

By the Committee on Environmental Preservation; and Senator Alexander

592-1636-05

1 A bill to be entitled
 2 An act relating to the Lake Okeechobee
 3 Protection Program; amending s. 373.4595, F.S.;
 4 providing legislative findings and intent with
 5 respect to the implementation and funding of
 6 the Lake Okeechobee Watershed Phosphorus
 7 Control Program and the Lake Okeechobee
 8 Protection Plan; revising a definition;
 9 requiring that the Department of Agriculture
 10 and Consumer Services, the Department of
 11 Environmental Protection, and the South Florida
 12 Water Management District be jointly
 13 responsible for implementing the Lake
 14 Okeechobee Protection Plan; requiring that
 15 annual funding priorities be jointly
 16 established; providing criteria for funding
 17 priorities; deleting obsolete provisions;
 18 providing an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:
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22 Section 1. Subsections (1), (2), and (3) of section
 23 373.4595, Florida Statutes, are amended to read:

24 373.4595 Lake Okeechobee Protection Program.--
 25 (1) FINDINGS AND INTENT.--

26 (a) The Legislature finds that Lake Okeechobee is one
 27 of the most important water resources of the state, providing
 28 many functions benefiting the public interest, including
 29 agricultural, public, and environmental water supply; flood
 30 control; fishing; navigation and recreation; and habitat to
 31 endangered and threatened species and other flora and fauna.

1 (b) The Legislature finds that land uses in the Lake
2 Okeechobee watershed and the construction of the Central and
3 Southern Florida Project have resulted in adverse changes to
4 the hydrology and water quality of Lake Okeechobee. These
5 hydrology and water quality changes have resulted in algal
6 blooms and other adverse impacts to water quality both in Lake
7 Okeechobee and in downstream receiving waters.

8 (c) The Legislature finds that improvement to the
9 hydrology and water quality of Lake Okeechobee is essential to
10 the protection of the Everglades.

11 (d) The Legislature also finds that it is imperative
12 for the state, local governments, and agricultural and
13 environmental communities to commit to restoring and
14 protecting Lake Okeechobee and downstream receiving waters,
15 and that a watershed-based approach to address these issues
16 must be developed and implemented immediately.

17 (e) The Legislature finds that phosphorus loads from
18 the Lake Okeechobee watershed have contributed to excessive
19 phosphorus levels in Lake Okeechobee and downstream receiving
20 waters and that a reduction in levels of phosphorus will
21 benefit the ecology of these systems. The excessive levels of
22 phosphorus have also resulted in an accumulation of phosphorus
23 in the sediments of Lake Okeechobee. If not removed, internal
24 phosphorus loads from the sediments are expected to delay
25 responses of the lake to external phosphorus reductions.

26 (f) The Legislature finds that the Lake Okeechobee
27 phosphorus loads set forth in the South Florida Water
28 Management District's Technical Publication 81-2 represent an
29 appropriate basis for the initial phase of phosphorus load
30 reductions to Lake Okeechobee and that subsequent phases of
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1 phosphorus load reductions shall be determined by the total
2 maximum daily loads established in accordance with s. 403.067.

3 (g) The Legislature finds that this section, in
4 conjunction with s. 403.067, provides a reasonable means of
5 achieving and maintaining compliance with state water quality
6 standards.

7 (h) The Legislature finds that the implementation of
8 the programs contained in this section is for the benefit of
9 the public health, safety, and welfare and is in the public
10 interest.

11 (i) The Legislature finds that sufficient research has
12 been conducted and sufficient plans developed to immediately
13 initiate the first phase of a program to address the hydrology
14 and water quality problems in Lake Okeechobee and downstream
15 receiving waters.

16 (j) The Legislature finds that in order to achieve the
17 goals and objectives of this section and to effectively
18 implement the Lake Okeechobee Watershed Phosphorus Control
19 Program pursuant to paragraph (3)(c), the state must
20 expeditiously implement the Lake Okeechobee Protection Plan
21 developed pursuant to paragraph (3)(a).

