

Bill No. HB 1855, 1st Eng.

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CHAMBER ACTION

Senate

House

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Senator Alexander moved the following amendment:

Senate Amendment (with title amendment)

Between lines 532 and 533

insert:

Section 4. Paragraph (d) of subsection (2) and subsections (6), (7), (8), and (11) of section 403.067, Florida Statutes, are amended to read:

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

(2) LIST OF SURFACE WATERS OR SEGMENTS.--In accordance with s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq., the department must submit periodically to the United States Environmental Protection Agency a list of surface waters or segments for which total maximum daily load assessments will be conducted. The assessments shall evaluate the water quality conditions of the listed waters and, if such waters are determined not to meet water quality standards, total maximum daily loads shall be established, subject to the provisions of subsection (4). The

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1 department shall establish a priority ranking and schedule for
2 analyzing such waters.

3 (d) If the department proposes to implement total
4 maximum daily load calculations or allocations established
5 prior to the effective date of this act, the department shall
6 adopt those calculations and allocations by rule by the
7 secretary pursuant to ss. 120.536(1) and 120.54 and paragraph
8 (6)(~~c~~)(~~d~~).

9 (6) CALCULATION AND ALLOCATION.--

10 (a) Calculation of total maximum daily load.--

11 1. Prior to developing a total maximum daily load
12 calculation for each water body or water body segment on the
13 list specified in subsection (4), the department shall
14 coordinate with applicable local governments, water management
15 districts, the Department of Agriculture and Consumer
16 Services, other appropriate state agencies, local soil and
17 water conservation districts, environmental groups, regulated
18 interests, and affected pollution sources to determine the
19 information required, accepted methods of data collection and
20 analysis, and quality control/quality assurance requirements.
21 The analysis may include mathematical water quality modeling
22 using approved procedures and methods.

23 2. The department shall develop total maximum daily
24 load calculations for each water body or water body segment on
25 the list described in subsection (4) according to the priority
26 ranking and schedule unless the impairment of such waters is
27 due solely to activities other than point and nonpoint sources
28 of pollution. For waters determined to be impaired due solely
29 to factors other than point and nonpoint sources of pollution,
30 no total maximum daily load will be required. A total maximum
31 daily load may be required for those waters that are impaired

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1 predominantly due to activities other than point and nonpoint
2 sources. The total maximum daily load calculation shall
3 establish the amount of a pollutant that a water body or water
4 body segment may receive from all sources without exceeding
5 water quality standards, and shall account for seasonal
6 variations and include a margin of safety that takes into
7 account any lack of knowledge concerning the relationship
8 between effluent limitations and water quality. The total
9 maximum daily load may be based on a pollutant load reduction
10 goal developed by a water management district, provided that
11 such pollutant load reduction goal is promulgated by the
12 department in accordance with the procedural and substantive
13 requirements of this subsection.

14 (b) Allocation of total maximum daily loads.--The
15 total maximum daily loads shall include establishment of
16 reasonable and equitable allocations of the total maximum
17 daily load between or among point and nonpoint sources that
18 will alone, or in conjunction with other management and
19 restoration activities, provide for the attainment of the
20 pollutant reductions established pursuant to paragraph (a) to
21 achieve water quality standards for the pollutant causing
22 impairment and the restoration of impaired waters. The
23 allocations may establish the maximum amount of the water
24 pollutant which from a given source or category of sources
25 that may be discharged or released into the water body or
26 water body segment in combination with other discharges or
27 releases. Allocations may also be made to individual basins
28 and sources or as a whole to all basins and sources or
29 categories of sources of inflow to the water body or water
30 body segments. An initial allocation of allowable pollutant
31 loads among point and nonpoint sources may be developed as

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1 part of the total maximum daily load. However, in such cases,
 2 the detailed allocation to specific point sources and specific
 3 categories of nonpoint sources shall be established in the
 4 basin management action plan pursuant to subsection (7). The
 5 initial and detailed allocations shall be designed to attain
 6 the pollutant reductions established pursuant to paragraph (a)
 7 ~~water quality standards~~ and shall be based on consideration of
 8 the following:

- 9 1. Existing treatment levels and management practices;
- 10 2. Best management practices established and
 11 implemented pursuant to paragraph (7)(c);
- 12 3. Enforceable treatment levels established pursuant
 13 to state or local law or permit;
- 14 ~~4.2.~~ Differing impacts pollutant sources and forms of
 15 pollution may have on water quality;
- 16 ~~5.3.~~ The availability of treatment technologies,
 17 management practices, or other pollutant reduction measures;
- 18 ~~6.4.~~ Environmental, economic, and technological
 19 feasibility of achieving the allocation;
- 20 ~~7.5.~~ The cost benefit associated with achieving the
 21 allocation;
- 22 ~~8.6.~~ Reasonable timeframes for implementation;
- 23 ~~9.7.~~ Potential applicability of any moderating
 24 provisions such as variances, exemptions, and mixing zones;
 25 and
- 26 ~~10.8.~~ The extent to which nonattainment of water
 27 quality standards is caused by pollution sources outside of
 28 Florida, discharges that have ceased, or alterations to water
 29 bodies prior to the date of this act.

