieve and
31 maintain compliance with water quality standards in Lake

1 Okeechobee and downstream receiving waters through a phased,
2 comprehensive, and innovative protection program to reduce
3 both internal and external phosphorus loads to Lake Okeechobee
4 through immediate actions to achieve the phosphorus load
5 reductions set forth in Technical Publication 81-2 and
6 long-term solutions based upon the total maximum daily loads
7 established in accordance with s. 403.067. This program shall
8 be watershed-based, shall provide for consideration of all
9 potential phosphorus sources, and shall include research and
10 monitoring, development and implementation of best management
11 practices, refinement of existing regulations, and structural
12 and nonstructural projects, including public works.

13 (k) It is the intent of the Legislature that the Lake
14 Okeechobee Protection Program be developed and implemented in
15 coordination with and, to the greatest extent practicable,
16 through the implementation of Restudy project components and
17 other federal programs in order to maximize opportunities for
18 the most efficient and timely expenditures of public funds.

19 (l) It is the intent of the Legislature that the
20 coordinating agencies encourage and support the development of
21 creative public-private partnerships and programs, including
22 opportunities for pollutant trading and credits, to facilitate
23 or further the restoration of Lake Okeechobee, consistent with
24 s. 403.067.

25 (2) DEFINITIONS.--As used in this section, the term:

26 (a) "Best management practice" means a practice or
27 combination of practices determined by the coordinating
28 agencies, based on research, field-testing, and expert review,
29 to be the most effective and practicable on-location means,
30 including economic and technological considerations, for
31 improving water quality in agricultural and urban discharges.

1 Best management practices for agricultural discharges shall
2 reflect a balance between water quality improvements and
3 agricultural productivity.

4 (b) "Coordinating agencies" means the Department of
5 Agriculture and Consumer Services, the Department of
6 Environmental Protection, and the South Florida Water
7 Management District.

8 (c) "Corps of Engineers" means the United States Army
9 Corps of Engineers.

10 (d) "Department" means the Department of Environmental
11 Protection.

12 (e) "District" means the South Florida Water
13 Management District.

14 (f) "District's WOD program" means the program
15 implemented pursuant to rules adopted as authorized by this
16 section and ss. 373.016, 373.044, 373.085, 373.086, 373.109,
17 373.113, 373.118, 373.451, and 373.453, entitled "Works of the
18 District Basin."

19 (g) "Lake Okeechobee Construction Project" means the
20 construction project developed pursuant to paragraph (3)(b).

21 (h) "Lake Okeechobee Protection Plan" means the plan
22 developed pursuant to this section and ss. 373.451-373.459.

23 (i) "Lake Okeechobee watershed" means the area
24 surrounding and tributary to Lake Okeechobee, composed of 39
25 surrounding hydrologic basins, as defined by South Florida
26 Water Management District SWIM Plan Update dated August 8,
27 1997.

28 (j) "Lake Okeechobee Watershed Phosphorus Control
29 Program" means the program developed pursuant to paragraph
30 (3)(c).

31

1 (k) "Project component" means any structural or
2 operational change, resulting from the Restudy, to the Central
3 and Southern Florida Project as it existed and was operated as
4 of January 1, 1999.

5 (l) "Restudy" means the Comprehensive Review Study of
6 the Central and Southern Florida Project, for which federal
7 participation was authorized by the Federal Water Resources
8 Development Acts of 1992 and 1996 together with related
9 Congressional resolutions and for which participation by the
10 South Florida Water Management District is authorized by s.
11 373.1501. The term includes all actions undertaken pursuant to
12 the aforementioned authorizations which will result in
13 recommendations for modifications or additions to the Central
14 and Southern Florida Project.

15 (m) "Total maximum daily load" means the sum of the
16 individual wasteload allocations for point sources and the
17 load allocations for nonpoint sources and natural background.
18 Prior to determining individual wasteload allocations and load
19 allocations, the maximum amount of a pollutant that a water
20 body or water segment can assimilate from all sources without
21 exceeding water quality standards must first be calculated.

