

Amendment No. 1 (for drafter's use only)

| | <u>Senate</u> | CHAMBER ACTION | <u>House</u> |
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ORIGINAL STAMP BELOW

11 Representative(s) Spratt offered the following:

13 **Amendment (with title amendment)**

14 On page 1, line 26

15 remove: everything after the enacting clause

17 and insert:

18 Section 1. Subsection (11) of section 403.067, Florida
19 Statutes, is amended to read:

20 403.067 Establishment and implementation of total
21 maximum daily loads.--

22 (11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.--

23 (a) The department shall not implement, without prior
24 legislative approval, any additional regulatory authority
25 pursuant to s. 303(d) of the Clean Water Act or 40 C.F.R. part
26 130, if such implementation would result in water quality
27 discharge regulation of activities not currently subject to
28 regulation.

29 (b) Interim measures, best management practices, or
30 other measures may be developed and voluntarily implemented
31 pursuant to paragraph (7)(c) or paragraph (7)(d) for any water

1 body or segment for which a total maximum daily load or
2 allocation has not been established. The implementation of
3 such pollution control programs may be considered by the
4 department in the determination made pursuant to subsection
5 (4).

6 Section 2. Paragraphs (c) and (d) of subsection (3) of
7 section 403.121, Florida Statutes, are amended to read:

8 403.121 Enforcement; procedure; remedies.--The
9 department shall have the following judicial and
10 administrative remedies available to it for violations of this
11 chapter, as specified in s. 403.161(1).

12 (3) Except for violations involving hazardous wastes,
13 asbestos, or underground injection, administrative penalties
14 must be calculated according to the following schedule:

15 (c) For a dredge and fill or stormwater violation, the
16 department shall assess a penalty of \$1,000 for unpermitted or
17 unauthorized dredging or filling or unauthorized construction
18 of a stormwater management system against the person or
19 persons responsible for the illegal dredging or filling, or
20 unauthorized construction of a stormwater management system
21 plus \$2,000 if the dredging or filling occurs in an aquatic
22 preserve, Outstanding Florida Water, conservation easement, or
23 Class I or Class II surface water, plus \$1,000 if the area
24 dredged or filled is greater than one-quarter acre but less
25 than or equal to one-half acre, and plus \$1,000 if the area
26 dredged or filled is greater than one-half acre but less than
27 or equal to one acre. The administrative penalty schedule
28 shall not apply to a dredge and fill violation if the area
29 dredged or filled exceeds one acre. The department retains the
30 authority to seek the judicial imposition of civil penalties
31 for all dredge and fill violations involving more than one

1 acre. The department shall assess a penalty of \$3,000 for the
2 failure to complete required mitigation, failure to record a
3 required conservation easement, or for a water quality
4 violation resulting from dredging or filling activities,
5 stormwater construction activities or failure of a stormwater
6 treatment facility. For stormwater management systems serving
7 less than 5 acres, the department shall assess a penalty of
8 \$2,000 for the failure to properly or timely construct a
9 stormwater management system. In addition to the penalties
10 authorized in this subsection, the department shall assess a
11 penalty of \$5,000 per violation against the contractor or
12 agent of the owner or tenant that conducts unpermitted or
13 unauthorized dredging or filling. For purposes of this
14 paragraph, the preparation or signing of a permit application
15 by a person currently licensed under chapter 471 to practice
16 as a professional engineer shall not make that person an agent
17 of the owner or tenant.

18 (d) For mangrove trimming or alteration violations,
19 the department shall assess a penalty of \$5,000 per violation
20 against the contractor or agent of the owner or tenant that
21 conducts mangrove trimming or alteration without a permit as
22 required by s. 403.9328. For purposes of this paragraph, the
23 preparation or signing of a permit application by a person
24 currently licensed under chapter 471 to practice as a
25 professional engineer shall not make that person an agent of
26 the owner or tenant.

27 Section 3. Paragraph (c) of subsection (3) of section
28 373.4595, Florida Statutes, is amended to read:

29 373.4595 Lake Okeechobee Protection Program.--

30 (3) LAKE OKEECHOBEE PROTECTION PROGRAM.--A protection
31 program for Lake Okeechobee that achieves phosphorus load

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

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

1 water quality treatment, including preservation, restoration,
2 or creation of wetlands on agricultural lands.

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

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

1 improvement of existing and development of new interim
2 measures or best management practices for the purpose of
3 adoption of such practices by rule.

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

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

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

31 2. Nonagricultural nonpoint source best management

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

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

30 b. Where nonagricultural nonpoint source best
31 management practices or interim measures have been developed

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

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

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

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

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

1 priority projects.