30 ~~(c) Not later than February 1, 2001, the department~~
 31 ~~shall submit a report to the Governor, the President of the~~

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1 ~~Senate, and the Speaker of the House of Representatives~~
 2 ~~containing recommendations, including draft legislation, for~~
 3 ~~any modifications to the process for allocating total maximum~~
 4 ~~daily loads, including the relationship between allocations~~
 5 ~~and the watershed or basin management planning process. Such~~
 6 ~~recommendations shall be developed by the department in~~
 7 ~~cooperation with a technical advisory committee which includes~~
 8 ~~representatives of affected parties, environmental~~
 9 ~~organizations, water management districts, and other~~
 10 ~~appropriate local, state, and federal government agencies. The~~
 11 ~~technical advisory committee shall also include such members~~
 12 ~~as may be designated by the President of the Senate and the~~
 13 ~~Speaker of the House of Representatives.~~

14 (c)(d) Adoption of rules.--The total maximum daily
 15 load calculations and allocations established under this
 16 subsection for each water body or water body segment shall be
 17 adopted by rule by the secretary pursuant to ss. 120.536(1),
 18 120.54, and 403.805. Where additional data collection and
 19 analysis are needed to increase the scientific precision and
 20 accuracy of the total maximum daily load, the department may
 21 adopt phased total maximum daily loads that are subject to
 22 change as additional data becomes available. Where phased
 23 total maximum daily loads are proposed, the department shall,
 24 in the detailed statement of facts and circumstances
 25 justifying the rule, explain why the data are inadequate so as
 26 to justify a phased total maximum daily load. The rules
 27 adopted pursuant to this paragraph shall not be subject to
 28 approval by the Environmental Regulation Commission. As part
 29 of the rule development process, the department shall hold at
 30 least one public workshop in the vicinity of the water body or
 31 water body segment for which the total maximum daily load is

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1 being developed. Notice of the public workshop shall be
 2 published not less than 5 days nor more than 15 days before
 3 the public workshop in a newspaper of general circulation in
 4 the county or counties containing the water bodies or water
 5 body segments for which the total maximum daily load
 6 calculation and allocation are being developed.

7 (7) DEVELOPMENT OF BASIN MANAGEMENT ACTION PLANS;
 8 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS; BEST MANAGEMENT
 9 PRACTICES.--

10 (a) Basin management action plans.--

11 1. In developing and implementing the total maximum
 12 daily load for a water body, the department, or the department
 13 in conjunction with a water management district, may develop a
 14 basin management action plan that addresses some or all of the
 15 watersheds and basins tributary to the water body. Such a plan
 16 shall integrate the appropriate management strategies
 17 available to the state through existing water quality
 18 protection programs to achieve the total maximum daily load
 19 and may provide for phased implementation of these management
 20 strategies to promote timely, cost-effective actions as
 21 provided for in s. 403.151. The plan shall establish a
 22 schedule for implementing the management strategies, establish
 23 a basis for evaluating the plan's effectiveness, and identify
 24 feasible funding strategies to implement the plan's management
 25 strategies. The management strategies may include regional
 26 treatment systems or other public works, where appropriate, to
 27 achieve the needed pollutant load reductions.

28 2. A basin management action plan shall, pursuant to
 29 paragraph (6)(b), equitably allocate pollutant reductions to
 30 individual basins, as a whole to all basins or to each
 31 identified point source or category of nonpoint sources, as

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1 appropriate. For nonpoint sources for which best management
 2 practices have been adopted, the initial requirement specified
 3 by the plan shall be those practices developed pursuant to
 4 paragraph (c). Where appropriate, the plan may provide
 5 pollutant load reduction credit to those dischargers that have
 6 implemented management strategies to reduce pollutant loads,
 7 including best management practices, prior to the development
 8 of the basin management action plan. The plan also shall
 9 identify the mechanisms by which potential future increases in
 10 pollutant loading will be addressed.

11 3. The basin management action planning process is
 12 intended to involve the broadest possible range of interested
 13 parties, with the objective of encouraging the greatest amount
 14 of cooperation and consensus possible. In developing a basin
 15 management action plan, the department shall ensure that key
 16 stakeholders, including, but not limited to, applicable local
 17 governments, water management districts, the Department of
 18 Agriculture and Consumer Services, other appropriate state
 19 agencies, local soil and water conservation districts,
 20 environmental groups, regulated interests, and affected
 21 pollution sources are invited to participate in the process.
 22 The department shall hold at least one public meeting in the
 23 vicinity of the watershed or basin to discuss and receive
 24 comments during the planning process and shall otherwise
 25 encourage public participation to the greatest practical
 26 extent. Not fewer than 5 days or more than 15 days before the
 27 public meeting, notice of the public meeting shall be
 28 published in a newspaper of general circulation in each county
 29 in which the watershed or basin lies. A basin management
 30 action plan shall not supplant or otherwise alter any
 31 assessment made under subsection (3) or subsection (4) or any

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1 calculation or preliminary allocation made under subsection
2 (6).