22 (k) The Legislature finds that a continuing source of
23 funding is needed to effectively implement a phosphorus
24 control program that initially targets the most significant
25 sources contributing to phosphorus loads within the watershed
26 and continues to address other sources as needed to achieve
27 the phased phosphorus load reductions required under this
28 section.

29 ~~(l)(j)~~ It is the intent of the Legislature to achieve
30 and maintain compliance with water quality standards in Lake
31 Okeechobee and downstream receiving waters through a phased,

1 comprehensive, and innovative protection program to reduce
2 both internal and external phosphorus loads to Lake Okeechobee
3 through immediate actions to achieve the phosphorus load
4 reductions set forth in Technical Publication 81-2 and
5 long-term solutions based upon the total maximum daily loads
6 established in accordance with s. 403.067. This program shall
7 be watershed-based, shall provide for consideration of all
8 potential phosphorus sources, and shall include research and
9 monitoring, development and implementation of best management
10 practices, refinement of existing regulations, and structural
11 and nonstructural projects, including public works.

12 ~~(m)(k)~~ It is the intent of the Legislature that the
13 Lake Okeechobee Protection Program be developed and
14 implemented in coordination with and, to the greatest extent
15 practicable, through the implementation of Restudy project
16 components and other federal programs in order to maximize
17 opportunities for the most efficient and timely expenditures
18 of public funds.

19 ~~(n)(l)~~ It is the intent of the Legislature that the
20 coordinating agencies encourage and support the development of
21 creative public-private partnerships and programs, including
22 opportunities for pollutant trading and credits, to facilitate
23 or further the restoration of Lake Okeechobee, consistent with
24 s. 403.067.

25 (o) It is the intent of the Legislature to provide
26 funding on a continuing basis for the purpose of implementing
27 the Lake Okeechobee Protection Plan and achieving phosphorus
28 load reductions consistent with total maximum daily loads
29 established pursuant to s. 403.067.

30 (2) DEFINITIONS.--As used in this section:
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1 (a) "Best management practice" means a practice or
2 combination of practices determined by the coordinating
3 agencies, based on research, field-testing, and expert review,
4 to be the most effective and practicable on-location means,
5 including economic and technological considerations, for
6 improving water quality in agricultural and urban discharges.
7 Best management practices for agricultural discharges shall
8 reflect a balance between water quality improvements and
9 agricultural productivity.

10 (b) "Coordinating agencies" means the Department of
11 Agriculture and Consumer Services, the Department of
12 Environmental Protection, and the South Florida Water
13 Management District.

14 (c) "Corps of Engineers" means the United States Army
15 Corps of Engineers.

16 (d) "Department" means the Department of Environmental
17 Protection.

18 (e) "District" means the South Florida Water
19 Management District.

20 (f) "District's WOD program" means the program
21 implemented pursuant to rules adopted as authorized by this
22 section and ss. 373.016, 373.044, 373.085, 373.086, 373.109,
23 373.113, 373.118, 373.451, and 373.453, entitled "Works of the
24 District Basin."

25 (g) "Lake Okeechobee Construction Project" means the
26 construction project developed pursuant to paragraph (3)(b).

27 (h) "Lake Okeechobee Protection Plan" means the plan
28 developed pursuant to this section and ss. 373.451-373.459.

29 (i) "Lake Okeechobee watershed" means Lake Okeechobee
30 and the area surrounding and tributary to Lake Okeechobee,
31 composed of the ~~the~~ surrounding hydrologic basins, as defined

1 by the Lake Okeechobee Protection Plan dated January 1, 2004
2 ~~South Florida Water Management District SWIM Plan Update dated~~
3 ~~August 8, 1997.~~

4 (j) "Lake Okeechobee Watershed Phosphorus Control
5 Program" means the program developed pursuant to paragraph
6 (3)(c).

7 (k) "Project component" means any structural or
8 operational change, resulting from the Restudy, to the Central
9 and Southern Florida Project as it existed and was operated as
10 of January 1, 1999.