22 (3) LAKE OKEECHOBEE PROTECTION PROGRAM.--A protection
23 program for Lake Okeechobee that achieves phosphorus load
24 reductions for Lake Okeechobee shall be immediately
25 implemented as specified in this subsection. The program shall
26 address the reduction of phosphorus loading to the lake from
27 both internal and external sources. Phosphorus load reductions
28 shall be achieved through a phased program of implementation.
29 Initial implementation actions shall be technology-based,
30 based upon a consideration of both the availability of
31 appropriate technology and the cost of such technology, and

1 shall include phosphorus reduction measures at both the source
2 and the regional level. The initial phase of phosphorus load
3 reductions shall be based upon the district's Technical
4 Publication 81-2 and the district's WOD program, with
5 subsequent phases of phosphorus load reductions based upon the
6 total maximum daily loads established in accordance with s.
7 403.067. In the development and administration of the Lake
8 Okeechobee Protection Program, the coordinating agencies shall
9 maximize opportunities provided by federal cost-sharing
10 programs and opportunities for partnerships with the private
11 sector.

12 (a) Lake Okeechobee Protection Plan.--By January 1,
13 2004, the district, in cooperation with the other coordinating
14 agencies, shall complete a Lake Okeechobee Protection Plan in
15 accordance with this section and ss. 373.451-373.459. The plan
16 shall contain an implementation schedule for subsequent phases
17 of phosphorus load reduction consistent with the total maximum
18 daily loads established in accordance with s. 403.067. The
19 plan shall consider and build upon a review and analysis of
20 the following:

21 1. The performance of projects constructed during
22 Phase I of the Lake Okeechobee Construction Project, pursuant
23 to paragraph (b).

24 2. Relevant information resulting from the Lake
25 Okeechobee Watershed Phosphorus Control Program, pursuant to
26 paragraph (c).

27 3. Relevant information resulting from the Lake
28 Okeechobee Research and Water Quality Monitoring Program,
29 pursuant to paragraph (d).
30
31

1 4. Relevant information resulting from the Lake
2 Okeechobee Exotic Species Control Program, pursuant to
3 paragraph (e).

4 5. Relevant information resulting from the Lake
5 Okeechobee Internal Phosphorus Management Program, pursuant to
6 paragraph (f).

7 (b) Lake Okeechobee Construction Project.--To improve
8 the hydrology and water quality of Lake Okeechobee and
9 downstream receiving waters, the district shall design and
10 construct the Lake Okeechobee Construction Project.

11 1. Phase I.--Phase I of the Lake Okeechobee
12 Construction Project shall consist of a series of project
13 features consistent with the recommendations of the South
14 Florida Ecosystem Restoration Working Group's Lake Okeechobee
15 Action Plan. Priority basins for such projects include S-191,
16 S-154, and Pools D and E in the Lower Kissimmee River. In
17 order to obtain immediate phosphorus load reductions to Lake
18 Okeechobee as soon as possible, the following actions shall be
19 implemented:

20 a. The district shall serve as a full partner with the
21 Corps of Engineers in the design and construction of the
22 Grassy Island Ranch and New Palm Dairy stormwater treatment
23 facilities as components of the Lake Okeechobee Water
24 Retention/Phosphorus Removal Critical Project. The Corps of
25 Engineers shall have the lead in design and construction of
26 these facilities. However, the district shall encourage the
27 Corps of Engineers to complete a detailed design document by
28 July 1, 2001. Should delays be encountered in the
29 implementation of either of these facilities, the district
30 shall notify the department and recommend corrective actions.

31

1 b. By January 1, 2001, the district shall obtain
2 permits and complete construction of two of the isolated
3 wetland restoration projects that are part of the Lake
4 Okeechobee Water Retention/Phosphorus Removal Critical
5 Project. The additional isolated wetland projects included in
6 this critical project shall be permitted and constructed by
7 January 1, 2003, to further reduce phosphorus loading to Lake
8 Okeechobee.

9 c. By January 31, 2002, the district shall design and
10 complete implementation of the Lake Okeechobee Tributary
11 Sediment Removal Pilot Project. This project shall consist of
12 testing two alternative technologies for trapping and
13 collecting phosphorus-laden sediment in the secondary drainage
14 system prior to its discharge into the primary canal system
15 and Lake Okeechobee, thereby further reducing the total
16 sediment loading to the lake.