3 4. The department shall adopt all or any part of a
4 basin management action plan by secretarial order pursuant to
5 chapter 120 to implement this section.

6 5. The basin management action plan must include
7 milestones for implementation and water quality improvement
8 and an associated water quality monitoring component
9 sufficient to evaluate whether reasonable progress in
10 pollutant load reductions is being achieved over time. An
11 assessment of progress toward these milestones shall be
12 conducted every 5 years and revisions to the plan shall be
13 made as appropriate. Revisions to the basin management action
14 plan shall be made by the department in cooperation with basin
15 stakeholders. Revisions to the management strategies required
16 for nonpoint sources shall follow the procedures set forth in
17 subparagraph (c)4. Revised basin management action plans shall
18 be adopted pursuant to subparagraph 4.

19 (b) Total maximum daily load implementation.--

20 1.(a) The department shall be the lead agency in
21 coordinating the implementation of the total maximum daily
22 loads through existing water quality protection programs.
23 Application of a total maximum daily load by a water
24 management district shall be consistent with this section and
25 shall not require the issuance of an order or a separate
26 action pursuant to s. 120.536(1) or s. 120.54 for adoption of
27 the calculation and allocation previously established by the
28 department. Such programs may include, but are not limited to:

29 a.1. Permitting and other existing regulatory
30 programs, including water-quality-based effluent limitations;

31 b.2. Nonregulatory and incentive-based programs,

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1 including best management practices, cost sharing, waste
2 minimization, pollution prevention, agreements established
3 pursuant to s. 403.061(21), and public education;

4 c.3. Other water quality management and restoration
5 activities, for example surface water improvement and
6 management plans approved by water management districts ~~or~~
7 ~~watershed~~ or basin management action plans developed pursuant
8 to this subsection;

9 d.4. Pollutant trading or other equitable economically
10 based agreements;

11 e.5. Public works including capital facilities; or

12 f.6. Land acquisition.

13 2. For a basin management action plan adopted pursuant
14 to subparagraph (a)4., any management strategies and pollutant
15 reduction requirements associated with a pollutant of concern
16 for which a total maximum daily load was developed, including
17 effluent limits set forth for a discharger subject to NPDES
18 permitting, if any, shall be included in subsequent NPDES
19 permits or permit modifications for that discharger in a
20 timely manner. The department shall not impose limits or
21 conditions implementing an adopted total maximum daily load in
22 a NPDES permit until the permit expires, the discharge is
23 modified, or the permit is reopened pursuant to an adopted
24 basin management action plan.

25 a. For holders of NPDES municipal separate storm sewer
26 system permits and other stormwater sources, implementation of
27 a total maximum daily load or basin management action plan
28 shall be achieved, to the maximum extent practicable, through
29 the use of best management practices or other management
30 measures.

31 b. The basin management action plan does not relieve

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1 the discharger from any requirement to obtain, renew, or
2 modify a NPDES permit or to abide by other requirements of the
3 permit.

4 c. Management strategies set forth in a basin
5 management action plan to be implemented by a discharger
6 subject to permitting by the department shall be completed
7 pursuant to the schedule set forth in the basin management
8 action plan. This implementation schedule may extend beyond
9 the 5-year term of a NPDES permit.

10 d. Management strategies and pollution reduction
11 requirements set forth in a basin management action plan for a
12 specific pollutant of concern shall not be subject to
13 challenge under chapter 120 at the time they are incorporated,
14 in an identical form, into a subsequent NPDES permit or permit
15 modification.

16 e. For nonagricultural pollutant sources not subject
17 to NPDES permitting but permitted pursuant to other state,
18 regional, or local water quality programs, the pollutant
19 reduction actions adopted in a basin management action plan
20 shall be implemented to the maximum extent practicable as part
21 of those permitting programs.

22 f. A nonpoint pollutant source discharger included in
23 a basin management action plan shall demonstrate compliance
24 with the pollutant reductions established pursuant to
25 subsection (6) by implementing the appropriate best management
26 practices established pursuant to paragraph (c) or by
27 conducting the water quality monitoring prescribed by the
28 department or a water management district.

29 g. A nonpoint pollutant source discharger included in
30 a basin management action plan may be subject to enforcement
31 action by the department or a water management district based

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1 upon the failure to implement the responsibilities in
2 sub-subparagraph f.

3 h. A landowner, discharger, or other responsible
4 person who is implementing applicable management strategies
5 specified in an adopted basin management action plan shall not
6 be required by permit, enforcement action, or otherwise to
7 implement additional management strategies to reduce pollutant
8 loads to attain the pollutant reductions established pursuant
9 to subsection (6) and shall be deemed to be in compliance with
10 this section. This subparagraph does not limit the authority
11 of the department to amend a basin management action plan as
12 specified in subparagraph (a)5.