11 (l) "Restudy" means the Comprehensive Review Study of
12 the Central and Southern Florida Project, for which federal
13 participation was authorized by the Federal Water Resources
14 Development Acts of 1992 and 1996 together with related
15 Congressional resolutions and for which participation by the
16 South Florida Water Management District is authorized by s.
17 373.1501. The term includes all actions undertaken pursuant to
18 the aforementioned authorizations which will result in
19 recommendations for modifications or additions to the Central
20 and Southern Florida Project.

21 (m) "Total maximum daily load" means the sum of the
22 individual wasteload allocations for point sources and the
23 load allocations for nonpoint sources and natural background.
24 Prior to determining individual wasteload allocations and load
25 allocations, the maximum amount of a pollutant that a water
26 body or water segment can assimilate from all sources without
27 exceeding water quality standards must first be calculated.

28 (3) LAKE OKEECHOBEE PROTECTION PROGRAM.--A protection
29 program for Lake Okeechobee that achieves phosphorus load
30 reductions for Lake Okeechobee shall be immediately
31 implemented as specified in this subsection. The program shall

1 address the reduction of phosphorus loading to the lake from
2 both internal and external sources. Phosphorus load reductions
3 shall be achieved through a phased program of implementation.
4 Initial implementation actions shall be technology-based,
5 based upon a consideration of both the availability of
6 appropriate technology and the cost of such technology, and
7 shall include phosphorus reduction measures at both the source
8 and the regional level. The initial phase of phosphorus load
9 reductions shall be based upon the district's Technical
10 Publication 81-2 and the district's WOD program, with
11 subsequent phases of phosphorus load reductions based upon the
12 total maximum daily loads established in accordance with s.
13 403.067. In the development and administration of the Lake
14 Okeechobee Protection Program, the coordinating agencies shall
15 maximize opportunities provided by federal cost-sharing
16 programs and opportunities for partnerships with the private
17 sector.

18 (a) Lake Okeechobee Protection Plan.--~~By January 1,~~
19 ~~2004,~~ The district, in cooperation with the other coordinating
20 agencies, shall complete a Lake Okeechobee Protection Plan in
21 accordance with this section and ss. 373.451-373.459. The plan
22 shall contain an implementation schedule for subsequent phases
23 of phosphorus load reduction consistent with the total maximum
24 daily loads established in accordance with s. 403.067. The
25 plan shall consider and build upon a review and analysis of
26 the following:

27 1. The performance of projects constructed during
28 Phase I of the Lake Okeechobee Construction Project, pursuant
29 to paragraph (b).
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1 2. Relevant information resulting from the Lake
2 Okeechobee Watershed Phosphorus Control Program, pursuant to
3 paragraph (c).

4 3. Relevant information resulting from the Lake
5 Okeechobee Research and Water Quality Monitoring Program,
6 pursuant to paragraph (d).

7 4. Relevant information resulting from the Lake
8 Okeechobee Exotic Species Control Program, pursuant to
9 paragraph (e).

10 5. Relevant information resulting from the Lake
11 Okeechobee Internal Phosphorus Management Program, pursuant to
12 paragraph (f).

13 (b) Lake Okeechobee Construction Project.--To improve
14 the hydrology and water quality of Lake Okeechobee and
15 downstream receiving waters, the district shall design and
16 construct the Lake Okeechobee Construction Project.

17 1. Phase I.--Phase I of the Lake Okeechobee
18 Construction Project shall consist of a series of project
19 features consistent with the recommendations of the South
20 Florida Ecosystem Restoration Working Group's Lake Okeechobee
21 Action Plan. Priority basins for such projects include S-191,
22 S-154, and Pools D and E in the Lower Kissimmee River. In
23 order to obtain ~~immediate~~ phosphorus load reductions to Lake
24 Okeechobee as soon as possible, the following actions shall be
25 implemented:

26 a. The district shall serve as a full partner with the
27 Corps of Engineers in the design and construction of the
28 Grassy Island Ranch and New Palm Dairy stormwater treatment
29 facilities as components of the Lake Okeechobee Water
30 Retention/Phosphorus Removal Critical Project. The Corps of
31 Engineers shall have the lead in design and construction of

1 | these facilities. ~~However, the district shall encourage the~~
2 | ~~Corps of Engineers to complete a detailed design document by~~
3 | ~~July 1, 2001.~~ Should delays be encountered in the
4 | implementation of either of these facilities, the district
5 | shall notify the department and recommend corrective actions.

