

1 A bill to be entitled
2 An act relating to Lake Okeechobee Protection
3 Program; amending s. 373.4595, F.S.;
4 authorizing a line item on utility sewer rates
5 to cover wastewater residual treatment and
6 disposal in certain counties; providing
7 exemption from requirements of the Public
8 Service Commission; requiring an audit of
9 certain treatment facilities; requiring a
10 report to the Legislature; providing an
11 effective date.

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

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15 Section 1. Paragraph (c) of subsection (3) of section
16 373.4595, Florida Statutes, is amended to read:

17 373.4595 Lake Okeechobee Protection Program.--

18 (3) LAKE OKEECHOBEE PROTECTION PROGRAM.--A protection
19 program for Lake Okeechobee that achieves phosphorus load
20 reductions for Lake Okeechobee shall be immediately
21 implemented as specified in this subsection. The program shall
22 address the reduction of phosphorus loading to the lake from
23 both internal and external sources. Phosphorus load reductions
24 shall be achieved through a phased program of implementation.
25 Initial implementation actions shall be technology-based,
26 based upon a consideration of both the availability of
27 appropriate technology and the cost of such technology, and
28 shall include phosphorus reduction measures at both the source
29 and the regional level. The initial phase of phosphorus load
30 reductions shall be based upon the district's Technical
31 Publication 81-2 and the district's WOD program, with

1 subsequent phases of phosphorus load reductions based upon the
2 total maximum daily loads established in accordance with s.
3 403.067. In the development and administration of the Lake
4 Okeechobee Protection Program, the coordinating agencies shall
5 maximize opportunities provided by federal cost-sharing
6 programs and opportunities for partnerships with the private
7 sector.

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

22 1. Agricultural 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 coordinating agencies 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 coordinating agencies during any best
2 management practice reevaluation performed pursuant to
3 sub-subparagraph d. The department shall use best professional
4 judgment in making the initial determination of best
5 management practice effectiveness.

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

23 b. Where agricultural nonpoint source best management
24 practices or interim measures have been adopted by rule of the
25 Department of Agriculture and Consumer Services, the owner or
26 operator of an agricultural nonpoint source addressed by such
27 rule shall either implement interim measures or best
28 management practices or demonstrate compliance with the
29 district's WOD program by conducting monitoring prescribed by
30 the department or the district. Owners or operators of
31 agricultural nonpoint sources who implement interim measures

1 or best management practices adopted by rule of the Department
2 of Agriculture and Consumer Services shall be subject to the
3 provisions of s. 403.067(7). The Department of Agriculture and
4 Consumer Services, in cooperation with the department and the
5 district, shall provide technical and financial assistance for
6 implementation of agricultural best management practices,
7 subject to the availability of funds.

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

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

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

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

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

27 c. The district or the department shall conduct
28 monitoring at representative sites to verify the effectiveness
29 of nonagricultural nonpoint source best management practices.

30 d. Where water quality problems are detected for
31 nonagricultural nonpoint sources despite the appropriate

1 implementation of adopted best management practices, the
2 department and the district shall institute a reevaluation of
3 the best management practices.

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

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

21 5.(a) The department shall require all entities
22 disposing of domestic wastewater residuals within the Lake
23 Okeechobee watershed to develop and submit to the department
24 by July 1, 2001, an agricultural use plan that limits
25 applications based upon phosphorus loading. Phosphorus loading
26 originating from these application sites shall not exceed the
27 limits established in the district's WOD program.

28 (b) Private and government-owned utilities within
29 Monroe, Dade, Broward, Palm Beach, Martin, St. Lucie, Indian
30 River, Okeechobee, Highlands, Hendry and Glades counties that
31 dispose of wastewater residual sludge from utility operations

1 and septic removal by land spreading in the Lake Okeechobee
2 watershed may use a line item on local sewer rates to cover
3 wastewater residual treatment and disposal if such disposal
4 and treatment is done by approved alternative treatment
5 methodology at a facility located within the areas designated
6 by the Governor as rural areas of critical economic concern
7 pursuant to s. 288.0656. This additional line item is an
8 environmental protection disposal fee above the present sewer
9 rate and shall not be considered a part of the present sewer
10 rate to customers, notwithstanding provisions to the contrary
11 in chapter 367. The fee shall be established by the County
12 Commission or their designated assignee in the county in which
13 the alternative method treatment facility is located. The fee
14 shall be calculated to be no higher than that necessary to
15 recover the facility's prudent cost of providing the service.
16 Upon request by an affected county commission, the Public
17 Service Commission will provide assistance in establishing the
18 fee. Further, for utilities and utility authorities that use
19 the additional line item environmental protection disposal
20 fee, such fee shall not be considered a rate increase under
21 the rules of the Public Service Commission and shall be exempt
22 from such rules. Utilities using the provisions of this
23 section may immediately include in their sewer invoicing the
24 new environmental protection disposal fee. Proceeds from this
25 environmental protection disposal fee shall be used for
26 treatment and disposal of wastewater residuals including any
27 treatment technology that helps reduce the volume of residuals
28 that require final disposal, but such proceeds shall not be
29 used for transportation or shipment costs for disposal or any
30 costs relating to the land application of residuals in the
31 Lake Okeechobee watershed.

1 c. No less than once every 3 years, the Public Service
2 Commission or the county commission through the services of an
3 independent auditor shall perform a financial audit of all
4 facilities receiving compensation from an environmental
5 protection disposal fee. The Public Service Commission or the
6 county commission through the services of an independent
7 auditor shall also perform an audit of the methodology used in
8 establishing the environmental protection disposal fee. The
9 Public Service Commission or the county commission shall,
10 within 120 days of completion of an audit, file the audit
11 report with the President of the Senate and the Speaker of the
12 House of Representatives and shall provide copies to the
13 commissions of the counties set forth in sub-subparagraph 5.b.
14 The books and records, of any facilities receiving
15 compensation from an environmental protection disposal fee,
16 shall be open to the Public Service Commission and the Auditor
17 General for review upon request.

18 6. By July 1, 2001, the Department of Agriculture and
19 Consumer Services shall initiate rulemaking requiring entities
20 within the Lake Okeechobee watershed which land-apply animal
21 manure to develop conservation or nutrient management plans
22 that limit application, based upon phosphorus loading. Such
23 rules may include criteria and thresholds for the requirement
24 to develop a conservation or nutrient management plan,
25 requirements for plan approval, and recordkeeping
26 requirements.

27 7. Prior to authorizing a discharge into works of the
28 district, the district shall require responsible parties to
29 demonstrate that proposed changes in land use will not result
30 in increased phosphorus loading over that of existing land
31 uses.

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

5 Section 2. This act shall take effect July 1, 2001.
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