

By the Committee on Natural Resources and Senator Laurent

312-1804-00

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; regulating the  
13          diversion of specified water; requiring a  
14          phosphorus control program and implementation  
15          of a best management practices program;  
16          providing for interagency agreements and for  
17          interim measures; providing for protection of  
18          native flora and fauna; providing for a study  
19          regarding phosphorus removal; requiring annual  
20          reports; requiring certain permits for  
21          activities in the Lake Okeechobee watershed;  
22          preserving all existing state water quality  
23          standards; preserving existing authority;  
24          amending s. 373.406, F.S.; providing exemptions  
25          from regulation under pt. IV of ch. 373, F.S.,  
26          relating to management and storage of surface  
27          waters; amending s. 403.067, F.S.; clarifying  
28          total maximum daily load calculation;  
29          clarifying that allocations may be made for  
30          basins; changing a report's due date;  
31          clarifying name of basin plans; providing the

1 South Florida Water Management District with  
2 certain authority to manage lands it acquires  
3 for the Kissimmee River Headwaters  
4 Revitalization Project; encouraging less than  
5 fee title acquisition under certain  
6 circumstances; providing an effective date.

7  
8 Be It Enacted by the Legislature of the State of Florida:

9  
10 Section 1. Section 373.4595, Florida Statutes, is  
11 amended to read:

12 (Substantial rewording of section. See  
13 s. 373.4595, F.S., for present text.)

14 373.4595 Lake Okeechobee Protection Program.--

15 (1) FINDINGS AND INTENT.--

16 (a) The Legislature finds that Lake Okeechobee is one  
17 of the most important water resources of the state, providing  
18 many functions benefiting the public interest, including  
19 agricultural, public, and environmental water supply; flood  
20 control; fishing; navigation and recreation; and habitat to  
21 endangered and threatened species and other flora and fauna.

22 (b) The Legislature finds that land uses in the Lake  
23 Okeechobee watershed and the construction of the Central and  
24 Southern Florida Project have resulted in adverse changes to  
25 the hydrology and water quality of Lake Okeechobee. These  
26 hydrology and water quality changes have resulted in algal  
27 blooms and other adverse impacts to water quality both in Lake  
28 Okeechobee and in downstream receiving waters.

29 (c) The Legislature finds that improvement to the  
30 hydrology and water quality of Lake Okeechobee is essential to  
31 the protection of the Everglades.

1           (d) The Legislature also finds that it is imperative  
2 for the state, local governments, and agricultural and  
3 environmental communities to commit to restoring and  
4 protecting Lake Okeechobee and downstream receiving waters,  
5 and that a watershed-based approach to address these issues  
6 must be developed and implemented immediately.

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

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

23           (g) The Legislature finds that this section, in  
24 conjunction with s. 403.067, provides a reasonable means of  
25 achieving and maintaining compliance with state water quality  
26 standards.

27           (h) The Legislature finds that the implementation of  
28 the programs contained in this section is for the benefit of  
29 the public health, safety, and welfare and is in the public  
30 interest.

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1           (i) The Legislature finds that sufficient research has  
2 been conducted and sufficient plans developed to immediately  
3 initiate the first phase of a program to address the hydrology  
4 and water quality problems in Lake Okeechobee and downstream  
5 receiving waters.

6           (j) It is the intent of the Legislature to achieve and  
7 maintain compliance with water quality standards in Lake  
8 Okeechobee and downstream receiving waters through a phased,  
9 comprehensive, and innovative protection program to reduce  
10 both internal and external phosphorus loads to Lake Okeechobee  
11 through immediate actions to achieve the phosphorus load  
12 reductions set forth in Technical Publication 81-2 and  
13 long-term solutions based upon the total maximum daily loads  
14 established in accordance with s. 403.067. This program shall  
15 be watershed-based, shall provide for consideration of all  
16 potential phosphorus sources, and shall include research and  
17 monitoring, development and implementation of best management  
18 practices, refinement of existing regulations, and structural  
19 and nonstructural projects, including public works.