6 | b. ~~By January 1, 2001,~~ The district shall obtain
7 | permits and complete construction of two of the isolated
8 | wetland restoration projects that are part of the Lake
9 | Okeechobee Water Retention/Phosphorus Removal Critical
10 | Project. The additional isolated wetland projects included in
11 | this critical project shall ~~be permitted and constructed by~~
12 | ~~January 1, 2003,~~ to further reduce phosphorus loading to Lake
13 | Okeechobee.

14 | c. ~~By January 31, 2002,~~ The district shall design and
15 | ~~complete implementation of the Lake Okeechobee Tributary~~
16 | ~~Sediment Removal Pilot Project. This project shall consist of~~
17 | ~~testing two alternative technologies for trapping and~~
18 | ~~collecting phosphorus laden sediment in the secondary drainage~~
19 | ~~system prior to its discharge into the primary canal system~~
20 | ~~and Lake Okeechobee, thereby further reducing the total~~
21 | ~~sediment loading to the lake.~~

22 | c.d. The district shall work with the Corps of
23 | Engineers to expedite initiation of the design process for the
24 | Taylor Creek/Nubbins Slough Reservoir Assisted Stormwater
25 | Treatment Area, a project component of the Restudy. The
26 | district shall propose to the Corps of Engineers that the
27 | district take the lead in the design and construction of the
28 | Reservoir Assisted Stormwater Treatment Area and receive
29 | credit towards the local share of the total cost of the
30 | Restudy.

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1 2. Phase II.--~~By January 1, 2004,~~ The district, in
2 cooperation with the other coordinating agencies and the Corps
3 of Engineers, shall develop an implementation plan for Phase
4 II of the Lake Okeechobee Construction Project. Phase II shall
5 include construction of additional facilities in the priority
6 basins identified in subparagraph (b)1., as well as facilities
7 for other basins in the Lake Okeechobee watershed. The
8 implementation plan shall:

9 a. Identify Lake Okeechobee Construction Project
10 facilities to be constructed to achieve a design objective of
11 40 parts per billion (ppb) for phosphorus measured as a
12 long-term flow weighted average concentration, unless an
13 allocation has been established pursuant to s. 403.067 for the
14 Lake Okeechobee total maximum daily load.

15 b. Identify the size and location of all such Lake
16 Okeechobee Construction Project facilities.

17 c. Provide a construction schedule for all such Lake
18 Okeechobee Construction Project facilities, including the
19 sequencing and specific timeframe for construction of each
20 Lake Okeechobee Construction Project facility.

21 d. Provide a land acquisition schedule for lands
22 necessary to achieve the construction schedule.

23 e. Provide a detailed schedule of costs associated
24 with the construction schedule.

25 f. Identify, to the maximum extent practicable,
26 impacts on wetlands and state-listed species expected to be
27 associated with construction of such facilities, including
28 potential alternatives to minimize and mitigate such impacts,
29 as appropriate.

30 3. Evaluation.--By January 1, 2004, and every 3 years
31 thereafter, the district, in cooperation with the coordinating

1 agencies, shall conduct an evaluation of any further
2 phosphorus load reductions necessary to achieve compliance
3 with the Lake Okeechobee total maximum daily load established
4 pursuant to s. 403.067. Additionally, the district shall
5 identify modifications to facilities of the Lake Okeechobee
6 Construction Project as appropriate if the design objective of
7 40 parts per billion (ppb) or the allocation established
8 pursuant to s. 403.067 for the Lake Okeechobee total maximum
9 daily load established pursuant to s. 403.067 is not being
10 met. The evaluation shall be included in the applicable annual
11 progress report submitted pursuant to paragraph (g).

