

Bill No. SB 392

Barcode 544118

CHAMBER ACTION

Senate

House

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The Committee on Environmental Preservation and Conservation  
(Saunders) recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Subsections (1),(2), and (3) of section  
373.4595, Florida Statutes, are amended to read:

373.4595 Northern Everglades and Estuaries ~~Lake~~  
~~Okeechobee~~ Protection Program.--

(1) FINDINGS AND INTENT.--

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

(b) The Legislature finds that the Caloosahatchee and  
St. Lucie Rivers and their estuaries provide significant  
economic value and natural habitat and biodiversity and are

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1 critical water resources of the state.

2       (c) The Legislature finds that the volume and  
3 distribution of water in the northern Everglades ecosystem can  
4 result in discharges to the estuaries of the Caloosahatchee  
5 and St. Lucie Rivers, which can cause adverse impacts and that  
6 excess flows affect seagrasses, oysters, and other living  
7 resources, including fisheries, in both systems.

8       (d)(b) The Legislature finds that land uses in the  
9 Northern Everglades ~~Lake Okeechobee watershed~~ and the  
10 construction of the Central and Southern Florida Project have  
11 resulted in adverse changes to the hydrology and water quality  
12 of Lake Okeechobee and the Caloosahatchee and St. Lucie Rivers  
13 and their estuaries. ~~These hydrology and water quality changes~~  
14 ~~have resulted in algal blooms and other adverse impacts to~~  
15 ~~water quality both in Lake Okeechobee and in downstream~~  
16 ~~receiving waters.~~

17       (e)(c) The Legislature finds that improvement to the  
18 hydrology and water quality within the ~~of~~ Lake Okeechobee  
19 watershed and the Caloosahatchee and St. Lucie Rivers and  
20 their estuaries is essential to the protection of the  
21 Everglades.

22       (f)(d) The Legislature also finds that it is  
23 imperative for the state, local governments, and agricultural  
24 and environmental communities to commit to restoring and  
25 protecting the Lake Okeechobee watershed and downstream  
26 receiving waters, and that a watershed-based approach to  
27 address these issues must be developed and implemented  
28 immediately.

29       (g)(e) The Legislature finds that phosphorus loads  
30 from the Lake Okeechobee watershed have contributed to  
31 excessive nutrient ~~phosphorus~~ levels throughout the ~~in~~ Lake

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1 Okeechobee watershed and downstream receiving waters and that  
 2 a reduction in levels of nutrients ~~phosphorus~~ will benefit the  
 3 ecology of these systems. The excessive levels of phosphorus  
 4 have also resulted in an accumulation of phosphorus in the  
 5 sediments of Lake Okeechobee. If not removed, internal  
 6 phosphorus loads from the sediments are expected to delay  
 7 responses of the lake to external phosphorus reductions.

8 ~~(h)(f)~~ The Legislature finds that the Lake Okeechobee  
 9 phosphorus loads set forth in ~~the South Florida Water~~  
 10 ~~Management District's Technical Publication 81-2~~ represent an  
 11 ~~appropriate basis for the initial phase of phosphorus load~~  
 12 ~~reductions to Lake Okeechobee and that subsequent phases of~~  
 13 ~~phosphorus load reductions shall be determined by the total~~  
 14 maximum daily loads established in accordance with s. 403.067  
 15 represent an appropriate basis for restoration.

16 (i) The Legislature finds that the Lake Okeechobee  
 17 Watershed Protection Plan and the Caloosahatchee and St. Lucie  
 18 Estuaries Protection Plans provide the technical foundation  
 19 for the department to develop Basin Management Action Plans as  
 20 needed to achieve the total maximum daily load requirements  
 21 pursuant to s. 403.067.

22 ~~(j)(g)~~ The Legislature finds that this section, in  
 23 conjunction with s. 403.067, including the implementation of  
 24 the detailed technical plan developed and approved pursuant to  
 25 subsections 373.4595(3) and 373.4595(5) and any related basin  
 26 management action plan developed and implemented pursuant to  
 27 s. 403.067(7)(a), provides a reasonable means of achieving and  
 28 maintaining compliance with state water quality standards.