13 ~~(b) In developing and implementing the total maximum~~
14 ~~daily load for a water body, the department, or the department~~
15 ~~in conjunction with a water management district, may develop a~~
16 ~~watershed or basin management plan that addresses some or all~~
17 ~~of the watersheds and basins tributary to the water body.~~
18 ~~These plans will serve to fully integrate the management~~
19 ~~strategies available to the state for the purpose of~~
20 ~~implementing the total maximum daily loads and achieving water~~
21 ~~quality restoration. The watershed or basin management~~
22 ~~planning process is intended to involve the broadest possible~~
23 ~~range of interested parties, with the objective of encouraging~~
24 ~~the greatest amount of cooperation and consensus possible. The~~
25 ~~department or water management district shall hold at least~~
26 ~~one public meeting in the vicinity of the watershed or basin~~
27 ~~to discuss and receive comments during the planning process~~
28 ~~and shall otherwise encourage public participation to the~~
29 ~~greatest practical extent. Notice of the public meeting shall~~
30 ~~be published in a newspaper of general circulation in each~~
31 ~~county in which the watershed or basin lies not less than 5~~

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1 ~~days nor more than 15 days before the public meeting. A~~
 2 ~~watershed or basin management plan shall not supplant or~~
 3 ~~otherwise alter any assessment made under s. 403.086(3) and~~
 4 ~~(4), or any calculation or allocation made under s.~~
 5 ~~403.086(6).~~

6 (c) Best management practices.--

7 1. The department, in cooperation with the water
 8 management districts and other interested parties, as
 9 appropriate, may develop suitable interim measures, best
 10 management practices, or other measures necessary to achieve
 11 the level of pollution reduction established by the department
 12 for nonagricultural nonpoint pollutant sources in allocations
 13 developed pursuant to this subsection and subsection (6)
 14 ~~paragraph (6)(b)~~. These practices and measures may be adopted
 15 by rule by the department and the water management districts
 16 pursuant to ss. 120.536(1) and 120.54, and, where adopted by
 17 rule, shall ~~may~~ be implemented by those parties responsible
 18 for nonagricultural nonpoint source pollution pollutant
 19 ~~sources and the department and the water management districts~~
 20 ~~shall assist with implementation. Where interim measures, best~~
 21 ~~management practices, or other measures are adopted by rule,~~
 22 ~~the effectiveness of such practices in achieving the levels of~~
 23 ~~pollution reduction established in allocations developed by~~
 24 ~~the department pursuant to paragraph (6)(b) shall be verified~~
 25 ~~by the department. Implementation, in accordance with~~
 26 ~~applicable rules, of practices that have been verified by the~~
 27 ~~department to be effective at representative sites shall~~
 28 ~~provide a presumption of compliance with state water quality~~
 29 ~~standards and release from the provisions of s. 376.307(5) for~~
 30 ~~those pollutants addressed by the practices, and the~~
 31 ~~department is not authorized to institute proceedings against~~

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1 ~~the owner of the source of pollution to recover costs or~~
2 ~~damages associated with the contamination of surface or ground~~
3 ~~water caused by those pollutants. Such rules shall also~~
4 ~~incorporate provisions for a notice of intent to implement the~~
5 ~~practices and a system to assure the implementation of the~~
6 ~~practices, including recordkeeping requirements. Where water~~
7 ~~quality problems are detected despite the appropriate~~
8 ~~implementation, operation, and maintenance of best management~~
9 ~~practices and other measures according to rules adopted under~~
10 ~~this paragraph, the department or the water management~~
11 ~~districts shall institute a reevaluation of the best~~
12 ~~management practice or other measures.~~

13 2.(d)1. The Department of Agriculture and Consumer
14 Services may develop and adopt by rule pursuant to ss.
15 120.536(1) and 120.54 suitable interim measures, best
16 management practices, or other measures necessary to achieve
17 the level of pollution reduction established by the department
18 for agricultural pollutant sources in allocations developed
19 pursuant to this subsection and subsection (6) paragraph
20 ~~(6)(b)~~. These practices and measures may be implemented by
21 those parties responsible for agricultural pollutant sources
22 and the department, the water management districts, and the
23 Department of Agriculture and Consumer Services shall assist
24 with implementation. ~~Where interim measures, best management~~
25 ~~practices, or other measures are adopted by rule, the~~
26 ~~effectiveness of such practices in achieving the levels of~~
27 ~~pollution reduction established in allocations developed by~~
28 ~~the department pursuant to paragraph (6)(b) shall be verified~~
29 ~~by the department. Implementation, in accordance with~~
30 ~~applicable rules, of practices that have been verified by the~~
31 ~~department to be effective at representative sites shall~~

