

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1463 Lake Okeechobee Watershed Phosphorus Control Program
SPONSOR(S): Machek
TIED BILLS: none **IDEN./SIM. BILLS:** SB 2458

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture	9 Y, 0 N w/CS	Reese	Reese
2) Natural Resources			
3) Agriculture & Environment Apps. (Sub)			
4) Appropriations			
5)			

SUMMARY ANALYSIS

The Lake Okeechobee drainage basin covers more than 4,600 square miles of South Central Florida and provides critical wildlife habitat, water supply for potable and natural systems purposes, and recreation for the entire South Florida area. The most significant surface water quality problems in the watershed are elevated nutrient concentrations, especially phosphorus, and low dissolved oxygen concentrations. The 2000 Legislature created the Lake Okeechobee Protection Program, s. 373.4595, F.S., to provide a comprehensive protection and restoration program for the lake. More than \$50 million has been appropriated for lake restoration over the last several years; however, no continuing funding program or dedicated revenue source has been established.

HB 1463 states the importance of managing phosphorus loads originating from agricultural lands and ultimately reaching Lake Okeechobee. The bill provides for continuing funding over the course of the next six years to implement phosphorus control programs within the Lake Okeechobee watershed. The bill also provides for the Department of Agriculture and Consumer Services (FDACS) to provide financial assistance for certain projects that improve the management of phosphorus sources in the Lake Okeechobee watershed.

This legislation creates, within FDACS, a grant and loan program to fund agricultural phosphorus control projects, with a general priority on projects related to dairies. The amount of funding authorized is \$65 million over the next six years: \$15 million in 2003-04 and \$10 million for each of the succeeding five years. No specific funding (revenue) source, however, is identified. Highest specific priority is given to projects located on sites having the highest relative contributions to phosphorus loading and greatest potential to reduce that loading.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1463a.ag.doc
DATE: March 27, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Present situation:

The 2000 Legislature enacted Chapter 2000-130, Laws of Florida, to provide for immediate implementation of the Lake Okeechobee Protection Program (program). The program has a twofold purpose. First, to coordinate and expedite existing programs and projects to achieve initial phosphorus load reductions, and secondly, to provide for planning, research, and monitoring to create a long-term framework for achieving subsequent phosphorus load reductions.

The Lake Okeechobee Protection Program includes the following components:

- The Lake Okeechobee Protection Plan is required to be completed by January 1, 2004, and will provide an implementation plan for subsequent phosphorus load reductions beyond those achieved through initial implementation of the program. The plan is to be based upon relevant information resulting from other components of the program and completed in accordance with ss. 373.451-373.459, Florida Statutes (Surface Water Improvement and Management, or SWIM, provisions).
- The Lake Okeechobee Construction Program consists of stormwater treatment areas, reservoir-assisted stormwater treatment areas, and other detention/treatment facilities within the Lake Okeechobee watershed. Phase I consists of projects within priority basins identified in the *Lake Okeechobee Action Plan*. By January 1, 2004, a plan will be completed for Phase II of the construction program. Based upon an evaluation of any further phosphorus load reductions necessary to achieve the program objectives, the potential exists for additional facilities to be constructed within both the priority basins and other basins.
- The Lake Okeechobee Watershed Phosphorus Control Program provides a comprehensive approach to reducing phosphorus loads. BMPs shall be developed for agricultural non-point sources and non-agricultural non-point sources of phosphorus within the watershed. The BMPs are to be implemented in accordance s. 403.067, F.S., (the total maximum daily load, or TMDL, provisions), on an expedited basis. The program also addresses domestic wastewater disposal, land application of domestic waste residuals, and alternative nutrient reduction technologies.
- The Lake Okeechobee Research and Water Quality Monitoring Program will comprehensively evaluate water quality in the Lake Okeechobee Watershed and provide ongoing monitoring.
- The Lake Okeechobee Exotic Species Control Program will identify invasive exotic species and implement measures to protect native flora and fauna.

- The Lake Okeechobee Internal Phosphorus Management Program will conduct an internal phosphorus load removal feasibility study and subsequently implement measures to reduce internal phosphorus loads.

The Lake Okeechobee drainage basin covers more than 4,600 square miles of South Central Florida and provides critical wildlife habitat, water supply for potable and natural systems purposes, and recreation for the entire South Florida area. The most significant surface water quality problems in the watershed are elevated nutrient concentrations, especially phosphorus, and low dissolved oxygen concentrations.