20           (k) It is the intent of the Legislature that the Lake  
21 Okeechobee Protection Program be developed and implemented in  
22 coordination with and, to the greatest extent practicable,  
23 through the implementation of Restudy project components and  
24 other federal programs in order to maximize opportunities for  
25 the most efficient and timely expenditures of public funds.

26           (l) It is the intent of the Legislature that the  
27 coordinating agencies encourage and support the development of  
28 creative public-private partnerships and programs, including  
29 opportunities for pollutant trading and credits, to facilitate  
30 or further the restoration of Lake Okeechobee, consistent with  
31 s. 403.067.

1           (2) DEFINITIONS.--As used in this section:  
2           (a) "Best management practice" means a practice or  
3 combination of practices determined by the coordinating  
4 agencies, based on research, field-testing, and expert review,  
5 to be the most effective and practicable on-location means,  
6 including economic and technological considerations, for  
7 improving water quality in agricultural and urban discharges.  
8 Best management practices for agricultural discharges shall  
9 reflect a balance between water quality improvements and  
10 agricultural productivity.  
11           (b) "Coordinating agencies" means the Department of  
12 Agriculture and Consumer Services, the Department of  
13 Environmental Protection, and the South Florida Water  
14 Management District.  
15           (c) "Corps of Engineers" means the United States Army  
16 Corps of Engineers.  
17           (d) "Department" means the Department of Environmental  
18 Protection.  
19           (e) "District" means the South Florida Water  
20 Management District.  
21           (f) "District's WOD program" means the program  
22 implemented pursuant to rules adopted as authorized by this  
23 section and ss. 373.016, 373.044, 373.085, 373.086, 373.109,  
24 373.113, 373.118, 373.451, and 373.453, entitled "Works of the  
25 District Basin."  
26           (g) "Lake Okeechobee Construction Project" means the  
27 construction project developed pursuant to paragraph (3)(b).  
28           (h) "Lake Okeechobee Protection Plan" means the plan  
29 developed pursuant to this section and ss. 373.451-373.459.  
30           (i) "Lake Okeechobee watershed" means Lake Okeechobee  
31 and the area surrounding and tributary to Lake Okeechobee,

1 composed of 39 surrounding hydrologic basins, as defined by  
2 South Florida Water Management District SWIM Plan Update dated  
3 August 8, 1997.

4 (j) "Lake Okeechobee Watershed Phosphorus Control  
5 Program" means the program developed pursuant to paragraph  
6 (3)(c).

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

11 (l) "Restudy" means the Comprehensive Review Study of  
12 the Central and Southern Florida Project, for which federal  
13 participation was authorized by the Federal Water Resources  
14 Development Acts of 1992 and 1996 together with related  
15 Congressional resolutions and for which participation by the  
16 South Florida Water Management District is authorized by s.  
17 373.1501. The term includes all actions undertaken pursuant to  
18 the aforementioned authorizations which will result in  
19 recommendations for modifications or additions to the Central  
20 and Southern Florida Project.

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

28 (3) LAKE OKEECHOBEE PROTECTION PROGRAM.--A protection  
29 program for Lake Okeechobee that achieves phosphorus load  
30 reductions for Lake Okeechobee shall be immediately  
31 implemented as specified in this subsection. The program shall

1 address the reduction of phosphorus loading to the lake from  
2 both internal and external sources. Phosphorus load reductions  
3 shall be achieved through a phased program of implementation.  
4 Initial implementation actions shall be technology-based,  
5 based upon a consideration of both the availability of  
6 appropriate technology and the cost of such technology, and  
7 shall include phosphorus reduction measures at both the source  
8 and the regional level. The initial phase of phosphorus load  
9 reductions shall be based upon the district's Technical  
10 Publication 81-2 and the district's WOD program, with  
11 subsequent phases of phosphorus load reductions based upon the  
12 total maximum daily loads established in accordance with s.  
13 403.067. In the development and administration of the Lake  
14 Okeechobee Protection Program, the coordinating agencies shall  
15 maximize opportunities provided by federal cost-sharing  
16 programs and opportunities for partnerships with the private  
17 sector.

