

1 A bill to be entitled
2 An act relating to pollution reduction;
3 amending s. 403.067, F.S.; authorizing the
4 development of interim measures or
5 best-management practices for specified water
6 bodies or segments for which total maximum
7 daily loads or allocations have not yet been
8 established; amending s. 403.121, F.S.;
9 providing that a professional engineer is not
10 the agent of an owner or tenant for purposes of
11 enforcing penalties for unpermitted dredging or
12 filling or mangrove trimming; amending s.
13 373.4595, F.S.; providing eligibility
14 requirements for available grants from
15 coordinating agencies; providing additional
16 requirements for land application of domestic
17 wastewater residuals and septage after a
18 certain date; providing penalties for
19 violations; amending s. 403.08725, F.S.;
20 extending the time limit for approval by the
21 United States Environmental Protection Agency
22 of this section as being in compliance with
23 specified federal requirements; providing an
24 effective date.

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

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

30 403.067 Establishment and implementation of total
31 maximum daily loads.--

1 (11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.--

2 (a) The department shall not implement, without prior
3 legislative approval, any additional regulatory authority
4 pursuant to s. 303(d) of the Clean Water Act or 40 C.F.R. part
5 130, if such implementation would result in water quality
6 discharge regulation of activities not currently subject to
7 regulation.

8 (b) Interim measures, best management practices, or
9 other measures may be developed and voluntarily implemented
10 pursuant to paragraph (7)(c) or paragraph (7)(d) for any water
11 body or segment for which a total maximum daily load or
12 allocation has not been established. The implementation of
13 such pollution control programs may be considered by the
14 department in the determination made pursuant to subsection
15 (4).

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

18 403.121 Enforcement; procedure; remedies.--The
19 department shall have the following judicial and
20 administrative remedies available to it for violations of this
21 chapter, as specified in s. 403.161(1).

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

25 (c) For a dredge and fill or stormwater violation, the
26 department shall assess a penalty of \$1,000 for unpermitted or
27 unauthorized dredging or filling or unauthorized construction
28 of a stormwater management system against the person or
29 persons responsible for the illegal dredging or filling, or
30 unauthorized construction of a stormwater management system
31 plus \$2,000 if the dredging or filling occurs in an aquatic

1 preserve, Outstanding Florida Water, conservation easement, or
2 Class I or Class II surface water, plus \$1,000 if the area
3 dredged or filled is greater than one-quarter acre but less
4 than or equal to one-half acre, and plus \$1,000 if the area
5 dredged or filled is greater than one-half acre but less than
6 or equal to one acre. The administrative penalty schedule
7 shall not apply to a dredge and fill violation if the area
8 dredged or filled exceeds one acre. The department retains the
9 authority to seek the judicial imposition of civil penalties
10 for all dredge and fill violations involving more than one
11 acre. The department shall assess a penalty of \$3,000 for the
12 failure to complete required mitigation, failure to record a
13 required conservation easement, or for a water quality
14 violation resulting from dredging or filling activities,
15 stormwater construction activities or failure of a stormwater
16 treatment facility. For stormwater management systems serving
17 less than 5 acres, the department shall assess a penalty of
18 \$2,000 for the failure to properly or timely construct a
19 stormwater management system. In addition to the penalties
20 authorized in this subsection, the department shall assess a
21 penalty of \$5,000 per violation against the contractor or
22 agent of the owner or tenant that conducts unpermitted or
23 unauthorized dredging or filling. For purposes of this
24 paragraph, the preparation or signing of a permit application
25 by a person currently licensed under chapter 471 to practice
26 as a professional engineer shall not make that person an agent
27 of the owner or tenant.

28 (d) For mangrove trimming or alteration violations,
29 the department shall assess a penalty of \$5,000 per violation
30 against the contractor or agent of the owner or tenant that
31 conducts mangrove trimming or alteration without a permit as

1 required by s. 403.9328. For purposes of this paragraph, the
2 preparation or signing of a permit application by a person
3 currently licensed under chapter 471 to practice as a
4 professional engineer shall not make that person an agent of
5 the owner or tenant.

6 Section 3. Paragraph (c) of subsection (3) of section
7 373.4595, Florida Statutes, is amended to read:

8 373.4595 Lake Okeechobee Protection Program.--

9 (3) LAKE OKEECHOBEE PROTECTION PROGRAM.--A protection
10 program for Lake Okeechobee that achieves phosphorus load
11 reductions for Lake Okeechobee shall be immediately
12 implemented as specified in this subsection. The program shall
13 address the reduction of phosphorus loading to the lake from
14 both internal and external sources. Phosphorus load reductions
15 shall be achieved through a phased program of implementation.
16 Initial implementation actions shall be technology-based,
17 based upon a consideration of both the availability of
18 appropriate technology and the cost of such technology, and
19 shall include phosphorus reduction measures at both the source
20 and the regional level. The initial phase of phosphorus load
21 reductions shall be based upon the district's Technical
22 Publication 81-2 and the district's WOD program, with
23 subsequent phases of phosphorus load reductions based upon the
24 total maximum daily loads established in accordance with s.
25 403.067. In the development and administration of the Lake
26 Okeechobee Protection Program, the coordinating agencies shall
27 maximize opportunities provided by federal cost-sharing
28 programs and opportunities for partnerships with the private
29 sector.