There are 25 dairies in the Lake Okeechobee watershed with a total milking herd of 32,000 cows. These dairies collectively represent the milk supply for that portion of Florida south of Orlando.

For dairies within the four priority basins designated in the original law, FDACS has completed nutrient management assessments to determine primary sources of phosphorus discharge from each dairy. Also completed are comprehensive nutrient management plans identifying specific actions required to control phosphorus loads.

Proposed changes:

HB 1463 creates s. 373.45951, F.S., stating legislative findings and intent regarding phosphorus loading from dairies and other agricultural operations within the Lake Okeechobee Watershed. The bill specifies that dairies receive priority attention in implementing the watershed phosphorus control program.

The bill provides for \$65 million to be made available over a six-year period, \$15 million in 2003-2004 and \$10 million each for the succeeding five years, to provide grants and loans for projects that reduce phosphorus loads through improved management of agricultural phosphorus sources. The grant and loan program is created within FDACS. Grants and loans could be made directly, or financial institutions may be used as conduits through which loans are made. Projects are to be funded in priority order, based upon potential phosphorus load reduction, as well as regulatory requirements, readiness to proceed, and availability of federal or other non-state funding.

The bill requires an annual report that includes a prioritized list of projects funded, the number and costs of completed projects, and the estimated costs of projects yet to be completed.

C. SECTION DIRECTORY:

Section 1: Creates s. 373.45951, F.S., providing for a program within FDACS to provide grants and loans for projects that reduce phosphorus loading in the Lake Okeechobee watershed; establishes criteria for the program; expresses intent that priority attention is to be given to dairies; provides rulemaking authority.

Section 2: Provides an effective date of July 1, 2003, for the act.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	Year 1 (FY 03-04)	Year 2 (FY 04-05)	Year 3 (FY 05-06)
Anticipated Recurring Revenues	\$15,000,000	\$10,000,000	\$10,000,000
(General Inspection Trust Fund)			

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Costs:

Costs will be limited to the interest due on loans provided to landowners who choose to pay their 25% share of implementing phosphorus control practices via the proposed low interest loan program. As the bill does not address maximum grant amounts, interest rates, or other funding considerations, actual costs can not be determined at this time.

2. Benefits:

Landowners will receive cost-share grants of up to 75% of the total costs associated with the implementation of phosphorus control projects. Providing phosphorus control measure cost-share programs will help to ensure the long-term viability of the agricultural industry within the Lake Okeechobee watershed, thereby helping to maintain stability in local economies.

D. FISCAL COMMENTS:

Revenue made available by the 2000 Legislature with the passage of the Lake Okeechobee Protection Act is not sufficient to accomplish the goal of implementing the number of phosphorus control programs necessary to restore the lake. HB 1463 addresses revenue shortfall and provides additional funds estimated to be sufficient to accomplish phosphorus load reduction projects over the next six years. The source of the \$65 million to be deposited (over a period of six years) into the Lake Okeechobee Protection Trust Fund for the new funding program is not identified.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

B. RULE-MAKING AUTHORITY:

The bill authorizes FDACS to adopt rules necessary to implement the grant and loan program for projects that reduce phosphorus loads by improving the management of agricultural phosphorus sources in the Lake Okeechobee watershed.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The following issues were identified from discussions with representatives of groups to be affected by implementation of the HB 1463:

- Extensive work by FDEP, FDACS, and the South Florida Water Management District as part of the Lake Okeechobee Protection Program has determined that dairies represent approximately 8% of the phosphorus load to the lake.¹
- Other significant agricultural phosphorus contributions come from improved and unimproved pasture lands, abandoned agricultural lands, and certain croplands.
- Coordinating agencies should be allowed to prioritize projects exclusively based on the proposed law's criteria relating to relative phosphorus loading contributions, potential for reductions, regulatory compliance, readiness to proceed, and leveraging of other funds – independently of the type of agricultural operation or site.
- The proposed legislation does not specify a source of the \$65 million to be deposited over the next six years. There is no new revenue stream created, nor is there a funding source identified.
- Some of the above-stated issues, as well as others, may be addressed in the rulemaking process, authority for which is granted by the bill. If the program, however, is intended to begin on July 1, 2003, it may be initiated in advance of any rules being adopted.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

One amendment was adopted by the Committee on Agriculture. The amendment restructured the intent and findings portion of the bill to remove duplicative and unclear language.

¹ *Final Report for project entitled Phosphorus Budget Update for the Northern Lake Okeechobee Watershed, October 2002, for the South Florida WMD by the Mock Roos Team.*