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

27 1. The performance of projects constructed during  
28 Phase I of the Lake Okeechobee Construction Project, pursuant  
29 to paragraph (b).

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

4           3. Relevant information resulting from the Lake  
5 Okeechobee Research and Water Quality Monitoring Program,  
6 pursuant to paragraph (d).

7           4. Relevant information resulting from the Lake  
8 Okeechobee Exotic Species Control Program, pursuant to  
9 paragraph (e).

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

13           (b) Lake Okeechobee Construction Project.--To improve  
14 the hydrology and water quality of Lake Okeechobee and  
15 downstream receiving waters, the district shall design and  
16 construct the Lake Okeechobee Construction Project.

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

26           a. The district shall serve as a full partner with the  
27 Corps of Engineers in the design and construction of the  
28 Grassy Island Ranch and New Palm Dairy stormwater treatment  
29 facilities as components of the Lake Okeechobee Water  
30 Retention/Phosphorus Removal Critical Project. The Corps of  
31 Engineers shall have the lead in design and construction of



1 these facilities. However, the district shall encourage the  
2 Corps of Engineers to complete a detailed design document by  
3 July 1, 2001. Should delays be encountered in the  
4 implementation of either of these facilities, the district  
5 shall notify the department and recommend corrective actions.

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

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

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

30 2. Phase II.--By January 1, 2004, the district, in  
31 cooperation with the other coordinating agencies and the Corps

1 of Engineers, shall develop an implementation plan for Phase  
2 II of the Lake Okeechobee Construction Project. Phase II shall  
3 include construction of additional facilities in the priority  
4 basins identified in subparagraph (b)1., as well as facilities  
5 for other basins in the Lake Okeechobee watershed. The  
6 implementation plan shall:

7 a. Identify Lake Okeechobee Construction Project  
8 facilities to be constructed to achieve a design objective of  
9 40 parts per billion (ppb) for phosphorus measured as a  
10 long-term flow weighted average concentration, unless an  
11 allocation has been established pursuant to s. 403.067 for the  
12 Lake Okeechobee total maximum daily load.

13 b. Identify the size and location of all such Lake  
14 Okeechobee Construction Project facilities.

15 c. Provide a construction schedule for all such Lake  
16 Okeechobee Construction Project facilities, including the  
17 sequencing and specific timeframe for construction of each  
18 Lake Okeechobee Construction Project facility.

19 d. Provide a land acquisition schedule for lands  
20 necessary to achieve the construction schedule.

21 e. Provide a detailed schedule of costs associated  
22 with the construction schedule.

23 f. Identify, to the maximum extent practicable,  
24 wetland impacts expected to be associated with construction of  
25 such facilities, including potential alternatives to minimize  
26 and mitigate such impacts, as appropriate.

27 3. Evaluation.--By January 1, 2004, and every 3 years  
28 thereafter, the district, in cooperation with the coordinating  
29 agencies, shall conduct an evaluation of any further  
30 phosphorus load reductions necessary to achieve compliance  
31 with the Lake Okeechobee total maximum daily load established

1 pursuant to s. 403.067. Additionally, the district shall  
2 identify modifications to facilities of the Lake Okeechobee  
3 Construction Project as appropriate if the design objective of  
4 40 parts per billion (ppb) or the allocation established  
5 pursuant to s. 403.067 for the Lake Okeechobee total maximum  
6 daily load established pursuant to s. 403.067 is not being  
7 met. The evaluation shall be included in the applicable annual  
8 progress report submitted pursuant to paragraph (g).