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1 ~~provide a presumption of compliance with state water quality~~
2 ~~standards and release from the provisions of s. 376.307(5) for~~
3 ~~those pollutants addressed by the practices, and the~~
4 ~~department is not authorized to institute proceedings against~~
5 ~~the owner of the source of pollution to recover costs or~~
6 ~~damages associated with the contamination of surface or ground~~
7 ~~water caused by those pollutants. In the process of developing~~
8 ~~and adopting rules for interim measures, best management~~
9 ~~practices, or other measures, the Department of Agriculture~~
10 ~~and Consumer Services shall consult with the department, the~~
11 ~~Department of Health, the water management districts,~~
12 ~~representatives from affected farming groups, and~~
13 ~~environmental group representatives. Such rules shall also~~
14 ~~incorporate provisions for a notice of intent to implement the~~
15 ~~practices and a system to assure the implementation of the~~
16 ~~practices, including recordkeeping requirements. ~~where water~~~~
17 ~~quality problems are detected despite the appropriate~~
18 ~~implementation, operation, and maintenance of best management~~
19 ~~practices and other measures according to rules adopted under~~
20 ~~this paragraph, the Department of Agriculture and Consumer~~
21 ~~Services shall institute a reevaluation of the best management~~
22 ~~practice or other measure.~~

23 3. Where interim measures, best management practices,
24 or other measures are adopted by rule, the effectiveness of
25 such practices in achieving the levels of pollution reduction
26 established in allocations developed by the department
27 pursuant to this subsection and subsection (6) shall be
28 verified at representative sites by the department. The
29 department shall use best professional judgment in making the
30 initial verification that the best management practices are
31 effective and, where applicable, shall notify the appropriate

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1 water management district or the Department of Agriculture and
 2 Consumer Services of its initial verification prior to the
 3 adoption of a rule proposed pursuant to this paragraph.
 4 Implementation, in accordance with rules adopted under this
 5 paragraph, of practices that have been initially verified to
 6 be effective, or verified to be effective by monitoring at
 7 representative sites, by the department shall provide a
 8 presumption of compliance with state water quality standards
 9 and release from the provisions of s. 376.307(5) for those
 10 pollutants addressed by the practices, and the department is
 11 not authorized to institute proceedings against the owner of
 12 the source of pollution to recover costs or damages associated
 13 with the contamination of surface or ground water caused by
 14 those pollutants.

15 4. Where water quality problems are demonstrated
 16 during the development or amendment of a basin management
 17 action plan, despite the appropriate implementation,
 18 operation, and maintenance of best management practices and
 19 other measures according to rules adopted under this
 20 paragraph, the department, or a water management district or
 21 the Department of Agriculture and Consumer Services in
 22 consultation with the department, shall institute a
 23 reevaluation of the best management practice or other measure.
 24 Should the reevaluation determine that the best management
 25 practice or other measure requires modification, the
 26 department, a water management district, or the Department of
 27 Agriculture and Consumer Services, as appropriate, shall
 28 revise the rule to require implementation of the modified
 29 practice within a reasonable time period as specified in the
 30 rule.

31 5.2. Individual agricultural records relating to

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1 processes or methods of production, or relating to costs of
 2 production, profits, or other financial information which are
 3 otherwise not public records, which are reported to the
 4 Department of Agriculture and Consumer Services pursuant to
 5 subparagraphs 3. and 4. ~~this paragraph~~ or pursuant to any rule
 6 adopted pursuant to subparagraph 2. ~~this paragraph~~ shall be
 7 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 8 of the State Constitution. Upon request of the department or
 9 any water management district, the Department of Agriculture
 10 and Consumer Services shall make such individual agricultural
 11 records available to that agency, provided that the
 12 confidentiality specified by this subparagraph for such
 13 records is maintained. This subparagraph is subject to the
 14 Open Government Sunset Review Act of 1995 in accordance with
 15 s. 119.15, and shall stand repealed on October 2, 2006, unless
 16 reviewed and saved from repeal through reenactment by the
 17 Legislature.

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

29 (8) RULES.--The department is authorized to adopt
 30 rules pursuant to ss. 120.536(1) and 120.54 for:

31 (a) Delisting water bodies or water body segments from

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1 the list developed under subsection (4) pursuant to the
2 guidance under subsection (5).~~†~~

3 (b) Administration of funds to implement the total
4 maximum daily load and basin management action planning
5 program.~~†~~

6 (c) Procedures for pollutant trading among the
7 pollutant sources to a water body or water body segment,
8 including a mechanism for the issuance and tracking of
9 pollutant credits. Such procedures may be implemented through
10 permits or other authorizations and must be legally binding.

11 Prior to adopting rules for pollutant trading under this
12 paragraph, and no later than November 30, 2006, the Department
13 of Environmental Protection shall submit to the Governor, the
14 President of the Senate, and the Speaker of the House of
15 Representatives a report containing recommendations on such
16 rules, including the proposed basis for equitable economically
17 based agreements and the tracking and accounting of pollution
18 credits or other similar mechanisms. Such recommendations
19 shall be developed in cooperation with a technical advisory
20 committee that includes representatives of environmental
21 organizations, industry, local government, homebuilders, water
22 management districts, agriculture, stormwater utilities, and
23 municipal utilities. No rule implementing a pollutant trading
24 program shall become effective prior to review and
25 ratification by the Legislature; and

26 (d) The total maximum daily load calculation in
27 accordance with paragraph (6)(a) immediately upon the
28 effective date of this act, for those eight water segments
29 within Lake Okeechobee proper as submitted to the United
30 States Environmental Protection Agency pursuant to subsection
31 (2).

