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An act relating to Lake Okeechobee Protection Program; amending s. 373.4595, F.S.; authorizing a line item on utility sewer rates to cover wastewater residual treatment and disposal in certain counties; providing exemption from requirements of the Public Service Commission; providing for audits; providing an effective date.

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

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

373.4595 Lake Okeechobee Protection Program.--

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