29 (k) The Legislature finds that the expeditious  
 30 implementation of the Lake Okeechobee Watershed Protection  
 31 Plan and the Caloosahatchee and St. Lucie Estuaries Protection

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1 Plans are needed to improve the quality, quantity, timing and  
2 distribution of water in the northern Everglades ecosystem.

3 ~~(l)(h)~~ The Legislature finds that the implementation  
4 of the programs contained in this section is for the benefit  
5 of the public health, safety, and welfare and is in the public  
6 interest.

7 ~~(m)(i)~~ The Legislature finds that sufficient research  
8 has been conducted and sufficient plans developed to  
9 immediately initiate ~~the first phase of~~ a program to address  
10 the hydrology and water quality problems in the Lake  
11 Okeechobee watershed and the Caloosahatchee and St. Lucie  
12 Rivers and their downstream receiving waters.

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

19 ~~(o)(k)~~ The Legislature finds that a continuing source  
20 of funding is needed to effectively implement a nutrient  
21 ~~phosphorus~~ control program that initially targets the most  
22 significant sources contributing to nutrient ~~phosphorus~~ loads  
23 within the Lake Okeechobee watershed and the Caloosahatchee  
24 and St. Lucie Rivers and their estuaries and continues to  
25 address other sources as needed to achieve the phased nutrient  
26 ~~phosphorus~~ load reductions required under this section.

27 ~~(p)(l)~~ It is the intent of the Legislature to achieve  
28 and maintain compliance with water quality standards in the  
29 Lake Okeechobee watershed and downstream receiving waters  
30 through a phased, comprehensive, and innovative protection  
31 program to reduce both internal and external phosphorus loads

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

11 ~~(g)(m)~~ It is the intent of the Legislature that this  
 12 section ~~the Lake Okeechobee Protection Program~~ be developed  
 13 and implemented in coordination with and, to the greatest  
 14 extent practicable, through the implementation of the  
 15 Comprehensive Everglades Restoration Plan ~~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 ~~(r)(m)~~ 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 the Lake Okeechobee, watershed  
 24 and the Caloosahatchee and St. Lucie Rivers and their  
 25 estuaries, consistent with s. 403.067.

26 (2) DEFINITIONS.--As used in this section:

27 (a) "Best management practice" means a practice or  
 28 combination of practices determined by the coordinating  
 29 agencies, based on research, field-testing, and expert review,  
 30 to be the most effective and practicable on-location means,  
 31 including economic and technological considerations, for

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1 improving water quality in agricultural and urban discharges.  
2 Best management practices for agricultural discharges shall  
3 reflect a balance between water quality improvements and  
4 agricultural productivity.

5 (b) "Coordinating agencies" means the Department of  
6 Agriculture and Consumer Services, the Department of  
7 Environmental Protection, and the South Florida Water  
8 Management District.

9 (c) "Corps of Engineers" means the United States Army  
10 Corps of Engineers.

11 (d) "Department" means the Department of Environmental  
12 Protection.

13 (e) "District" means the South Florida Water  
14 Management District.

15 (f) "District's WOD program" means the program  
16 implemented pursuant to rules adopted as authorized by this  
17 section and ss. 373.016, 373.044, 373.085, 373.086, 373.109,  
18 373.113, 373.118, 373.451, and 373.453, entitled "Works of the  
19 District Basin."

20 (g) "Estuary" or "estuaries" means the Caloosahatchee  
21 River and its tributaries and estuary or the St. Lucie River  
22 and its tributaries and estuary or both rivers and their  
23 tributaries and estuaries.

24 (h) "Estuary Protection Plans" means the  
25 Caloosahatchee Estuary Protection Plan and the St. Lucie  
26 Estuary Protection Plan developed pursuant to this section.