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

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

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1           1. Agricultural nonpoint source best management  
2 practices, developed in accordance with s. 403.067 and  
3 designed to achieve the objectives of the Lake Okeechobee  
4 Protection Program, shall be implemented on an expedited  
5 basis. By March 1, 2001, the coordinating agencies shall  
6 develop an interagency agreement pursuant to ss. 373.046 and  
7 373.406(5) that assures the development of best management  
8 practices that complement existing regulatory programs and  
9 specifies how those best management practices are implemented  
10 and verified. The interagency agreement shall address measures  
11 to be taken by the coordinating agencies during any best  
12 management practice reevaluation performed pursuant to  
13 sub-subparagraph d. The department shall use best professional  
14 judgment in making the initial determination of best  
15 management practice effectiveness.

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

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1 interim measures or best management practices for the purpose  
2 of adoption of such practices by rule.

3 b. Where agricultural nonpoint source best management  
4 practices or interim measures have been adopted by rule of the  
5 Department of Agriculture and Consumer Services, the owner or  
6 operator of an agricultural nonpoint source addressed by such  
7 rule shall either implement interim measures or best  
8 management practices or demonstrate compliance with the  
9 district's WOD program by conducting monitoring prescribed by  
10 the department or the district. Owners or operators of  
11 agricultural nonpoint sources who implement interim measures  
12 or best management practices adopted by rule of the Department  
13 of Agriculture and Consumer Services shall be subject to the  
14 provisions of s. 403.067(7). The Department of Agriculture and  
15 Consumer Services, in cooperation with the department and the  
16 district, shall provide technical and financial assistance for  
17 implementation of agricultural best management practices,  
18 subject to the availability of funds.

19 c. The district or department shall conduct monitoring  
20 at representative sites to verify the effectiveness of  
21 agricultural nonpoint source best management practices.

22 d. Where water quality problems are detected for  
23 agricultural nonpoint sources despite the appropriate  
24 implementation of adopted best management practices, the  
25 Department of Agriculture and Consumer Services, in  
26 consultation with the other coordinating agencies and affected  
27 parties, shall institute a reevaluation of the best management  
28 practices and make appropriate changes to the rule adopting  
29 best management practices.

30 2. Nonagricultural nonpoint source best management  
31 practices, developed in accordance with s. 403.067 and

1 designed to achieve the objectives of the Lake Okeechobee  
2 Protection Program, shall be implemented on an expedited  
3 basis. By March 1, 2001, the department and the district shall  
4 develop an interagency agreement pursuant to ss. 373.046 and  
5 373.406(5) that assures the development of best management  
6 practices that complement existing regulatory programs and  
7 specifies how those best management practices are implemented  
8 and verified. The interagency agreement shall address measures  
9 to be taken by the department and the district during any best  
10 management practice reevaluation performed pursuant to  
11 sub-subparagraph d.

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

29 b. Where nonagricultural nonpoint source best  
30 management practices or interim measures have been developed  
31 by the department and adopted by the district, the owner or

1 operator of a nonagricultural nonpoint source shall implement  
2 interim measures or best management practices and be subject  
3 to the provisions of s. 403.067(7). The department and  
4 district shall provide technical and financial assistance for  
5 implementation of nonagricultural nonpoint source best  
6 management practices, subject to the availability of funds.

7 c. The district or the department shall conduct  
8 monitoring at representative sites to verify the effectiveness  
9 of nonagricultural nonpoint source best management practices.

10 d. Where water quality problems are detected for  
11 nonagricultural nonpoint sources despite the appropriate  
12 implementation of adopted best management practices, the  
13 department and the district shall institute a reevaluation of  
14 the best management practices.

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

25 4. Projects which reduce the phosphorus load  
26 originating from domestic wastewater systems within the Lake  
27 Okeechobee watershed shall be given funding priority in the  
28 department's revolving loan program under s. 403.1835. The  
29 department shall coordinate and provide assistance to those  
30 local governments seeking financial assistance for such  
31 priority projects.

1           5. The department shall require all entities disposing  
2 of domestic wastewater residuals within the Lake Okeechobee  
3 watershed to develop and submit to the department by July 1,  
4 2001, an agricultural use plan that limits applications based  
5 upon phosphorus loading. Phosphorus loading originating from  
6 these application sites shall not exceed the limits  
7 established in the district's WOD program.