30 (c) Lake Okeechobee Watershed Phosphorus Control
31 Program.--The Lake Okeechobee Watershed Phosphorus Control

1 Program is designed to be a multifaceted approach to reducing
2 phosphorus loads by improving the management of phosphorus
3 sources within the Lake Okeechobee watershed through continued
4 implementation of existing regulations and best management
5 practices, development and implementation of improved best
6 management practices, improvement and restoration of the
7 hydrologic function of natural and managed systems, and
8 utilization of alternative technologies for nutrient
9 reduction. The coordinating agencies shall facilitate the
10 application of federal programs that offer opportunities for
11 water quality treatment, including preservation, restoration,
12 or creation of wetlands on agricultural lands.

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

28 a. As provided in s. 403.067(7)(d), by October 1,
29 2000, the Department of Agriculture and Consumer Services, in
30 consultation with the department, the district, and affected
31 parties, shall initiate rule development for interim measures,

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

14 b. Where agricultural nonpoint source best management
15 practices or interim measures have been adopted by rule of the
16 Department of Agriculture and Consumer Services, the owner or
17 operator of an agricultural nonpoint source addressed by such
18 rule shall either implement interim measures or best
19 management practices or demonstrate compliance with the
20 district's WOD program by conducting monitoring prescribed by
21 the department or the district. Owners or operators of
22 agricultural nonpoint sources who implement interim measures
23 or best management practices adopted by rule of the Department
24 of Agriculture and Consumer Services shall be subject to the
25 provisions of s. 403.067(7). The Department of Agriculture and
26 Consumer Services, in cooperation with the department and the
27 district, shall provide technical and financial assistance for
28 implementation of agricultural best management practices,
29 subject to the availability of funds.

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1 c. The district or department shall conduct monitoring
2 at representative sites to verify the effectiveness of
3 agricultural nonpoint source best management practices.

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

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

25 a. The department and the district are directed to
26 work with the University of Florida's Institute of Food and
27 Agricultural Sciences to develop appropriate nutrient
28 application rates for all nonagricultural soil amendments in
29 the watershed. As provided in s. 403.067(7)(c), by January 1,
30 2001, the department, in consultation with the district and
31 affected parties, shall develop interim measures, best

1 management practices, or other measures necessary for Lake
2 Okeechobee phosphorus load reduction. Development of
3 nonagricultural nonpoint source best management practices
4 shall initially focus on those priority basins listed in
5 subparagraph (b)1. The department, the district, and affected
6 parties shall conduct an ongoing program for improvement of
7 existing and development of new interim measures or best
8 management practices. The district shall adopt
9 technology-based standards under the district's WOD program
10 for nonagricultural nonpoint sources of phosphorus.

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

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

23 d. Where water quality problems are detected for
24 nonagricultural nonpoint sources despite the appropriate
25 implementation of adopted best management practices, the
26 department and the district shall institute a reevaluation of
27 the best management practices.

28 3. The provisions of subparagraphs 1. and 2. shall not
29 preclude the department or the district from requiring
30 compliance with water quality standards or with current best
31 management practices requirements set forth in any applicable

1 regulatory program authorized by law for the purpose of
2 protecting water quality. Additionally, subparagraphs 1. and
3 2. are applicable only to the extent that they do not conflict
4 with any rules promulgated by the department that are
5 necessary to maintain a federally delegated or approved
6 program.

7 4. Projects which reduce the phosphorus load
8 originating from domestic wastewater systems within the Lake
9 Okeechobee watershed shall be given funding priority in the
10 department's revolving loan program under s. 403.1835. The
11 department shall coordinate and provide assistance to those
12 local governments seeking financial assistance for such
13 priority projects.

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

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1 for natural resources, and financial support to implement a
2 management plan.

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

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

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

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

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

10 ~~8.6. By July 1, 2001,~~The Department of Agriculture
11 and Consumer Services shall initiate rulemaking requiring
12 entities within the Lake Okeechobee watershed which land-apply
13 animal manure to develop conservation or nutrient management
14 plans that limit application, based upon phosphorus loading.
15 Such rules may include criteria and thresholds for the
16 requirement to develop a conservation or nutrient management
17 plan, requirements for plan approval, and recordkeeping
18 requirements.

19 ~~9.7.~~ Prior to authorizing a discharge into works of
20 the district, the district shall require responsible parties
21 to demonstrate that proposed changes in land use will not
22 result in increased phosphorus loading over that of existing
23 land uses.

24 ~~10.8.~~ The district, the department, or the Department
25 of Agriculture and Consumer Services, as appropriate, shall
26 implement those alternative nutrient reduction technologies
27 determined to be feasible pursuant to subparagraph (d)6.

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

30 403.08725 Citrus juice processing facilities.--

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1 (9) ENVIRONMENTAL PROTECTION AGENCY APPROVAL.--No
2 later than February 1, 2001, the department shall submit this
3 act to the United States Environmental Protection Agency as a
4 revision of Florida's state implementation plan and as a
5 revision of Florida's approved state Title V program. If the
6 United States Environmental Protection Agency fails to approve
7 this act as a revision of Florida's state implementation plan
8 within 3 ~~2~~ years after submittal, this act shall not apply
9 with respect to construction requirements for facilities
10 subject to regulation under the act, and the facilities
11 subject to regulation thereunder must comply with all
12 construction permitting requirements, including those for
13 prevention of significant deterioration, and must make
14 application for construction permits for any construction or
15 modification at the facility which was not undertaken in
16 compliance with all permitting requirements of Florida's state
17 implementation plan, within 3 months thereafter. If the United
18 States Environmental Protection Agency fails to approve this
19 act as a revision of Florida's approved state Title V program
20 within 3 ~~2~~ years after submittal, this act shall not apply
21 with respect to operation requirements, and all facilities
22 subject to regulation under the act must immediately comply
23 with all Title V program requirements and must make
24 application for Title V operation permits within 3 months
25 thereafter.

26 Section 5. This act shall take effect upon becoming a
27 law.

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