17 d. The district shall work with the Corps of Engineers
18 to expedite initiation of the design process for the Taylor
19 Creek/Nubbins Slough Reservoir Assisted Stormwater Treatment
20 Area, a project component of the Restudy. The district shall
21 propose to the Corps of Engineers that the district take the
22 lead in the design and construction of the Reservoir Assisted
23 Stormwater Treatment Area and receive credit towards the local
24 share of the total cost of the Restudy.

25 2. Phase II.--By January 1, 2004, the district, in
26 cooperation with the other coordinating agencies and the Corps
27 of Engineers, shall develop an implementation plan for Phase
28 II of the Lake Okeechobee Construction Project. Phase II shall
29 include construction of additional facilities in the priority
30 basins identified in subparagraph (b)1., as well as facilities
31

1 for other basins in the Lake Okeechobee watershed. The
2 implementation plan shall:
3 a. Identify Lake Okeechobee Construction Project
4 facilities to be constructed to achieve a design objective of
5 40 parts per billion (ppb) for phosphorus measured as a
6 long-term flow weighted average concentration, unless an
7 allocation has been established pursuant to s. 403.067 for the
8 Lake Okeechobee total maximum daily load.
9 b. Identify the size and location of all such Lake
10 Okeechobee Construction Project facilities.
11 c. Provide a construction schedule for all such Lake
12 Okeechobee Construction Project facilities, including the
13 sequencing and specific timeframe for construction of each
14 Lake Okeechobee Construction Project facility.
15 d. Provide a land acquisition schedule for lands
16 necessary to achieve the construction schedule.
17 e. Provide a detailed schedule of costs associated
18 with the construction schedule.
19 f. Identify, to the maximum extent practicable,
20 wetland impacts expected to be associated with construction of
21 such facilities, including potential alternatives to minimize
22 or mitigate such impacts.
23 3. Evaluation.--By January 1, 2004, and every 3 years
24 thereafter, the district, in cooperation with the coordinating
25 agencies, shall conduct an evaluation of any further
26 phosphorus load reductions necessary to achieve compliance
27 with the Lake Okeechobee total maximum daily load established
28 pursuant to s. 403.067. Additionally, the district shall
29 identify modifications to facilities of the Lake Okeechobee
30 Construction Project as appropriate if the design objective of
31 40 parts per billion (ppb) or the allocation established

1 pursuant to s. 403.067 for the Lake Okeechobee total maximum
2 daily load established pursuant to s. 403.067 is not being
3 met. The evaluation shall be included in the applicable annual
4 progress report submitted pursuant to paragraph (g).

5 4. Coordination and review.--To ensure the timely
6 implementation of the Lake Okeechobee Construction Project,
7 the design of project facilities shall be coordinated with the
8 department and other interested parties to the maximum extent
9 practicable. Lake Okeechobee Construction Project facilities
10 shall be reviewed and commented upon by the department prior
11 to the execution of a construction contract by the district
12 for that facility.

13 (c) Lake Okeechobee Watershed Phosphorus Control
14 Program.--The Lake Okeechobee Watershed Phosphorus Control
15 Program is designed to be a multifaceted approach to reducing
16 phosphorus loads by improving the management of phosphorus
17 sources within the Lake Okeechobee watershed through continued
18 implementation of existing regulations and best management
19 practices, development and implementation of improved best
20 management practices, improvement and restoration of the
21 hydrologic function of natural and managed systems, and
22 utilization of alternative technologies for nutrient
23 reduction. The coordinating agencies shall facilitate the
24 application of federal programs that offer opportunities for
25 water quality treatment, including preservation, restoration,
26 or creation of wetlands on agricultural lands.

27 1. Agricultural nonpoint source best management
28 practices, developed in accordance with s. 403.067 and
29 designed to achieve the objectives of the Lake Okeechobee
30 Protection Program, shall be implemented on an expedited
31 basis. By March 1, 2001, the coordinating agencies shall

1 develop an interagency agreement pursuant to ss. 373.046 and
2 373.406(5) that assures the development of best management
3 practices that complement existing regulatory programs and
4 specifies how those best management practices are implemented
5 and verified. The interagency agreement shall address measures
6 to be taken by the coordinating agencies during any best
7 management practice reevaluation performed pursuant to
8 sub-subparagraph d. The department shall use best professional
9 judgment in making the initial determination of best
10 management practice effectiveness.

