

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; providing for audits;  
9           providing an effective date.

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

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13           Section 1. Paragraph (c) of subsection (3) of section  
14 373.4595, Florida Statutes, is amended to read:

15           373.4595 Lake Okeechobee Protection Program.--

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

1 403.067. In the development and administration of the Lake  
2 Okeechobee Protection Program, the coordinating agencies shall  
3 maximize opportunities provided by federal cost-sharing  
4 programs and opportunities for partnerships with the private  
5 sector.

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

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

1 sub-subparagraph d. The department shall use best professional  
2 judgment in making the initial determination of best  
3 management practice effectiveness.

4 a. As provided in s. 403.067(7)(d), by October 1,  
5 2000, the Department of Agriculture and Consumer Services, in  
6 consultation with the department, the district, and affected  
7 parties, shall initiate rule development for interim measures,  
8 best management practices, conservation plans, nutrient  
9 management plans, or other measures necessary for Lake  
10 Okeechobee phosphorus load reduction. The rule shall include  
11 thresholds for requiring conservation and nutrient management  
12 plans and criteria for the contents of such plans. Development  
13 of agricultural nonpoint source best management practices  
14 shall initially focus on those priority basins listed in  
15 subparagraph (b)1. The Department of Agriculture and Consumer  
16 Services, in consultation with the department, the district,  
17 and affected parties, shall conduct an ongoing program for  
18 improvement of existing and development of new interim  
19 measures or best management practices for the purpose of  
20 adoption of such practices by rule.

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

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

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

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

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

30 a. The department and the district are directed to  
31 work with the University of Florida's Institute of Food and

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

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

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

28 d. Where water quality problems are detected for  
29 nonagricultural nonpoint sources despite the appropriate  
30 implementation of adopted best management practices, the

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1 department and the district shall institute a reevaluation of  
2 the best management practices.

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

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

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

27           b. Private and government-owned utilities within  
28 Monroe, Dade, Broward, Palm Beach, Martin, St. Lucie, Indian  
29 River, Okeechobee, Highlands, Hendry, and Glades counties that  
30 dispose of wastewater residual sludge from utility operations  
31 and septic removal by land spreading in the Lake Okeechobee

1 watershed may use a line item on local sewer rates to cover  
2 wastewater residual treatment and disposal if such disposal  
3 and treatment is done by approved alternative treatment  
4 methodology at a facility located within the areas designated  
5 by the Governor as rural areas of critical economic concern  
6 pursuant to s. 288.0656. This additional line item is an  
7 environmental protection disposal fee above the present sewer  
8 rate and shall not be considered a part of the present sewer  
9 rate to customers, notwithstanding provisions to the contrary  
10 in chapter 367. The fee shall be established by the County  
11 Commission or its designated assignee in the county in which  
12 the alternative method treatment facility is located. The fee  
13 shall be calculated to be no higher than that necessary to  
14 recover the facility's prudent cost of providing the service.  
15 Upon request by an affected County Commission, the Florida  
16 Public Service Commission will provide assistance in  
17 establishing the fee. Further, for utilities and utility  
18 authorities that use the additional line item environmental  
19 protection disposal fee, such fee shall not be considered a  
20 rate increase under the rules of the Public Service Commission  
21 and shall be exempt from such rules. Utilities using the  
22 provisions of this section may immediately include in their  
23 sewer invoicing the new environmental protection disposal fee.  
24 Proceeds from this environmental protection disposal fee shall  
25 be used for treatment and disposal of wastewater residuals  
26 including any treatment technology that helps reduce the  
27 volume of residuals that require final disposal, but such  
28 proceeds shall not be used for transportation or shipment  
29 costs for disposal or any costs relating to the land  
30 application of residuals in the Lake Okeechobee watershed.  
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1           c. No less frequently than once every 3 years, the  
2 Florida Public Service Commission or the County Commission  
3 through the services of an independent auditor shall perform a  
4 financial audit of all facilities receiving compensation from  
5 an environmental protection disposal fee. The Florida Public  
6 Service Commission or the County Commission through the  
7 services of an independent auditor shall also perform an audit  
8 of the methodology used in establishing the environmental  
9 protection disposal fee. The Florida Public Service Commission  
10 or the County Commission shall, within 120 days after  
11 completion of an audit, file the audit report with the  
12 President of the Senate and the Speaker of the House of  
13 Representatives and shall provide copies to the County  
14 Commissions of the counties set forth in sub-subparagraph b.  
15 The books and records of any facilities receiving compensation  
16 from an environmental protection disposal fee shall be open to  
17 the Florida Public Service Commission and the Auditor General  
18 for review upon request.

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

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

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

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

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