

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1463 w/CS 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	15 Y, 0 N w/CS	Camechis	Lotspeich
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.

This bill 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. 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.

The bill also provides rulemaking authority to the FDACS for the purpose of implementing the grants and loans program, and does not have a fiscal impact on state revenues.

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

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DATE: April 14, 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:

This bill 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 (LOW), including:

- A finding that the state must expeditiously develop and implement comprehensive nutrient management plans for operations contributing to the phosphorus loads from the LOW;
- A finding that a continuing source of funding is needed to effectively implement a program that initially targets the most significant sources of phosphorus loads within the LOW;
- An expressed intent to provide funding on a continuing basis for the purpose of implementing phosphorus control measures in the LOW; and
- An expressed intent for dairies to receive priority attention in implementing s. 373.45951, F.S.

The bill creates a grant and loan program within FDACS for projects that reduce phosphorus loads by improving the management of agricultural phosphorus sources in the LOW, and authorizes the FDACS to adopt rules to implement the program.

Grants may provide up to 75% of the costs of a project, and loans may be used to fund the balance. Grants and loans could be made directly, or financial institutions may be used as conduits through which loans are made. The FDACS, the Department of Environmental Protection, and the South Florida Water Management District must assign the highest priority to projects that are located on sites that have the highest relative contributions to phosphorus loading and the greatest potential for phosphorus reductions, but may also consider the need to achieve regulatory compliance, readiness to proceed, and availability of federal or other non-state funding.

The bill does not specify an appropriation or specific funding source for the grants and loans program.

The bill requires an annual report to the Governor, Speaker of the House, and President of the Senate that includes a prioritized list of funded projects, the number and cost of completed projects, and the estimated cost 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.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Upon complete implementation of the grants and loans program, landowners may receive cost-share grants of up to 75% of the total costs associated with the implementation of phosphorus control projects.

D. FISCAL COMMENTS:

This bill creates a grants and loans program but does not identify a source of funding for the program.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not affect municipal or county government.

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 comments were provided by staff of the House Committee on Agriculture:

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.

On April 9, 2003, the Committee on Natural Resources adopted one amendment deleting subsection (3) of s.373.45951, F.S. This subsection provided \$65 million between fiscal years 2003-2009 for the purpose of funding the grants and loans program. Consequently, the bill no longer identifies a funding source for the program.

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.*