11 a. As provided in s. 403.067(7)(d), by October 1,
12 2000, the Department of Agriculture and Consumer Services, in
13 consultation with the department, the district, and affected
14 parties, shall initiate rule development for interim measures,
15 best management practices, nutrient management plans, or other
16 measures necessary for Lake Okeechobee phosphorus load
17 reduction. The rule shall include criteria and thresholds for
18 nutrient management plans. Development of agricultural
19 nonpoint source best management practices shall initially
20 focus on those priority basins listed in subparagraph (b)1.
21 The Department of Agriculture and Consumer Services, in
22 consultation with the department, the district, and affected
23 parties, shall conduct an ongoing program for improvement of
24 existing and development of new interim measures or best
25 management practices for the purpose of adoption of such
26 practices by rule.

27 b. Where agricultural nonpoint source best management
28 practices or interim measures have been adopted by rule of the
29 Department of Agriculture and Consumer Services, the owner or
30 operator of an agricultural nonpoint source addressed by such
31 rule shall either implement interim measures or best

1 management practices or demonstrate compliance with the
2 district's WOD program by conducting monitoring prescribed by
3 the department or the district. Owners or operators of
4 agricultural nonpoint sources who implement interim measures
5 or best management practices adopted by rule of the Department
6 of Agriculture and Consumer Services shall be subject to the
7 provisions of s. 403.067(7). The Department of Agriculture and
8 Consumer Services, in cooperation with the department and the
9 district, shall provide technical assistance for
10 implementation of agricultural best management practices.

11 c. The district or department shall conduct monitoring
12 at representative sites to verify the effectiveness of
13 agricultural nonpoint source best management practices.

14 d. Where water quality problems are detected for
15 agricultural nonpoint sources despite the appropriate
16 implementation of adopted best management practices, the
17 Department of Agriculture and Consumer Services, in
18 consultation with the other coordinating agencies and affected
19 parties, shall institute a reevaluation of the best management
20 practices and make appropriate changes to the rule adopting
21 best management practices.

22 2. Nonagricultural nonpoint source best management
23 practices, developed in accordance with s. 403.067 and
24 designed to achieve the objectives of the Lake Okeechobee
25 Protection Program, shall be implemented on an expedited
26 basis. By March 1, 2001, the department and the district shall
27 develop an interagency agreement pursuant to ss. 373.046 and
28 373.406(5) that assures the development of best management
29 practices that complement existing regulatory programs and
30 specifies how those best management practices are implemented
31 and verified. The interagency agreement shall address measures

1 to be taken by the department and the district during any best
2 management practice reevaluation performed pursuant to
3 sub-subparagraph d.

4 a. The department and the district are directed to
5 work with the University of Florida's Institute of Food and
6 Agricultural Sciences to develop appropriate nutrient
7 application rates for all nonagricultural soil amendments in
8 the watershed. As provided in s. 403.067(7)(c), by January 1,
9 2001, the department, in consultation with the district and
10 affected parties, shall develop interim measures, best
11 management practices, or other measures necessary for Lake
12 Okeechobee phosphorus load reduction. Development of
13 nonagricultural nonpoint source best management practices
14 shall initially focus on those priority basins listed in
15 subparagraph (b)1. The department, the district, and affected
16 parties shall conduct an ongoing program for improvement of
17 existing and development of new interim measures or best
18 management practices. The district shall adopt
19 technology-based standards under the district's WOD program
20 for nonagricultural nonpoint sources of phosphorus.

21 b. Where nonagricultural nonpoint source best
22 management practices or interim measures have been developed
23 by the department and adopted by the district, the owner or
24 operator of a nonagricultural nonpoint source shall implement
25 interim measures or best management practices and be subject
26 to the provisions of s. 403.067(7). The department and
27 district shall provide technical and financial assistance for
28 implementation of nonagricultural nonpoint source best
29 management practices, subject to the availability of funds.

1 c. The district or the department shall conduct
2 monitoring at representative sites to verify the effectiveness
3 of nonagricultural nonpoint source best management practices.

4 d. Where water quality problems are detected for
5 nonagricultural nonpoint sources despite the appropriate
6 implementation of adopted best management practices, the
7 department and the district shall institute a reevaluation of
8 the best management practices.