2 5. Projects that make use of private lands, or lands
3 held in trust for Indian tribes, to reduce nutrient loadings
4 or concentrations within a basin by one or more of the
5 following methods: restoring the natural hydrology of the
6 basin, restoring wildlife habitat or impacted wetlands,
7 reducing peak flows after storm events, increasing aquifer
8 recharge, or protecting range and timberland from conversion
9 to development are eligible for grants available under this
10 section from the coordinating agencies. For projects of
11 otherwise equal priority, funding priority will be given to
12 those projects that make best use of the methods outlined
13 above that involve public-private partnerships or that obtain
14 federal match money. Grant applications may be submitted by
15 any person or tribal entity, and eligible projects may
16 include, but are not limited to, the purchase of conservation
17 and flowage easements, hydrologic restoration of wetlands,
18 creating treatment wetlands, development of a management plan
19 for natural resources, and financial support to implement a
20 management plan.

21 6.a.5.a. The department shall require all entities
22 disposing of domestic wastewater residuals within the Lake
23 Okeechobee watershed and the remaining areas of Okeechobee,
24 Glades, and Hendry counties to develop and submit to the
25 department ~~by July 1, 2001,~~ an agricultural use plan that
26 limits applications based upon phosphorus loading. By July 1,
27 2005, phosphorus concentrations loading originating from these
28 application sites shall not exceed the limits established in
29 the district's WOD program.

30 b. Private and government-owned utilities within
31 Monroe, Dade, Broward, Palm Beach, Martin, St. Lucie, Indian

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

1 costs for disposal or any costs relating to the land
2 application of residuals in the Lake Okeechobee watershed.

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

21 7. The Department of Health shall require all entities
22 disposing of septage within the Lake Okeechobee watershed and
23 the remaining areas of Okeechobee, Glades, and Hendry counties
24 to develop and submit to that agency, by July 1, 2003, an
25 agricultural use plan that limits applications based upon
26 phosphorus loading. By July 1, 2005, phosphorus concentrations
27 originating from these application sites shall not exceed the
28 limits established in the district's WOD program.

29 ~~8.6. By July 1, 2001,~~The Department of Agriculture
30 and Consumer Services shall initiate rulemaking requiring
31 entities within the Lake Okeechobee watershed and the

1 remaining areas of Okeechobee, Glades, and Hendry counties
2 which land-apply animal manure to develop conservation or
3 nutrient management plans that limit application, based upon
4 phosphorus loading. Such rules may include criteria and
5 thresholds for the requirement to develop a conservation or
6 nutrient management plan, requirements for plan approval, and
7 recordkeeping requirements.

8 ~~9.7.~~ Prior to authorizing a discharge into works of
9 the district, the district shall require responsible parties
10 to demonstrate that proposed changes in land use will not
11 result in increased phosphorus loading over that of existing
12 land uses.

13 ~~10.8.~~ The district, the department, or the Department
14 of Agriculture and Consumer Services, as appropriate, shall
15 implement those alternative nutrient reduction technologies
16 determined to be feasible pursuant to subparagraph (d)6.

17 Section 4. Subsection (9) of section 403.08725,
18 Florida Statutes, is amended to read:

19 403.08725 Citrus juice processing facilities.--

20 (9) ENVIRONMENTAL PROTECTION AGENCY APPROVAL.--No
21 later than February 1, 2001, the department shall submit this
22 act to the United States Environmental Protection Agency as a
23 revision of Florida's state implementation plan and as a
24 revision of Florida's approved state Title V program. If the
25 United States Environmental Protection Agency fails to approve
26 this act as a revision of Florida's state implementation plan
27 within 3 ~~2~~ years after submittal, this act shall not apply
28 with respect to construction requirements for facilities
29 subject to regulation under the act, and the facilities
30 subject to regulation thereunder must comply with all
31 construction permitting requirements, including those for

1 prevention of significant deterioration, and must make
 2 application for construction permits for any construction or
 3 modification at the facility which was not undertaken in
 4 compliance with all permitting requirements of Florida's state
 5 implementation plan, within 3 months thereafter. If the United
 6 States Environmental Protection Agency fails to approve this
 7 act as a revision of Florida's approved state Title V program
 8 within 3 ~~2~~ years after submittal, this act shall not apply
 9 with respect to operation requirements, and all facilities
 10 subject to regulation under the act must immediately comply
 11 with all Title V program requirements and must make
 12 application for Title V operation permits within 3 months
 13 thereafter.

14 Section 5. This act shall take effect upon becoming a
 15 law.

16
 17
 18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 On page 1 lines 15 thru 19
 21 remove: all of said lines

22
 23 and insert:

24 coordinating agencies; providing additional
 25 entities required to develop agricultural use
 26 plans limiting residual applications based on
 27 phosphorus loading; providing a deadline for
 28 meeting phosphorus concentration limitations
 29 established in the water management district's
 30 WOD program; requiring certain entities to
 31 develop and submit agricultural use plans

1 limiting septage applications based on
2 phosphorus loading to the Department of Health
3 by a specified date; providing a deadline for
4 meeting phosphorus concentration limitations
5 established in the water management district's
6 WOD program; providing additional entities
7 required to develop conservation or nutrient
8 management plans limiting the land application
9 of manure based on phosphorus loading; amending
10 s. 403.08725, F.S.;

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