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1 (e) Any other purpose specifically provided for in
2 this section.

3 (11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.--

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

10 (b) Interim measures, best management practices, or
11 other measures may be developed and voluntarily implemented
12 pursuant to subparagraph (7)(c)1. or subparagraph (7)(c)2.
13 ~~paragraph (7)(c) or paragraph (7)(d)~~ for any water body or
14 segment for which a total maximum daily load or allocation has
15 not been established. The implementation of such pollution
16 control programs may be considered by the department in the
17 determination made pursuant to subsection (4).

18 Section 5. Paragraph (c) of subsection (3) of section
19 373.4595, Florida Statutes, is amended to read:

20 373.4595 Lake Okeechobee Protection Program.--

21 (3) LAKE OKEECHOBEE PROTECTION PROGRAM.--A protection
22 program for Lake Okeechobee that achieves phosphorus load
23 reductions for Lake Okeechobee shall be immediately
24 implemented as specified in this subsection. The program shall
25 address the reduction of phosphorus loading to the lake from
26 both internal and external sources. Phosphorus load reductions
27 shall be achieved through a phased program of implementation.
28 Initial implementation actions shall be technology-based,
29 based upon a consideration of both the availability of
30 appropriate technology and the cost of such technology, and
31 shall include phosphorus reduction measures at both the source

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1 and the regional level. The initial phase of phosphorus load
 2 reductions shall be based upon the district's Technical
 3 Publication 81-2 and the district's WOD program, with
 4 subsequent phases of phosphorus load reductions based upon the
 5 total maximum daily loads established in accordance with s.
 6 403.067. In the development and administration of the Lake
 7 Okeechobee Protection Program, the coordinating agencies shall
 8 maximize opportunities provided by federal cost-sharing
 9 programs and opportunities for partnerships with the private
 10 sector.

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

25 1. Agricultural nonpoint source best management
 26 practices, developed in accordance with s. 403.067 and
 27 designed to achieve the objectives of the Lake Okeechobee
 28 Protection Program, shall be implemented on an expedited
 29 basis. By March 1, 2001, the coordinating agencies shall
 30 develop an interagency agreement pursuant to ss. 373.046 and
 31 373.406(5) that assures the development of best management

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1 practices that complement existing regulatory programs and
 2 specifies how those best management practices are implemented
 3 and verified. The interagency agreement shall address measures
 4 to be taken by the coordinating agencies during any best
 5 management practice reevaluation performed pursuant to
 6 sub-subparagraph d. The department shall use best professional
 7 judgment in making the initial determination of best
 8 management practice effectiveness.

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

26 b. Where agricultural nonpoint source best management
 27 practices or interim measures have been adopted by rule of the
 28 Department of Agriculture and Consumer Services, the owner or
 29 operator of an agricultural nonpoint source addressed by such
 30 rule shall either implement interim measures or best
 31 management practices or demonstrate compliance with the

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1 district's WOD program by conducting monitoring prescribed by
 2 the department or the district. Owners or operators of
 3 agricultural nonpoint sources who implement interim measures
 4 or best management practices adopted by rule of the Department
 5 of Agriculture and Consumer Services shall be subject to the
 6 provisions of s. 403.067(7). The Department of Agriculture and
 7 Consumer Services, in cooperation with the department and the
 8 district, shall provide technical and financial assistance for
 9 implementation of agricultural best management practices,
 10 subject to the availability of funds.

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

14 d. Where water quality problems are detected for
 15 agricultural nonpoint sources despite the appropriate
 16 implementation of adopted best management practices, the
 17 Department of Agriculture and Consumer Services, in
 18 consultation with the other coordinating agencies and affected
 19 parties, shall institute a reevaluation of the best management
 20 practices and make appropriate changes to the rule adopting
 21 best management practices.

22 2. Nonagricultural nonpoint source best management
 23 practices, developed in accordance with s. 403.067 and
 24 designed to achieve the objectives of the Lake Okeechobee
 25 Protection Program, shall be implemented on an expedited
 26 basis. By March 1, 2001, the department and the district shall
 27 develop an interagency agreement pursuant to ss. 373.046 and
 28 373.406(5) that assures the development of best management
 29 practices that complement existing regulatory programs and
 30 specifies how those best management practices are implemented
 31 and verified. The interagency agreement shall address measures

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1 to be taken by the department and the district during any best
2 management practice reevaluation performed pursuant to
3 sub-subparagraph d.