27 (i)~~(g)~~ "Lake Okeechobee Watershed Construction  
28 Project" means the construction project developed pursuant to  
29 paragraph (3)(b).

30 (k)~~(h)~~ "Lake Okeechobee Watershed Protection Plan"  
31 means the plan developed pursuant to this section and ss.

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1 373.451-373.459.

2 (i) "Lake Okeechobee watershed" means Lake Okeechobee  
3 and the area surrounding and tributary to Lake Okeechobee,  
4 composed of the surrounding hydrologic basins, as defined by  
5 the Lake Okeechobee Watershed Protection Plan dated January 1,  
6 2004.

7 ~~(l)(j)~~ "Lake Okeechobee Watershed Phosphorus Control  
8 Program" means the program developed pursuant to paragraph  
9 (3)(c).

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

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

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

31 (3) LAKE OKEECHOBEE WATERSHED PROTECTION PROGRAM.--A

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

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

- 31 1. The performance of projects constructed during



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1 Phase I of the Lake Okeechobee Watershed Construction Project,  
2 pursuant to paragraph (b).

3           2. Relevant information resulting from the Lake  
4 Okeechobee Watershed Phosphorus Control Program, pursuant to  
5 paragraph (c).

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

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

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

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

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

29           a. The district shall serve as a full partner with the  
30 Corps of Engineers in the design and construction of the  
31 Grassy Island Ranch and New Palm Dairy stormwater treatment

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1 facilities as components of the Lake Okeechobee Water  
 2 Retention/Phosphorus Removal Critical Project. The Corps of  
 3 Engineers shall have the lead in design and construction of  
 4 these facilities. Should delays be encountered in the  
 5 implementation of either of these facilities, the district  
 6 shall notify the department and recommend corrective actions.

7       b. The district shall obtain permits and complete  
 8 construction of two of the isolated wetland restoration  
 9 projects that are part of the Lake Okeechobee Water  
 10 Retention/Phosphorus Removal Critical Project. The additional  
 11 isolated wetland projects included in this critical project  
 12 shall further reduce phosphorus loading to Lake Okeechobee.

13       c. The district shall work with the Corps of Engineers  
 14 to expedite initiation of the design process for the Taylor  
 15 Creek/Nubbins Slough Reservoir Assisted Stormwater Treatment  
 16 Area, a project component of the Restudy. The district shall  
 17 propose to the Corps of Engineers that the district take the  
 18 lead in the design and construction of the Reservoir Assisted  
 19 Stormwater Treatment Area and receive credit towards the local  
 20 share of the total cost of the Restudy.

21       2. Phase II.--By February 1, 2008 the district, in  
 22 cooperation with the other coordinating agencies ~~and the Corps~~  
 23 ~~of Engineers~~, shall develop a technical ~~an implementation~~ plan  
 24 for Phase II of the Lake Okeechobee Watershed Construction  
 25 Project. Phase II shall include a detailed technical plan for  
 26 the achievement of water quality standards and for the  
 27 improvement of the quality, quantity, timing, and distribution  
 28 of water in the northern Everglades ecosystem, including the  
 29 Lake Okeechobee watershed and the estuaries. Phase II shall  
 30 include construction of additional facilities in the priority  
 31 basins identified in subparagraph (b)1., as well as facilities

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1 for other basins in the Lake Okeechobee watershed. This  
2 detailed technical plan will require legislative approval  
3 pursuant to paragraph (h) of this section. The technical  
4 ~~implementation~~ plan shall:

5       a. Identify Lake Okeechobee Watershed Construction  
6 Project facilities designed to achieve all applicable total  
7 maximum daily loads established pursuant to s. 403.067 within  
8 ~~the Lake Okeechobee Watershed~~ ~~be constructed to achieve a~~  
9 ~~design objective of 40 parts per billion (ppb) for phosphorus~~  
10 ~~measured as a long term flow weighted average concentration,~~  
11 ~~unless an allocation has been established pursuant to s.~~  
12 ~~403.067 for the Lake Okeechobee total maximum daily load.~~

13       b. Identify the size and location of all such Lake  
14 Okeechobee Watershed Construction Project facilities.