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

17           7. Prior to authorizing a discharge into works of the  
18 district, the district shall require responsible parties to  
19 demonstrate that proposed changes in land use will not result  
20 in increased phosphorus loading over that of existing land  
21 uses.

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

26           (d) Lake Okeechobee Research and Water Quality  
27 Monitoring Program.--By January 1, 2001, the district, in  
28 cooperation with the other coordinating agencies, shall  
29 establish a Lake Okeechobee Research and Water Quality  
30 Monitoring Program that builds upon the district's existing  
31 Lake Okeechobee research program. The program shall:



1           1. Evaluate all available existing water quality data  
2 concerning total phosphorus in the Lake Okeechobee watershed,  
3 develop a water quality baseline to represent existing  
4 conditions for total phosphorus, monitor long-term ecological  
5 changes, including water quality for total phosphorus, and  
6 measure compliance with water quality standards for total  
7 phosphorus, including the total maximum daily load for Lake  
8 Okeechobee as established pursuant to s. 403.067. The district  
9 shall also implement a total phosphorus monitoring program at  
10 all inflow structures to Lake Okeechobee.

11           2. By July 1, 2003, develop a Lake Okeechobee water  
12 quality model that reasonably represents phosphorus dynamics  
13 of the lake and incorporates an uncertainty analysis  
14 associated with model predictions.

15           3. By July 1, 2003, determine the relative  
16 contribution of phosphorus from all identifiable sources and  
17 all primary and secondary land uses.

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

25           5. By July 1, 2003, assess current water management  
26 practices within the Lake Okeechobee watershed and develop  
27 recommendations for structural and operational improvements.  
28 Such recommendations shall balance water supply, flood  
29 control, and water quality considerations.

30           6. By July 1, 2003, evaluate the feasibility of  
31 alternative nutrient reduction technologies, including

1 sediment traps, canal and ditch maintenance, fish production  
2 or other aquaculture, bioenergy conversion processes, and  
3 algal or other biological treatment technologies.

4 (e) Lake Okeechobee Exotic Species Control  
5 Program.--By June 1, 2002, the coordinating agencies shall  
6 identify the exotic species that threaten the native flora and  
7 fauna within the Lake Okeechobee watershed and develop and  
8 implement measures to protect the native flora and fauna.

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

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

29 (4) LAKE OKEECHOBEE PROTECTION PERMITS.--

30 (a) The Legislature finds that the Lake Okeechobee  
31 Protection Program will benefit Lake Okeechobee and downstream

1 receiving waters and is consistent with the public interest.

2 The Lake Okeechobee Construction Project and structures  
3 discharging into or from Lake Okeechobee shall be constructed,  
4 operated, and maintained in accordance with this section.

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

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

25 1. Permits issued under this paragraph shall also  
26 contain reasonable conditions to ensure that discharges of  
27 waters through district structures:

28 a. Are adequately and accurately monitored;

29 b. Will not degrade existing Lake Okeechobee water  
30 quality and will result in an overall reduction of phosphorus  
31 input into Lake Okeechobee, as set forth in the district's

1 Technical Publication 81-2 and the total maximum daily load  
2 established in accordance with s. 403.067, to the maximum  
3 extent practicable; and

4 c. Do not pose a serious danger to public health,  
5 safety, or welfare.

6 2. By January 1, 2004, the district shall submit to  
7 the department a permit modification to the Lake Okeechobee  
8 structure permits to incorporate proposed changes necessary to  
9 ensure that discharges through the structures covered by this  
10 permit achieve state water quality standards, including the  
11 total maximum daily load established in accordance with s.  
12 403.067. These changes shall be designed to achieve such  
13 compliance with state water quality standards no later than  
14 January 1, 2015.

15 (d) The department shall require permits for Lake  
16 Okeechobee Construction Project facilities. Such permits shall  
17 be issued for a term of 5 years upon the demonstration of  
18 reasonable assurances that:

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

24 2. For water quality standards other than phosphorus,  
25 the quality of water discharged from the facility is of equal  
26 or better quality than the inflows;

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

29 4. Any wetland impacts resulting from implementation  
30 of that facility of the Lake Okeechobee Construction Project  
31 are minimized and mitigated, as appropriate.