4 a. The department and the district are directed to
5 work with the University of Florida's Institute of Food and
6 Agricultural Sciences to develop appropriate nutrient
7 application rates for all nonagricultural soil amendments in
8 the watershed. As provided in s. 403.067(7)(c), by January 1,
9 2001, the department, in consultation with the district and
10 affected parties, shall develop interim measures, best
11 management practices, or other measures necessary for Lake
12 Okeechobee phosphorus load reduction. Development of
13 nonagricultural nonpoint source best management practices
14 shall initially focus on those priority basins listed in
15 subparagraph (b)1. The department, the district, and affected
16 parties shall conduct an ongoing program for improvement of
17 existing and development of new interim measures or best
18 management practices. The district shall adopt
19 technology-based standards under the district's WOD program
20 for nonagricultural nonpoint sources of phosphorus.

21 b. Where nonagricultural nonpoint source best
22 management practices or interim measures have been developed
23 by the department and adopted by the district, the owner or
24 operator of a nonagricultural nonpoint source shall implement
25 interim measures or best management practices and be subject
26 to the provisions of s. 403.067(7). The department and
27 district shall provide technical and financial assistance for
28 implementation of nonagricultural nonpoint source best
29 management practices, subject to the availability of funds.

30 c. The district or the department shall conduct
31 monitoring at representative sites to verify the effectiveness

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1 of nonagricultural nonpoint source best management practices.

2 d. Where water quality problems are detected for
3 nonagricultural nonpoint sources despite the appropriate
4 implementation of adopted best management practices, the
5 department and the district shall institute a reevaluation of
6 the best management practices.

7 3. The provisions of subparagraphs 1. and 2. shall not
8 preclude the department or the district from requiring
9 compliance with water quality standards or with current best
10 management practices requirements set forth in any applicable
11 regulatory program authorized by law for the purpose of
12 protecting water quality. Additionally, subparagraphs 1. and
13 2. are applicable only to the extent that they do not conflict
14 with any rules promulgated by the department that are
15 necessary to maintain a federally delegated or approved
16 program.

17 4. Projects which reduce the phosphorus load
18 originating from domestic wastewater systems within the Lake
19 Okeechobee watershed shall be given funding priority in the
20 department's revolving loan program under s. 403.1835. The
21 department shall coordinate and provide assistance to those
22 local governments seeking financial assistance for such
23 priority projects.

24 5. Projects that make use of private lands, or lands
25 held in trust for Indian tribes, to reduce nutrient loadings
26 or concentrations within a basin by one or more of the
27 following methods: restoring the natural hydrology of the
28 basin, restoring wildlife habitat or impacted wetlands,
29 reducing peak flows after storm events, increasing aquifer
30 recharge, or protecting range and timberland from conversion
31 to development, are eligible for grants available under this

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1 section from the coordinating agencies. For projects of
2 otherwise equal priority, special funding priority will be
3 given to those projects that make best use of the methods
4 outlined above that involve public-private partnerships or
5 that obtain federal match money. Preference ranking above the
6 special funding priority will be given to projects located in
7 a rural area of critical economic concern designated by the
8 Governor. Grant applications may be submitted by any person or
9 tribal entity, and eligible projects may include, but are not
10 limited to, the purchase of conservation and flowage
11 easements, hydrologic restoration of wetlands, creating
12 treatment wetlands, development of a management plan for
13 natural resources, and financial support to implement a
14 management plan.

15 6.a. The department shall require all entities
16 disposing of domestic wastewater residuals within the Lake
17 Okeechobee watershed and the remaining areas of Okeechobee,
18 Glades, and Hendry Counties to develop and submit to the
19 department an agricultural use plan that limits applications
20 based upon phosphorus loading. By July 1, 2005, phosphorus
21 concentrations originating from these application sites shall
22 not exceed the limits established in the district's WOD
23 program.

24 b. Private and government-owned utilities within
25 Monroe, Dade, Broward, Palm Beach, Martin, St. Lucie, Indian
26 River, Okeechobee, Highlands, Hendry, and Glades Counties that
27 dispose of wastewater residual sludge from utility operations
28 and septic removal by land spreading in the Lake Okeechobee
29 watershed may use a line item on local sewer rates to cover
30 wastewater residual treatment and disposal if such disposal
31 and treatment is done by approved alternative treatment

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1 methodology at a facility located within the areas designated
2 by the Governor as rural areas of critical economic concern
3 pursuant to s. 288.0656. This additional line item is an
4 environmental protection disposal fee above the present sewer
5 rate and shall not be considered a part of the present sewer
6 rate to customers, notwithstanding provisions to the contrary
7 in chapter 367. The fee shall be established by the county
8 commission or its designated assignee in the county in which
9 the alternative method treatment facility is located. The fee
10 shall be calculated to be no higher than that necessary to
11 recover the facility's prudent cost of providing the service.
12 Upon request by an affected county commission, the Florida
13 Public Service Commission will provide assistance in
14 establishing the fee. Further, for utilities and utility
15 authorities that use the additional line item environmental
16 protection disposal fee, such fee shall not be considered a
17 rate increase under the rules of the Public Service Commission
18 and shall be exempt from such rules. Utilities using the
19 provisions of this section may immediately include in their
20 sewer invoicing the new environmental protection disposal fee.
21 Proceeds from this environmental protection disposal fee shall
22 be used for treatment and disposal of wastewater residuals,
23 including any treatment technology that helps reduce the
24 volume of residuals that require final disposal, but such
25 proceeds shall not be used for transportation or shipment
26 costs for disposal or any costs relating to the land
27 application of residuals in the Lake Okeechobee watershed.