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

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

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

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

29       g. Provide for additional measures to maximize water  
30 storage in the basin to reduce excess water levels in Lake  
31 Okeechobee and to reduce excess discharges to the estuaries.

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1           h. Provide for additional source controls needed to  
 2 enhance performance of the Lake Okeechobee Watershed  
 3 Construction Project facilities. Such additional source  
 4 controls shall be incorporated into the Lake Okeechobee  
 5 Watershed Phosphorus Control Program pursuant to paragraph (c)  
 6 of this section.

7           3. Evaluation.--By January 1, 2004, and every 3 years  
 8 thereafter, the district, in cooperation with the coordinating  
 9 agencies, shall conduct an evaluation of any further  
 10 phosphorus load reductions necessary to achieve compliance  
 11 with all the Lake Okeechobee watershed total maximum daily  
 12 loads established pursuant to s. 403.067. Additionally, the  
 13 district shall identify modifications to facilities of the  
 14 Lake Okeechobee Watershed Construction Project as appropriate  
 15 if the total maximum daily loads are not being met ~~if the~~  
 16 ~~design objective of 40 parts per billion (ppb) or the~~  
 17 ~~allocation established pursuant to s. 403.067 for the Lake~~  
 18 ~~Okeechobee total maximum daily load established pursuant to s.~~  
 19 ~~403.067 is not being met.~~ The evaluation shall be included in  
 20 the applicable annual progress report submitted pursuant to  
 21 paragraph (i) ~~(h)~~.

22           4. Coordination and review.--To ensure the timely  
 23 implementation of the Lake Okeechobee Watershed Construction  
 24 Project, the design of project facilities shall be coordinated  
 25 with the department and other interested parties to the  
 26 maximum extent practicable. Lake Okeechobee Watershed  
 27 Construction Project facilities shall be reviewed and  
 28 commented upon by the department prior to the execution of a  
 29 construction contract by the district for that facility.

30           (c) Lake Okeechobee Watershed Phosphorus Control  
 31 Program.--The Lake Okeechobee Watershed Phosphorus Control

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

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

28         a. As provided in s. 403.067(7)(c), the Department of  
 29 Agriculture and Consumer Services, in consultation with the  
 30 department, the district, and affected parties, shall initiate  
 31 rule development for interim measures, best management

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

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

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

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1 agricultural nonpoint source best management practices.

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

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

23           a. The department and the district are directed to  
24 work with the University of Florida's Institute of Food and  
25 Agricultural Sciences to develop appropriate nutrient  
26 application rates for all nonagricultural soil amendments in  
27 the watershed. As provided in s. 403.067(7)(c), the  
28 department, in consultation with the district and affected  
29 parties, shall develop interim measures, best management  
30 practices, or other measures necessary for Lake Okeechobee  
31 phosphorus load reduction. Development of nonagricultural

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

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

18           c. The district or the department shall conduct  
 19 monitoring at representative sites to verify the effectiveness  
 20 of nonagricultural nonpoint source best management practices.

21           d. Where water quality problems are detected for  
 22 nonagricultural nonpoint sources despite the appropriate  
 23 implementation of adopted best management practices, the  
 24 department and the district shall institute a reevaluation of  
 25 the best management practices.

26           3. The provisions of subparagraphs 1. and 2. shall not  
 27 preclude the department or the district from requiring  
 28 compliance with water quality standards or with current best  
 29 management practices requirements set forth in any applicable  
 30 regulatory program authorized by law for the purpose of  
 31 protecting water quality. Additionally, subparagraphs 1. and



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1 2. are applicable only to the extent that they do not conflict  
 2 with any rules promulgated by the department that are  
 3 necessary to maintain a federally delegated or approved  
 4 program.