9 3. The provisions of subparagraphs 1. and 2. shall not
10 preclude the department or the district from requiring
11 compliance with water quality standards or with current best
12 management practices requirements set forth in any applicable
13 regulatory program authorized by law for the purpose of
14 protecting water quality. Additionally, subparagraphs 1. and
15 2. are applicable only to the extent that they do not conflict
16 with any rules promulgated by the department that are
17 necessary to maintain a federally delegated or approved
18 program.

19 4. Projects which reduce the phosphorus load
20 originating from domestic wastewater systems within the Lake
21 Okeechobee watershed shall be given funding priority in the
22 department's revolving loan program under s. 403.1835. The
23 department shall coordinate and provide assistance to those
24 local governments seeking financial assistance for such
25 priority projects.

26 5. The department shall require all entities disposing
27 of domestic wastewater residuals within the Lake Okeechobee
28 watershed to develop and submit to the department by July 1,
29 2001, an agricultural use plan that limits applications based
30 upon phosphorus loading. Phosphorus loading originating from
31

1 these application sites shall not exceed the limits
2 established in the district's WOD program.

3 6. By July 1, 2001, the Department of Agriculture and
4 Consumer Services shall initiate rulemaking requiring entities
5 within the Lake Okeechobee watershed which land-apply animal
6 manure to develop nutrient management plans that limit
7 application, based upon phosphorus loading. Such rules may
8 include criteria and thresholds for the requirement to develop
9 a nutrient management plan, requirements for nutrient
10 management plan approval, and recordkeeping requirements.

11 7. Prior to authorizing a discharge into works of the
12 district, the district shall require responsible parties to
13 demonstrate that proposed changes in land use will not result
14 in increased phosphorus loading over that of existing land
15 uses.

16 8. The district, the department, or the Department of
17 Agriculture and Consumer Services, as appropriate, shall
18 implement those alternative nutrient reduction technologies
19 determined to be feasible pursuant to subparagraph (d)6.

20 (d) Lake Okeechobee Research and Water Quality
21 Monitoring Program.--By January 1, 2001, the district, in
22 cooperation with the other coordinating agencies, shall
23 establish a Lake Okeechobee Research and Water Quality
24 Monitoring Program that builds upon the district's existing
25 Lake Okeechobee research program. The program shall:

26 1. Evaluate all available existing water quality data
27 concerning total phosphorus in the Lake Okeechobee watershed,
28 develop a water quality baseline to represent existing
29 conditions for total phosphorus, monitor long-term ecological
30 changes, including water quality for total phosphorus, and
31 measure compliance with water quality standards for total

1 phosphorus, including the total maximum daily load for Lake
2 Okeechobee as established pursuant to s. 403.067. The district
3 shall also implement a total phosphorus monitoring program at
4 all inflow structures to Lake Okeechobee.

5 2. By July 1, 2003, develop a Lake Okeechobee water
6 quality model that reasonably represents phosphorus dynamics
7 of the lake and incorporates an uncertainty analysis
8 associated with model predictions.

9 3. By July 1, 2003, determine the relative
10 contribution of phosphorus from all identifiable sources and
11 all primary and secondary land uses.

12 4. By July 1, 2003, conduct an assessment of the
13 sources of phosphorus from the Upper Kissimmee Chain-of-Lakes
14 and Lake Istokpoga, and their relative contribution to the
15 water quality of Lake Okeechobee. The results of this
16 assessment shall be used by the coordinating agencies to
17 develop interim measures, best management practices, or
18 regulation, as applicable.

19 5. By July 1, 2003, assess current water management
20 practices within Lake Okeechobee and the Lake Okeechobee
21 watershed and develop recommendations for structural and
22 operational improvements. Such recommendations shall balance
23 water supply, flood control, and water quality considerations.

24 6. By July 1, 2003, evaluate the feasibility of
25 alternative nutrient reduction technologies, including
26 sediment traps, canal and ditch maintenance, fish production
27 or other aquaculture, bioenergy conversion processes, and
28 algal or other biological treatment technologies.

29 (e) Lake Okeechobee Exotic Species Control
30 Program.--By June 1, 2002, the coordinating agencies shall
31 identify the exotic species that threaten the native flora and

1 fauna within the Lake Okeechobee watershed and develop and
2 implement measures to protect the native flora and fauna.