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

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

7           (g) Permits issued pursuant to this section may be  
8 modified, as appropriate, upon review and approval by the  
9 department.

10           (5) The South Florida Water Management District shall  
11 not divert waters to the Indian River estuary, the  
12 Caloosahatchee River or its estuary, or the Everglades  
13 National Park, in such a way that the state water quality  
14 standards are violated, that the nutrients in such diverted  
15 waters adversely affect indigenous vegetation communities or  
16 wildlife, or that fresh waters diverted to the Caloosahatchee  
17 or Indian River estuaries adversely affect the estuarine  
18 vegetation or wildlife, unless the receiving waters will  
19 biologically benefit by the diversion. However, diversion is  
20 permitted when an emergency is declared by the water  
21 management district, if the Secretary of Environmental  
22 Protection concurs.

23           (6) This section does not modify any provision of s.  
24 373.4592.

25           (7) RELATIONSHIP TO STATE WATER QUALITY  
26 STANDARDS.--Nothing in this section shall be construed to  
27 modify any existing state water quality standard.

28           (8) PRESERVATION OF AUTHORITY.--Nothing in this  
29 section shall be construed to restrict the authority otherwise  
30 granted to agencies pursuant to chapters 373 and 403, and  
31 provisions of this section shall be deemed supplemental to the

1 authority granted to agencies pursuant to chapters 373 and  
2 403.

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

5 373.406 Exemptions.--The following exemptions shall  
6 apply:

7 (9) Implementation of measures having the primary  
8 purpose of environmental restoration or water quality  
9 improvement on agricultural lands are exempt from regulation  
10 under this part where these measures or practices are  
11 determined by the district or department, on a case-by-case  
12 basis, to have minimal or insignificant individual and  
13 cumulative adverse impact on the water resources of the state.

14 The district or department shall provide written notification  
15 as to whether the proposed activity qualifies for the  
16 exemption within 30 days after receipt of a written notice  
17 requesting the exemption. No activity under this exemption  
18 shall commence until the district or department has provided  
19 written notice that the activity qualifies for the exemption.

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

25 Section 3. Paragraphs (a), (b), and (c) of subsection  
26 (6) and paragraphs (a) and (b) of subsection (7) of section  
27 403.067, Florida Statutes, are amended to read:

28 403.067 Establishment and implementation of total  
29 maximum daily loads.--

30 (6) CALCULATION AND ALLOCATION.--

31 (a) Calculation of total maximum daily load.

1           1. Prior to developing a total maximum daily load  
2 calculation for each water body or water body segment on the  
3 list specified in subsection (4), the department shall  
4 coordinate with applicable local governments, water management  
5 districts, the Department of Agriculture and Consumer  
6 Services, other appropriate state agencies, local soil and  
7 water conservation districts, environmental groups, regulated  
8 interests, and affected pollution sources to determine the  
9 information required, accepted methods of data collection and  
10 analysis, and quality control/quality assurance requirements.  
11 The analysis may include mathematical water quality modeling  
12 using approved procedures and methods.

13           2. The department shall develop total maximum daily  
14 load calculations for each water body or water body segment on  
15 the list described in subsection (4) according to the priority  
16 ranking and schedule unless the impairment of such waters is  
17 due solely to activities other than point and nonpoint sources  
18 of pollution. For waters determined to be impaired due solely  
19 to factors other than point and nonpoint sources of pollution,  
20 no total maximum daily load will be required. A total maximum  
21 daily load may be required for those waters that are impaired  
22 predominantly due to activities other than point and nonpoint  
23 sources. The total maximum daily load calculation shall  
24 establish the amount of a pollutant that a water body or water  
25 body segment may receive from all sources ~~can assimilate~~  
26 without exceeding water quality standards, and shall account  
27 for seasonal variations and include a margin of safety that  
28 takes into account any lack of knowledge concerning the  
29 relationship between effluent limitations and water quality.  
30 The total maximum daily load may be based on a pollutant load  
31 reduction goal developed by a water management district,