28 c. No less frequently than once every 3 years, the
29 Florida Public Service Commission or the county commission
30 through the services of an independent auditor shall perform a
31 financial audit of all facilities receiving compensation from

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1 an environmental protection disposal fee. The Florida Public
2 Service Commission or the county commission through the
3 services of an independent auditor shall also perform an audit
4 of the methodology used in establishing the environmental
5 protection disposal fee. The Florida Public Service Commission
6 or the county commission shall, within 120 days after
7 completion of an audit, file the audit report with the
8 President of the Senate and the Speaker of the House of
9 Representatives and shall provide copies to the county
10 commissions of the counties set forth in sub-subparagraph b.
11 The books and records of any facilities receiving compensation
12 from an environmental protection disposal fee shall be open to
13 the Florida Public Service Commission and the Auditor General
14 for review upon request.

15 7. The Department of Health shall require all entities
16 disposing of septage within the Lake Okeechobee watershed and
17 the remaining areas of Okeechobee, Glades, and Hendry Counties
18 to develop and submit to that agency, by July 1, 2003, an
19 agricultural use plan that limits applications based upon
20 phosphorus loading. By July 1, 2005, phosphorus concentrations
21 originating from these application sites shall not exceed the
22 limits established in the district's WOD program.

23 8. The Department of Agriculture and Consumer Services
24 shall initiate rulemaking requiring entities within the Lake
25 Okeechobee watershed and the remaining areas of Okeechobee,
26 Glades, and Hendry Counties which land-apply animal manure to
27 develop conservation or nutrient management plans that limit
28 application, based upon phosphorus loading. Such rules may
29 include criteria and thresholds for the requirement to develop
30 a conservation or nutrient management plan, requirements for
31 plan approval, and recordkeeping requirements.

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1 9. Prior to authorizing a discharge into works of the
2 district, the district shall require responsible parties to
3 demonstrate that proposed changes in land use will not result
4 in increased phosphorus loading over that of existing land
5 uses.

6 10. The district, the department, or the Department of
7 Agriculture and Consumer Services, as appropriate, shall
8 implement those alternative nutrient reduction technologies
9 determined to be feasible pursuant to subparagraph (d)6.

10 Section 6. Subsection (1) of section 570.085, Florida
11 Statutes, is amended to read:

12 570.085 Department of Agriculture and Consumer
13 Services; agricultural water conservation.--The department
14 shall establish an agricultural water conservation program
15 that includes the following:

16 (1) A cost-share program, coordinated where
17 appropriate with the United States Department of Agriculture
18 and other federal, state, regional, and local agencies, for
19 irrigation system retrofit and application of mobile
20 irrigation laboratory evaluations for water conservation as
21 provided in this section and, where applicable, for water
22 quality improvement pursuant to s. 403.067(7)(c)~~(d)~~.

23
24 (Redesignate subsequent sections.)

25
26
27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 On line 13, following the semicolon

30
31 insert:

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1 amending s. 403.067, F.S.; providing for the
2 attainment of pollutant reductions for
3 achievement of certain water quality standards
4 in impaired waters; revising provisions for the
5 allocation of allowable pollutant loads;
6 authorizing the Department of Environmental
7 Protection to adopt phased total maximum daily
8 loads under certain conditions; providing for
9 the development and implementation of basin
10 management action plans in developing and
11 implementing total maximum daily loads;
12 revising provisions for the implementation of
13 and compliance with total maximum daily loads;
14 authorizing the department to adopt basin
15 management action plans by order; revising
16 provisions relating to verification by the
17 department of best management practices whose
18 implementation creates a presumption of
19 compliance with certain water quality standards
20 and a release of liability to the state for
21 pollution remediation; revising provisions
22 relating to reevaluation of best management
23 practices when water quality problems occur;
24 removing a provision specifying that provisions
25 relating to the department's verification or
26 reevaluation of best management practices do
27 not preclude authority of the department or the
28 water management districts to require
29 compliance with water quality standards or
30 other specified requirements; authorizing
31 rulemaking by the department to administer

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1 funds to implement the basin management action
2 planning program and for other purposes in the
3 section; requiring the department to submit a
4 report to the Governor, the President of the
5 Senate, and the Speaker of the House of
6 Representatives prior to adopting rules for
7 pollutant trading; amending ss. 373.4595 and
8 570.085, F.S.; correcting cross-references;

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