

By the Council for Ready Infrastructure and 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 pollution reduction;
3 amending s. 373.4595, F.S.; providing
4 eligibility requirements for projects that
5 reduce nutrient outputs on private lands for
6 grants available from coordinating agencies;
7 providing additional entities required to
8 develop agricultural use plans limiting
9 residual applications based on phosphorus
10 loading; providing a deadline for meeting
11 phosphorus loading limitations established in
12 the water management district's WOD program;
13 requiring certain entities to develop and
14 submit agricultural use plans limiting septage
15 applications based on phosphorus loading to the
16 Department of Health by a specified date;
17 providing a deadline for meeting phosphorus
18 loading limitations established in the water
19 management district's WOD program; providing
20 additional entities required to develop
21 conservation or nutrient management plans
22 limiting the land application of manure based
23 on phosphorus loading; amending s. 381.0066,
24 F.S.; authorizing the continuation of research
25 fees for onsite sewage treatment and disposal
26 system construction permits; amending s.
27 403.067, F.S.; authorizing the development of
28 interim measures or best management practices
29 for specified water bodies or segments for
30 which total maximum daily loads or allocations
31 have not yet been established; amending s.

1 403.121, F.S.; providing that a professional
2 engineer is not the agent of an owner or tenant
3 for purposes of enforcing penalties for
4 unpermitted dredging or filling or mangrove
5 trimming; providing an effective date.
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7 Be It Enacted by the Legislature of the State of Florida:
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9 Section 1. Paragraph (c) of subsection (3) of section
10 373.4595, Florida Statutes, is amended to read:

11 373.4595 Lake Okeechobee Protection Program.--

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

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

17 1. Agricultural 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 coordinating agencies 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 coordinating agencies during any best
28 management practice reevaluation performed pursuant to
29 sub-subparagraph d. The department shall use best professional
30 judgment in making the initial determination of best
31 management practice effectiveness.

1 a. As provided in s. 403.067(7)(d), by October 1,
2 2000, the Department of Agriculture and Consumer Services, in
3 consultation with the department, the district, and affected
4 parties, shall initiate rule development for interim measures,
5 best management practices, conservation plans, nutrient
6 management plans, or other measures necessary for Lake
7 Okeechobee phosphorus load reduction. The rule shall include
8 thresholds for requiring conservation and nutrient management
9 plans and criteria for the contents of such plans. Development
10 of agricultural nonpoint source best management practices
11 shall initially focus on those priority basins listed in
12 subparagraph (b)1. The Department of Agriculture and Consumer
13 Services, in consultation with the department, the district,
14 and affected parties, shall conduct an ongoing program for
15 improvement of existing and development of new interim
16 measures or best management practices for the purpose of
17 adoption of such practices by rule.

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

1 implementation of agricultural best management practices,
2 subject to the availability of funds.

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

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

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

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

1 2001, the department, in consultation with the district and
2 affected parties, shall develop interim measures, best
3 management practices, or other measures necessary for Lake
4 Okeechobee phosphorus load reduction. Development of
5 nonagricultural nonpoint source best management practices
6 shall initially focus on those priority basins listed in
7 subparagraph (b)1. The department, the district, and affected
8 parties shall conduct an ongoing program for improvement of
9 existing and development of new interim measures or best
10 management practices. The district shall adopt
11 technology-based standards under the district's WOD program
12 for nonagricultural nonpoint sources of phosphorus.

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

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

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

30 3. The provisions of subparagraphs 1. and 2. shall not
31 preclude the department or the district from requiring

1 compliance with water quality standards or with current best
2 management practices requirements set forth in any applicable
3 regulatory program authorized by law for the purpose of
4 protecting water quality. Additionally, subparagraphs 1. and
5 2. are applicable only to the extent that they do not conflict
6 with any rules promulgated by the department that are
7 necessary to maintain a federally delegated or approved
8 program.

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

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

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

3 6.5-a. The department shall require all entities
4 disposing of domestic wastewater residuals within the Lake
5 Okeechobee watershed and the remaining areas of Okeechobee,
6 Glades, and Hendry Counties to develop and submit to the
7 department ~~by July 1, 2001,~~an agricultural use plan that
8 limits applications based upon phosphorus loading. By July 1,
9 2005,phosphorus loading originating from these application
10 sites shall not exceed the limits established in the
11 district's WOD program.

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

1 Public Service Commission will provide assistance in
2 establishing the fee. Further, for utilities and utility
3 authorities that use the additional line item environmental
4 protection disposal fee, such fee shall not be considered a
5 rate increase under the rules of the Public Service Commission
6 and shall be exempt from such rules. Utilities using the
7 provisions of this section may immediately include in their
8 sewer invoicing the new environmental protection disposal fee.
9 Proceeds from this environmental protection disposal fee shall
10 be used for treatment and disposal of wastewater residuals,
11 including any treatment technology that helps reduce the
12 volume of residuals that require final disposal, but such
13 proceeds shall not be used for transportation or shipment
14 costs for disposal or any costs relating to the land
15 application of residuals in the Lake Okeechobee watershed.
16 c. No less frequently than once every 3 years, the
17 Florida Public Service Commission or the county commission
18 through the services of an independent auditor shall perform a
19 financial audit of all facilities receiving compensation from
20 an environmental protection disposal fee. The Florida Public
21 Service Commission or the county commission through the
22 services of an independent auditor shall also perform an audit
23 of the methodology used in establishing the environmental
24 protection disposal fee. The Florida Public Service Commission
25 or the county commission shall, within 120 days after
26 completion of an audit, file the audit report with the
27 President of the Senate and the Speaker of the House of
28 Representatives and shall provide copies to the county
29 commissions of the counties set forth in sub-subparagraph b.
30 The books and records of any facilities receiving compensation
31 from an environmental protection disposal fee shall be open to

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 and
5 the remaining areas of Okeechobee, Glades, and Hendry Counties
6 to 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 and the
14 remaining areas of Okeechobee, Glades, and Hendry Counties
15 which land-apply animal manure to develop conservation or
16 nutrient management plans that limit application, based upon
17 phosphorus loading. Such rules may include criteria and
18 thresholds for the requirement to develop a conservation or
19 nutrient management plan, requirements for plan approval, and
20 recordkeeping requirements.

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

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

30 Section 2. Paragraph (k) of subsection (2) of section
31 381.0066, Florida Statutes, is amended to read:

1 381.0066 Onsite sewage treatment and disposal systems;
2 fees.--

3 (2) The minimum fees in the following fee schedule
4 apply until changed by rule by the department within the
5 following limits:

6 (k) Research: An additional \$5 fee shall be added to
7 each new system construction permit issued ~~during fiscal years~~
8 ~~1996-2002~~ to be used for onsite sewage treatment and disposal
9 system research, demonstration, and training projects. Five
10 dollars from any repair permit fee collected under this
11 section shall be used for funding the hands-on training
12 centers described in s. 381.0065(3)(j).

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14 The funds collected pursuant to this subsection must be
15 deposited in a trust fund administered by the department, to
16 be used for the purposes stated in this section and ss.
17 381.0065 and 381.00655.

18 Section 3. 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 4. 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 5. This act shall take effect upon becoming a
28 law.

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