1 provided that such pollutant load reduction goal is  
2 promulgated by the department in accordance with the  
3 procedural and substantive requirements of this subsection.  
4 (b) Allocation of total maximum daily loads. The total  
5 maximum daily loads shall include establishment of reasonable  
6 and equitable allocations of the total maximum daily load  
7 among point and nonpoint sources that will alone, or in  
8 conjunction with other management and restoration activities,  
9 provide for the attainment of water quality standards and the  
10 restoration of impaired waters. The allocations may ~~shall~~  
11 establish the maximum amount of the water pollutant from a  
12 given source or category of sources that may be discharged or  
13 released into the water body or water body segment in  
14 combination with other discharges or releases. Allocations may  
15 also be made to individual basins and sources or as a whole to  
16 all basins and sources or categories of sources of inflow to  
17 the water body or water body segments. ~~Such~~  
18 ~~allocations~~ shall be designed to attain water quality  
19 standards and shall be based on consideration of the  
20 following:  
21 1. Existing treatment levels and management practices;  
22 2. Differing impacts pollutant sources may have on  
23 water quality;  
24 3. The availability of treatment technologies,  
25 management practices, or other pollutant reduction measures;  
26 4. Environmental, economic, and technological  
27 feasibility of achieving the allocation;  
28 5. The cost benefit associated with achieving the  
29 allocation;  
30 6. Reasonable timeframes for implementation;  
31



1           7. Potential applicability of any moderating  
2 provisions such as variances, exemptions, and mixing zones;  
3 and

4           8. The extent to which nonattainment of water quality  
5 standards is caused by pollution sources outside of Florida,  
6 discharges that have ceased, or alterations to water bodies  
7 prior to the date of this act.

8           (c) Not later than February 1, 2002 ~~2001~~, the  
9 department shall submit a report to the Governor, the  
10 President of the Senate, and the Speaker of the House of  
11 Representatives containing recommendations, including draft  
12 legislation, for any modifications to the process for  
13 allocating total maximum daily loads, including the  
14 relationship between allocations and the basin planning  
15 process. Such recommendations shall be developed by the  
16 department in cooperation with a technical advisory committee  
17 which includes representatives of affected parties,  
18 environmental organizations, water management districts, and  
19 other appropriate local, state, and federal government  
20 agencies. The technical advisory committee shall also include  
21 such members as may be designated by the President of the  
22 Senate and the Speaker of the House of Representatives.

23           (7) IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.--

24           (a) The department shall be the lead agency in  
25 coordinating the implementation of the total maximum daily  
26 loads ~~load allocation~~ through water quality protection  
27 programs. Application of a total maximum daily load  
28 ~~calculation or allocation~~ by a water management district shall  
29 be consistent with this section and shall not require the  
30 issuance of an order or a separate action pursuant to s.  
31 120.536(1) or s. 120.54 for adoption of the calculation and

1 allocation previously established by the department. Such  
2 programs may include, but are not limited to:

- 3 1. Permitting and other existing regulatory programs;
- 4 2. Nonregulatory and incentive-based programs,  
5 including best management practices, cost sharing, waste  
6 minimization, pollution prevention, and public education;
- 7 3. Other water quality management and restoration  
8 activities, for example surface water improvement and  
9 management plans approved by water management districts under  
10 s. 373.456 or watershed or basin management plans developed  
11 pursuant to this subsection;
- 12 4. Pollutant trading or other equitable economically  
13 based agreements;
- 14 5. Public works including capital facilities; or
- 15 6. Land acquisition.