3 (f) Lake Okeechobee Internal Phosphorus Management
4 Program.--By July 1, 2003, the district, in cooperation with
5 the other coordinating agencies and interested parties, shall
6 complete a Lake Okeechobee internal phosphorus load removal
7 feasibility study. The feasibility study shall be based on
8 technical feasibility, as well as economic considerations, and
9 address all reasonable methods of phosphorus removal. If
10 methods are found to be feasible, the district shall
11 immediately pursue the design, funding, and permitting for
12 implementing such methods.

13 (g) Annual progress report.--Each January 1, beginning
14 in 2001, the district shall submit to the Governor, the
15 President of the Senate, and the Speaker of the House of
16 Representatives annual progress reports regarding
17 implementation of this section. The annual report shall
18 include a summary of water quality conditions in Lake
19 Okeechobee and the Lake Okeechobee watershed and the status of
20 the Lake Okeechobee Construction Project. The district shall
21 prepare the report in cooperation with the other coordinating
22 agencies.

23 (4) LAKE OKEECHOBEE PROTECTION PERMITS.--

24 (a) The Legislature finds that the Lake Okeechobee
25 Protection Program will benefit Lake Okeechobee and downstream
26 receiving waters and is consistent with the public interest.
27 The Lake Okeechobee Construction Project and existing
28 structures discharging into or from Lake Okeechobee shall be
29 constructed, operated, and maintained in accordance with this
30 section.

31

1 (b) Permits obtained pursuant to this section are in
2 lieu of all other permits under chapter 373 or chapter 403,
3 except those issued under s. 403.0885, if applicable. No
4 additional permits are required for the Lake Okeechobee
5 Construction Project or existing structures discharging into
6 or from Lake Okeechobee. Construction activities related to
7 implementation of the Lake Okeechobee Construction Project may
8 be initiated prior to final agency action, or notice of
9 intended agency action, on any permit from the department
10 under this section.

11 (c) By September 1, 2000, owners or operators of
12 structures which discharge into or from Lake Okeechobee shall
13 apply for a permit from the department to operate and maintain
14 such structures. The department shall issue one or more such
15 permits for a term of 5 years upon the demonstration of
16 reasonable assurance that schedules and strategies to achieve
17 and maintain compliance with water quality standards have been
18 provided for, to the maximum extent practicable, and that
19 operation of the structures otherwise complies with provisions
20 of ss. 373.413 and 373.416.

21 1. Permits issued under this paragraph shall also
22 contain reasonable conditions to ensure that discharges of
23 waters through district structures:

- 24 a. Are adequately and accurately monitored;
25 b. Will not degrade existing Lake Okeechobee water
26 quality and will result in an overall reduction of phosphorus
27 input into Lake Okeechobee, as set forth in the district's
28 Technical Publication 81-2 and the total maximum daily load
29 established in accordance with s. 403.067, to the maximum
30 extent practicable; and

31

1 c. Do not pose a serious danger to public health,
2 safety, or welfare.

3 2. By January 1, 2004, the district shall submit to
4 the department a permit modification to the Lake Okeechobee
5 structure permits to incorporate proposed changes necessary to
6 ensure that discharges through the structures covered by this
7 permit achieve state water quality standards, including the
8 total maximum daily load established in accordance with s.
9 403.067. These changes shall be designed to achieve such
10 compliance with state water quality standards no later than
11 January 1, 2015.

12 (d) The department shall issue permits for Lake
13 Okeechobee Construction Project facilities for a term of 5
14 years upon the demonstration of reasonable assurances that:

15 1. The Lake Okeechobee Construction Project facility,
16 based upon the conceptual design documents and any subsequent
17 detailed design documents developed by the district, will
18 achieve the design objectives for phosphorus required in
19 paragraph (3)(b);

20 2. For water quality standards other than phosphorus,
21 the quality of water discharged from the facility is of equal
22 or better quality than the inflows;

23 3. Discharges from the facility do not pose a serious
24 danger to public health, safety, or welfare; and

25 4. Any wetland impacts resulting from implementation
26 of that facility of the Lake Okeechobee Construction Project
27 are minimized or mitigated.