12 4. Coordination and review.--To ensure the timely
13 implementation of the Lake Okeechobee Construction Project,
14 the design of project facilities shall be coordinated with the
15 department and other interested parties to the maximum extent
16 practicable. Lake Okeechobee Construction Project facilities
17 shall be reviewed and commented upon by the department prior
18 to the execution of a construction contract by the district
19 for that facility.

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

1 | water quality treatment, including preservation, restoration,
2 | or creation of wetlands on agricultural lands.

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

18 | a. As provided in s. 403.067(7)(d), ~~by October 1,~~
19 | ~~2000,~~ the Department of Agriculture and Consumer Services, in
20 | consultation with the department, the district, and affected
21 | parties, shall initiate rule development for interim measures,
22 | best management practices, conservation plans, nutrient
23 | management plans, or other measures necessary for Lake
24 | Okeechobee phosphorus load reduction. The rule shall include
25 | thresholds for requiring conservation and nutrient management
26 | plans and criteria for the contents of such plans. Development
27 | of agricultural nonpoint source best management practices
28 | shall initially focus on those priority basins listed in
29 | subparagraph (b)1. The Department of Agriculture and Consumer
30 | Services, in consultation with the department, the district,
31 | and affected parties, shall conduct an ongoing program for

1 improvement of existing and development of new interim
2 measures or best management practices for the purpose of
3 adoption of such practices by rule.

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

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

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

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1 2. Nonagricultural nonpoint source best management
2 practices, developed in accordance with s. 403.067 and
3 designed to achieve the objectives of the Lake Okeechobee
4 Protection Program, shall be implemented on an expedited
5 basis. ~~By March 1, 2001,~~ The department and the district shall
6 develop an interagency agreement pursuant to ss. 373.046 and
7 373.406(5) that assures the development of best management
8 practices that complement existing regulatory programs and
9 specifies how those best management practices are implemented
10 and verified. The interagency agreement shall address measures
11 to be taken by the department and the district during any best
12 management practice reevaluation performed pursuant to
13 sub-subparagraph d.

14 a. The department and the district are directed to
15 work with the University of Florida's Institute of Food and
16 Agricultural Sciences to develop appropriate nutrient
17 application rates for all nonagricultural soil amendments in
18 the watershed. As provided in s. 403.067(7)(c), ~~by January 1,~~
19 ~~2001,~~ the department, in consultation with the district and
20 affected parties, shall develop interim measures, best
21 management practices, or other measures necessary for Lake
22 Okeechobee phosphorus load reduction. Development of
23 nonagricultural nonpoint source best management practices
24 shall initially focus on those priority basins listed in
25 subparagraph (b)1. The department, the district, and affected
26 parties shall conduct an ongoing program for improvement of
27 existing and development of new interim measures or best
28 management practices. The district shall adopt
29 technology-based standards under the district's WOD program
30 for nonagricultural nonpoint sources of phosphorus.
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1 b. Where nonagricultural nonpoint source best
2 management practices or interim measures have been developed
3 by the department and adopted by the district, the owner or
4 operator of a nonagricultural nonpoint source shall implement
5 interim measures or best management practices and be subject
6 to the provisions of s. 403.067(7). The department and
7 district shall provide technical and financial assistance for
8 implementation of nonagricultural nonpoint source best
9 management practices, subject to the availability of funds.

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

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

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

28 4. Projects which reduce the phosphorus load
29 originating from domestic wastewater systems within the Lake
30 Okeechobee watershed shall be given funding priority in the
31 department's revolving loan program under s. 403.1835. The

1 department shall coordinate and provide assistance to those
2 local governments seeking financial assistance for such
3 priority projects.