16 (b) In developing and implementing the total maximum  
17 daily load for a water body allocation, the department, or the  
18 department in conjunction with a water management district,  
19 may develop a watershed or basin management basin plan that  
20 addresses some or all of the watersheds and basins tributary  
21 to the water body. These plans ~~The basin plan~~ will serve to  
22 fully integrate ~~all~~ the management strategies available to the  
23 state for the purpose of implementing the total maximum daily  
24 loads and achieving water quality restoration. The watershed  
25 or basin management basin planning process is intended to  
26 involve the broadest possible range of interested parties,  
27 with the objective of encouraging the greatest amount of  
28 cooperation and consensus possible. The department or water  
29 management district shall hold at least one public meeting in  
30 the vicinity of the watershed or basin to discuss and receive  
31 comments during the ~~basin~~ planning process and shall otherwise

1 encourage public participation to the greatest practical  
2 extent. Notice of the public meeting shall be published in a  
3 newspaper of general circulation in each county in which the  
4 watershed or basin lies not less than 5 days nor more than 15  
5 days before the public meeting. A watershed or basin  
6 management ~~basin~~ plan shall not supplant or otherwise alter  
7 any assessment made under s. 403.086(3) and (4), or any  
8 calculation or allocation made under s. 403.086(6).

9       Section 4. The South Florida Water Management District  
10 shall have the authority to manage lands it acquires for the  
11 Kissimmee River Headwaters Revitalization Project to protect  
12 and improve water quality, implement hydrological  
13 improvements, protect fish and wildlife and endangered  
14 species, and accomplish other best management practices on  
15 district land in a manner that is consistent with surrounding  
16 parks and preserves owned by the state. In acquiring land for  
17 the Kissimmee River Headwaters Revitalization Project, the  
18 South Florida Water Management District is encouraged to  
19 acquire less than fee title where feasible and beneficial to  
20 the protection of ecological values, fish and wildlife, and  
21 endangered species, provided the objectives of restoring the  
22 Everglades system are advanced and the project purposes of the  
23 Kissimmee River Restoration Project and the Kissimmee River  
24 Headwaters Revitalization Project are met. In determining the  
25 fair market value of lands to be acquired from willing sellers  
26 in the upper Kissimmee Basin for such purposes, all appraisals  
27 of such lands may consider income from the use of the property  
28 for permanent plantings. The derived value may be deemed  
29 attributable to the real estate.

30       Section 5. This act shall take effect upon becoming a  
31 law.

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2 COMMITTEE SUBSTITUTE FOR  
3 Senate Bill 1494

4 Pursuant to s. 373.4595(3)1.a., F.S., a rule must be developed  
5 for conservation plans. The rule must include thresholds for  
6 requiring conservation and nutrient management plans and  
7 criteria for the content of the plans.

8 The requirement that the Department of Agriculture and  
9 Consumer Services (DACS) provide technical and financial  
10 assistance for implementation of agricultural BMPs is now  
11 subject to the availability of funds.

12 The bill has been revised to delete references to existing  
13 structures discharging into or from Lake Okeechobee from s.  
14 373.4595(4)(a) and (b), F.S., and to require that owners or  
15 operations of existing structures discharging into or from the  
16 lake apply for permits from the DEP by September 1, 2000.

17 The bill no longer includes the statement that s. 373.4595,  
18 F.S., provides a schedule for achieving compliance with  
19 existing narrative and numeric state water quality standards  
20 and for implementing the department's total maximum daily load  
21 program.

22 Section 403.067, F.S., is amended to make a number of  
23 technical and clarifying changes that are consistent with the  
24 process the DEP has implemented for establishing the TMDL for  
25 Lake Okeechobee. These provisions include:

- 26 - Clarification of the process for calculating and  
27 allocating TMDLs;
- 28 - Extending the deadline for the DEP's report to the  
29 Legislature on TMDL allocations until February 1, 2002  
30 (1-year extension); and
- 31 - Technical and clarifying changes to the process for  
implementing TMDL allocations.

Finally, the bill now provides that, in determining the fair  
market value of lands to be acquired from willing sellers in  
the upper Kissimmee Basin for the Kissimmee River Headwaters  
Revitalization Project, all appraisals of such lands may  
consider income from the use of the property for permanent  
plantings. The derived value may be deemed attributable to the  
real estate.