28 (e) At least 60 days prior to the expiration of any
29 permit issued under this section, the permittee may apply for
30 a renewal thereof for a period of 5 years.

31

1 (f) Permits issued under this section may include any
2 standard conditions provided by department rule which are
3 appropriate and consistent with this section.

4 (g) Permits issued pursuant to this section may be
5 modified, as appropriate, upon review and approval by the
6 department.

7 (5) RELATIONSHIP TO STATE WATER QUALITY
8 STANDARDS.--Nothing in this section shall be construed to
9 modify any existing state water quality standard, except that
10 this section provides a schedule for achieving compliance with
11 existing narrative and numeric state water quality standards
12 and for implementing the department's total maximum daily load
13 program.

14 (6) PRESERVATION OF AUTHORITY.--Nothing in this
15 section shall be construed to restrict the authority otherwise
16 granted to agencies pursuant to chapters 373 and 403, and
17 provisions of this section shall be deemed supplemental to the
18 authority granted to agencies pursuant to chapters 373 and
19 403.

20 Section 2. Subsections (9) and (10) are added to
21 section 373.406, Florida Statutes, to read:

22 373.406 Exemptions.--The following exemptions shall
23 apply:

24 (9) Implementation of measures having the primary
25 purpose of environmental restoration or water quality
26 improvement on agricultural lands are exempt from regulation
27 under this part where these measures or practices are
28 determined by the district or department, on a case-by-case
29 basis, to have minimal or insignificant individual and
30 cumulative adverse impact on the water resources of the state.
31 The district or department shall provide written notification

1 as to whether the proposed activity qualifies for the
2 exemption within 30 days after receipt of a written notice
3 requesting the exemption. No activity under this exemption
4 shall commence until the district or department has provided
5 written notice that the activity qualifies for the exemption.

6 (10) Implementation of interim measures or best
7 management practices adopted pursuant to s. 403.067 that are
8 by rule designated as having minimal individual or cumulative
9 adverse impacts to the water resources of the state are exempt
10 from regulation under this part.

11 Section 3. The South Florida Water Management District
12 shall have the authority to manage lands it acquires for the
13 Kissimmee River Headwaters Revitalization Project to protect
14 and improve water quality, implement hydrological
15 improvements, protect fish and wildlife and endangered
16 species, and accomplish other best management practices on
17 district land in a manner that is consistent with surrounding
18 parks and preserves owned by the state. In acquiring land for
19 the Kissimmee River Revitalization Project, the South Florida
20 Water Management District is encouraged to acquire less than
21 fee title where feasible and beneficial to the protection of
22 ecological values, fish and wildlife, and endangered species,
23 provided the objectives of restoring the Everglades system are
24 advanced and the project purposes of the Kissimmee River
25 Restoration Project and the Kissimmee River Headwaters
26 Revitalization Project are met.

27 Section 4. This act shall take effect upon becoming a
28 law.

LEGISLATIVE SUMMARY

Provides for implementation of a Lake Okeechobee Protection Program. Requires completion of a protection plan, including an implementation schedule, by January 1, 2004. Requires the South Florida Water Management District to design and schedule implementation of a Lake Okeechobee Construction Project to improve regional hydrology and water quality, in cooperation with the U.S. Army Corps of Engineers, the Department of Environmental Protection, the Department of Agriculture and Consumer Services, and other interested parties. Establishes a phosphorus control program and a research and water quality monitoring program to provide for water quality monitoring and best management practices, and other measures, to reduce phosphorus input into Lake Okeechobee. Provides for rulemaking and interagency agreements and authorizes certain interim measures. Provides for a program to protect native flora and fauna and for a study regarding the feasibility of phosphorus removal. Requires annual reports to the Governor and Legislature beginning January 1, 2001. Provides a permitting process for the Lake Okeechobee Construction Project and existing structures discharging into or from Lake Okeechobee. Preserves existing state water quality standards and the authority otherwise provided to agencies under chs. 373 and 403, F.S. Provides certain exemptions from regulation under pt. IV of ch. 373, F.S., relating to management and storage of surface waters. Provides the South Florida Water Management District with certain authority to manage lands it acquires for the Kissimmee River Revitalization Project and encourages less than fee title acquisition under certain circumstances. (See bill for details.)