4 5. Projects that make use of private lands, or lands
5 held in trust for Indian tribes, to reduce nutrient loadings
6 or concentrations within a basin by one or more of the
7 following methods: restoring the natural hydrology of the
8 basin, restoring wildlife habitat or impacted wetlands,
9 reducing peak flows after storm events, increasing aquifer
10 recharge, or protecting range and timberland from conversion
11 to development, are eligible for grants available under this
12 section from the coordinating agencies. For projects of
13 otherwise equal priority, special funding priority will be
14 given to those projects that make best use of the methods
15 outlined above that involve public-private partnerships or
16 that obtain federal match money. Preference ranking above the
17 special funding priority will be given to projects located in
18 a rural area of critical economic concern designated by the
19 Governor. Grant applications may be submitted by any person or
20 tribal entity, and eligible projects may include, but are not
21 limited to, the purchase of conservation and flowage
22 easements, hydrologic restoration of wetlands, creating
23 treatment wetlands, development of a management plan for
24 natural resources, and financial support to implement a
25 management plan.

26 6.a. The department shall require all entities
27 disposing of domestic wastewater residuals within the Lake
28 Okeechobee watershed and the remaining areas of Okeechobee,
29 Glades, and Hendry Counties to develop and submit to the
30 department an agricultural use plan that limits applications
31 based upon phosphorus loading. By July 1, 2005, phosphorus

1 concentrations originating from these application sites shall
2 not exceed the limits established in the district's WOD
3 program.

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

1 Proceeds from this environmental protection disposal fee shall
2 be used for treatment and disposal of wastewater residuals,
3 including any treatment technology that helps reduce the
4 volume of residuals that require final disposal, but such
5 proceeds shall not be used for transportation or shipment
6 costs for disposal or any costs relating to the land
7 application of residuals in the Lake Okeechobee watershed.

8 c. No less frequently than once every 3 years, the
9 Florida Public Service Commission or the county commission
10 through the services of an independent auditor shall perform a
11 financial audit of all facilities receiving compensation from
12 an environmental protection disposal fee. The Florida Public
13 Service Commission or the county commission through the
14 services of an independent auditor shall also perform an audit
15 of the methodology used in establishing the environmental
16 protection disposal fee. The Florida Public Service Commission
17 or the county commission shall, within 120 days after
18 completion of an audit, file the audit report with the
19 President of the Senate and the Speaker of the House of
20 Representatives and shall provide copies to the county
21 commissions of the counties set forth in sub-subparagraph b.

22 The books and records of any facilities receiving compensation
23 from an environmental protection disposal fee shall be open to
24 the Florida Public Service Commission and the Auditor General
25 for review upon request.

26 7. The Department of Health shall require all entities
27 disposing of septage within the Lake Okeechobee watershed and
28 the remaining areas of Okeechobee, Glades, and Hendry Counties
29 to develop and submit to that agency, ~~by July 1, 2003,~~ an
30 agricultural use plan that limits applications based upon
31 phosphorus loading. By July 1, 2005, phosphorus

1 concentrations originating from these application sites shall
2 not exceed the limits established in the district's WOD
3 program.

4 8. The Department of Agriculture and Consumer Services
5 shall initiate rulemaking requiring entities within the Lake
6 Okeechobee watershed and the remaining areas of Okeechobee,
7 Glades, and Hendry Counties which land-apply animal manure to
8 develop conservation or nutrient management plans that limit
9 application, based upon phosphorus loading. Such rules may
10 include criteria and thresholds for the requirement to develop
11 a conservation or nutrient management plan, requirements for
12 plan approval, and recordkeeping requirements.

13 9. Prior to authorizing a discharge into works of the
14 district, the district shall require responsible parties to
15 demonstrate that proposed changes in land use will not result
16 in increased phosphorus loading over that of existing land
17 uses.

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

22 (d) Lake Okeechobee Research and Water Quality
23 Monitoring Program.--~~By January 1, 2001,~~ The district, in
24 cooperation with the other coordinating agencies, shall
25 establish a Lake Okeechobee Research and Water Quality
26 Monitoring Program that builds upon the district's existing
27 Lake Okeechobee research program. The program shall:

28 1. Evaluate all available existing water quality data
29 concerning total phosphorus in the Lake Okeechobee watershed,
30 develop a water quality baseline to represent existing
31 conditions for total phosphorus, monitor long-term ecological

1 changes, including water quality for total phosphorus, and
2 measure compliance with water quality standards for total
3 phosphorus, including the total maximum daily load for Lake
4 Okeechobee as established pursuant to s. 403.067. The district
5 shall also implement a total phosphorus monitoring program at
6 all inflow structures to Lake Okeechobee.

