

By the Committee on Natural Resources; and Senator Pruitt

312-1746-02

1 A bill to be entitled
2 An act relating to protection of Lake
3 Okeechobee; amending s. 373.4595, F.S.;
4 providing eligibility requirements for
5 available grants from coordinating agencies;
6 providing additional requirements for land
7 application of domestic wastewater residuals
8 and septage after a certain date; providing
9 penalties for violations; providing an
10 effective date.

11

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

13

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

16 373.4595 Lake Okeechobee Protection Program.--

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

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

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

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

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

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

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

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

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

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

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

31

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. Projects that reduce nutrient outputs on private
22 lands by restoring the natural hydrology of the basin,
23 restoring wildlife habitat or impacted wetlands, reducing peak
24 flows after storm events, increasing aquifer recharge, and
25 protecting range and timberland from conversion to development
26 are eligible for grants available under this section from the
27 coordinating agencies. For projects of otherwise equal
28 priority, funding priority will be given to projects that
29 involve public/private partnerships or that obtain federal
30 match money. Grant applications may be submitted by any
31 person, and eligible projects may include, but are not limited

1 to, the purchase of conservation and flowage easements,
2 hydrologic restoration of wetlands, development of a
3 management plan for natural resources, and financial support
4 to implement a management plan.

5 ~~6.a.5.a.~~ The department shall require all entities
6 disposing of domestic wastewater residuals within the Lake
7 Okeechobee watershed to develop and submit to the department
8 by July 1, 2001, an agricultural use plan that limits
9 applications based upon phosphorus loading. By July 1, 2005,
10 phosphorus loading originating from these application sites
11 shall not exceed the limits established in the district's WOD
12 program.

13 b. Private and government-owned utilities within
14 Monroe, Dade, Broward, Palm Beach, Martin, St. Lucie, Indian
15 River, Okeechobee, Highlands, Hendry, and Glades counties that
16 dispose of wastewater residual sludge from utility operations
17 and septic removal by land spreading in the Lake Okeechobee
18 watershed may use a line item on local sewer rates to cover
19 wastewater residual treatment and disposal if such disposal
20 and treatment is done by approved alternative treatment
21 methodology at a facility located within the areas designated
22 by the Governor as rural areas of critical economic concern
23 pursuant to s. 288.0656. This additional line item is an
24 environmental protection disposal fee above the present sewer
25 rate and shall not be considered a part of the present sewer
26 rate to customers, notwithstanding provisions to the contrary
27 in chapter 367. The fee shall be established by the county
28 commission or its designated assignee in the county in which
29 the alternative method treatment facility is located. The fee
30 shall be calculated to be no higher than that necessary to
31 recover the facility's prudent cost of providing the service.

1 Upon request by an affected county commission, the Florida
2 Public Service Commission will provide assistance in
3 establishing the fee. Further, for utilities and utility
4 authorities that use the additional line item environmental
5 protection disposal fee, such fee shall not be considered a
6 rate increase under the rules of the Public Service Commission
7 and shall be exempt from such rules. Utilities using the
8 provisions of this section may immediately include in their
9 sewer invoicing the new environmental protection disposal fee.
10 Proceeds from this environmental protection disposal fee shall
11 be used for treatment and disposal of wastewater residuals,
12 including any treatment technology that helps reduce the
13 volume of residuals that require final disposal, but such
14 proceeds shall not be used for transportation or shipment
15 costs for disposal or any costs relating to the land
16 application of residuals in the Lake Okeechobee watershed.

17 c. No less frequently than once every 3 years, the
18 Florida Public Service Commission or the county commission
19 through the services of an independent auditor shall perform a
20 financial audit of all facilities receiving compensation from
21 an environmental protection disposal fee. The Florida Public
22 Service Commission or the county commission through the
23 services of an independent auditor shall also perform an audit
24 of the methodology used in establishing the environmental
25 protection disposal fee. The Florida Public Service Commission
26 or the county commission shall, within 120 days after
27 completion of an audit, file the audit report with the
28 President of the Senate and the Speaker of the House of
29 Representatives and shall provide copies to the county
30 commissions of the counties set forth in sub-subparagraph b.
31 The books and records of any facilities receiving compensation

1 from an environmental protection disposal fee shall be open to
2 the Florida Public Service Commission and the Auditor General
3 for review upon request.

4 7. The Department of Health shall require all entities
5 disposing of septage within the Lake Okeechobee watershed to
6 develop and submit to that agency, by July 1, 2003, an
7 agricultural use plan that limits applications based upon
8 phosphorus loading. By July 1, 2005, phosphorus loading
9 originating from these application sites shall not exceed the
10 limits established in the district's WOD program.

11 ~~8.6.~~ By July 1, 2001, the Department of Agriculture
12 and Consumer Services shall initiate rulemaking requiring
13 entities within the Lake Okeechobee watershed which land-apply
14 animal manure to develop conservation or nutrient management
15 plans that limit application, based upon phosphorus loading.
16 Such rules may include criteria and thresholds for the
17 requirement to develop a conservation or nutrient management
18 plan, requirements for plan approval, and recordkeeping
19 requirements.

20 ~~9.7.~~ Prior to authorizing a discharge into works of
21 the district, the district shall require responsible parties
22 to demonstrate that proposed changes in land use will not
23 result in increased phosphorus loading over that of existing
24 land uses.

25 ~~10.8.~~ The district, the department, or the Department
26 of Agriculture and Consumer Services, as appropriate, shall
27 implement those alternative nutrient reduction technologies
28 determined to be feasible pursuant to subparagraph (d)6.

29 Section 2. This act shall take effect upon becoming a
30 law.

31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 678

The committee substitute clarifies that for projects of otherwise equal priority that reduce certain nutrient outputs in the Lake Okeechobee watershed, funding priority for grants from the coordinating agencies will be given to projects that involve public/private partnerships or that obtain federal match money.

The requirement that after January 1, 2003, the disposal of domestic wastewater residuals within the Lake Okeechobee watershed by land application is deleted. Instead, the Department of Health shall require all entities disposing of septage within the Lake Okeechobee watershed to develop and submit to that agency, by July 1, 2003, an agricultural use plan that limits applications based upon phosphorus loading. By July 1, 2005, phosphorus loading originating from these application sites shall not exceed the limits established in the district's WOD program.