

By the Committee on Natural Resources & Environmental Protection and Representatives Spratt, Attkisson, Alexander, Kendrick, Bense, Stansel, Bennett, Brown, Evers, Gottlieb, Harrell, Holloway and Harrington

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 projects  
 5           that reduce nutrient outputs on private lands  
 6           for grants available from coordinating  
 7           agencies; providing additional entities  
 8           required to develop agricultural use plans  
 9           limiting residual applications based on  
 10          phosphorus loading; providing a deadline for  
 11          meeting phosphorus loading limitations  
 12          established in the water management district's  
 13          WOD program; requiring certain entities to  
 14          develop and submit agricultural use plans  
 15          limiting septage applications based on  
 16          phosphorus loading to the Department of Health  
 17          by a specified date; providing a deadline for  
 18          meeting phosphorus loading limitations  
 19          established in the water management district's  
 20          WOD program; providing additional entities  
 21          required to develop conservation or nutrient  
 22          management plans limiting the land application  
 23          of manure based on phosphorus loading;  
 24          providing an 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. Paragraph (c) of subsection (3) of section  
 29 373.4595, Florida Statutes, is amended to read:  
 30           373.4595 Lake Okeechobee Protection Program.--  
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1           (3) LAKE OKEECHOBEE PROTECTION PROGRAM.--A protection  
2 program for Lake Okeechobee that achieves phosphorus load  
3 reductions for Lake Okeechobee shall be immediately  
4 implemented as specified in this subsection. The program shall  
5 address the reduction of phosphorus loading to the lake from  
6 both internal and external sources. Phosphorus load reductions  
7 shall be achieved through a phased program of implementation.  
8 Initial implementation actions shall be technology-based,  
9 based upon a consideration of both the availability of  
10 appropriate technology and the cost of such technology, and  
11 shall include phosphorus reduction measures at both the source  
12 and the regional level. The initial phase of phosphorus load  
13 reductions shall be based upon the district's Technical  
14 Publication 81-2 and the district's WOD program, with  
15 subsequent phases of phosphorus load reductions based upon the  
16 total maximum daily loads established in accordance with s.  
17 403.067. In the development and administration of the Lake  
18 Okeechobee Protection Program, the coordinating agencies shall  
19 maximize opportunities provided by federal cost-sharing  
20 programs and opportunities for partnerships with the private  
21 sector.

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

1 reduction. The coordinating agencies shall facilitate the  
2 application of federal programs that offer opportunities for  
3 water quality treatment, including preservation, restoration,  
4 or creation of wetlands on agricultural lands.

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

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

1 Services, in consultation with the department, the district,  
2 and affected parties, shall conduct an ongoing program for  
3 improvement of existing and development of new interim  
4 measures or best management practices for the purpose of  
5 adoption of such practices by rule.

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

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

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

3           2. Nonagricultural 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 department and the district 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 department and the district during any best  
14 management practice reevaluation performed pursuant to  
15 sub-subparagraph d.

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

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

12 c. The district or the department shall conduct  
13 monitoring at representative sites to verify the effectiveness  
14 of nonagricultural nonpoint source best management practices.

15 d. Where water quality problems are detected for  
16 nonagricultural nonpoint sources despite the appropriate  
17 implementation of adopted best management practices, the  
18 department and the district shall institute a reevaluation of  
19 the best management practices.

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

30 4. Projects which reduce the phosphorus load  
31 originating from domestic wastewater systems within the Lake

1 Okeechobee watershed shall be given funding priority in the  
2 department's revolving loan program under s. 403.1835. The  
3 department shall coordinate and provide assistance to those  
4 local governments seeking financial assistance for such  
5 priority projects.

6 5. Projects that reduce nutrient outputs on private  
7 lands by restoring the natural hydrology of the basin,  
8 restoring wildlife habitat or impacted wetlands, reducing peak  
9 flows after storm events, increasing aquifer recharge, and  
10 protecting range and timberland from conversion to development  
11 are eligible for grants available under this section from the  
12 coordinating agencies. For projects of otherwise equal  
13 priority, funding priority will be given to those projects  
14 that involve public-private partnerships or that obtain  
15 federal match money. Grant applications may be submitted by  
16 any person, and eligible projects may include, but are not  
17 limited to, the purchase of conservation and flowage  
18 easements, hydrologic restoration of wetlands, development of  
19 a management plan for natural resources, and financial support  
20 to implement a management plan.

21 6.5-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 loading originating from these application  
28 sites shall not exceed the limits established in the  
29 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 loading  
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 2. This act shall take effect upon becoming a  
18 law.

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