7 2. ~~By July 1, 2003,~~ Develop a Lake Okeechobee water
8 quality model that reasonably represents phosphorus dynamics
9 of the lake and incorporates an uncertainty analysis
10 associated with model predictions.

11 3. ~~By July 1, 2003,~~ Determine the relative
12 contribution of phosphorus from all identifiable sources and
13 all primary and secondary land uses.

14 4. ~~By July 1, 2003,~~ Conduct an assessment of the
15 sources of phosphorus from the Upper Kissimmee Chain-of-Lakes
16 and Lake Istokpoga, and their relative contribution to the
17 water quality of Lake Okeechobee. The results of this
18 assessment shall be used by the coordinating agencies to
19 develop interim measures, best management practices, or
20 regulation, as applicable.

21 5. ~~By July 1, 2003,~~ Assess current water management
22 practices within the Lake Okeechobee watershed and develop
23 recommendations for structural and operational improvements.
24 Such recommendations shall balance water supply, flood
25 control, estuarine salinity, maintenance of a healthy lake
26 littoral zone, and water quality considerations.

27 6. ~~By July 1, 2003,~~ Evaluate the feasibility of
28 alternative nutrient reduction technologies, including
29 sediment traps, canal and ditch maintenance, fish production
30 or other aquaculture, bioenergy conversion processes, and
31 algal or other biological treatment technologies.

1 (e) Lake Okeechobee Exotic Species Control
2 Program.--~~By June 1, 2002,~~ The coordinating agencies shall
3 identify the exotic species that threaten the native flora and
4 fauna within the Lake Okeechobee watershed and develop and
5 implement measures to protect the native flora and fauna.

6 (f) Lake Okeechobee Internal Phosphorus Management
7 Program.--~~By July 1, 2003,~~ The district, in cooperation with
8 the other coordinating agencies and interested parties, shall
9 complete a Lake Okeechobee internal phosphorus load removal
10 feasibility study. The feasibility study shall be based on
11 technical feasibility, as well as economic considerations, and
12 address all reasonable methods of phosphorus removal. If
13 methods are found to be feasible, the district shall
14 immediately pursue the design, funding, and permitting for
15 implementing such methods.

16 (g) Lake Okeechobee Protection Plan
17 implementation.--The coordinating agencies shall be jointly
18 responsible for implementing the Lake Okeechobee Protection
19 Plan, consistent with the statutory authority and
20 responsibility of each agency. Annual funding priorities shall
21 be jointly established and the highest priority shall be
22 assigned to programs and projects that address phosphorus
23 sources that have the highest relative contribution to
24 phosphorus loading and the greatest potential for phosphorus
25 reduction. In determining funding priorities, the coordinating
26 agencies shall also consider the need for regulatory
27 compliance, the extent to which the program or project is
28 ready to proceed, and the availability of federal matching
29 funds or other nonstate funding, including public-private
30 partnerships. Federal and other nonstate funding shall be
31 maximized to the greatest extent practicable.

1 ~~(h)(g)~~ Annual progress report.--Each January 1,
2 ~~beginning in 2001~~, the district shall submit to the Governor,
3 the President of the Senate, and the Speaker of the House of
4 Representatives annual progress reports regarding
5 implementation of this section. The annual report shall
6 include a summary of water quality and habitat conditions in
7 Lake Okeechobee and the Lake Okeechobee watershed and the
8 status of the Lake Okeechobee Construction Project. The
9 district shall prepare the report in cooperation with the
10 other coordinating agencies.

11 Section 2. This act shall take effect July 1, 2005.

12
13 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
14 COMMITTEE SUBSTITUTE FOR
15 Senate Bill 502

16 The committee substitute revises the definition of the Lake
17 Okeechobee watershed to reference the Lake Okeechobee
18 Protection Plan instead of the South Florida Water Management
19 District's 1997 SWIM Plan update. Certain obsolete references
20 in the Lake Okeechobee Protection Program are repealed.
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