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

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

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

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

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

31 Upon request by an affected county commission, the Florida

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1 Public Service Commission will provide assistance in  
 2 establishing the fee. Further, for utilities and utility  
 3 authorities that use the additional line item environmental  
 4 protection disposal fee, such fee shall not be considered a  
 5 rate increase under the rules of the Public Service Commission  
 6 and shall be exempt from such rules. Utilities using the  
 7 provisions of this section may immediately include in their  
 8 sewer invoicing the new environmental protection disposal fee.  
 9 Proceeds from this environmental protection disposal fee shall  
 10 be used for treatment and disposal of wastewater residuals,  
 11 including any treatment technology that helps reduce the  
 12 volume of residuals that require final disposal, but such  
 13 proceeds shall not be used for transportation or shipment  
 14 costs for disposal or any costs relating to the land  
 15 application of residuals in the Lake Okeechobee watershed.

16       c. No less frequently than once every 3 years, the  
 17 Florida Public Service Commission or the county commission  
 18 through the services of an independent auditor shall perform a  
 19 financial audit of all facilities receiving compensation from  
 20 an environmental protection disposal fee. The Florida Public  
 21 Service Commission or the county commission through the  
 22 services of an independent auditor shall also perform an audit  
 23 of the methodology used in establishing the environmental  
 24 protection disposal fee. The Florida Public Service Commission  
 25 or the county commission shall, within 120 days after  
 26 completion of an audit, file the audit report with the  
 27 President of the Senate and the Speaker of the House of  
 28 Representatives and shall provide copies to the county  
 29 commissions of the counties set forth in sub-subparagraph b.  
 30 The books and records of any facilities receiving compensation  
 31 from an environmental protection disposal fee shall be open to

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1 the Florida Public Service Commission and the Auditor General  
2 for review upon request.

3           7. The Department of Health shall require all entities  
4 disposing of septage within the Lake Okeechobee watershed and  
5 the remaining areas of Okeechobee, Glades, and Hendry Counties  
6 to develop and submit to that agency an agricultural use plan  
7 that limits applications based upon phosphorus loading. By  
8 July 1, 2005, phosphorus concentrations originating from these  
9 application sites shall not exceed the limits established in  
10 the district's WOD program.

11           8. The Department of Agriculture and Consumer Services  
12 shall initiate rulemaking requiring entities within the Lake  
13 Okeechobee watershed and the estuaries ~~the remaining areas of~~  
14 ~~Okeechobee, Glades, and Hendry Counties~~ which land-apply  
15 animal manure to develop conservation or nutrient management  
16 plans that limit application, based upon nutrient ~~phosphorus~~  
17 loading. Such rules may include criteria and thresholds for  
18 the requirement to develop a conservation or nutrient  
19 management plan, requirements for plan approval, and  
20 recordkeeping requirements.

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

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

30           (d) Lake Okeechobee Watershed Research and Water  
31 Quality Monitoring Program.--The district, in cooperation with

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1 the other coordinating agencies, shall establish a Lake  
2 Okeechobee Watershed Research and Water Quality Monitoring  
3 Program that builds upon the district's existing Lake  
4 Okeechobee research program. The program shall:

5       1. Evaluate all available existing water quality data  
6 concerning total phosphorus in the Lake Okeechobee watershed,  
7 develop a water quality baseline to represent existing  
8 conditions for total phosphorus, monitor long-term ecological  
9 changes, including water quality for total phosphorus, and  
10 measure compliance with water quality standards for total  
11 phosphorus, including any applicable ~~the~~ total maximum daily  
12 load for the Lake Okeechobee watershed as established pursuant  
13 to s. 403.067. The district shall also implement a total  
14 phosphorus monitoring program at all ~~inflow~~ structures owned  
15 or operated by the South Florida Water Management District and  
16 within the ~~to~~ Lake Okeechobee watershed.

17       2. Develop a Lake Okeechobee water quality model that  
18 reasonably represents phosphorus dynamics of the lake and  
19 incorporates an uncertainty analysis associated with model  
20 predictions.

21       3. Determine the relative contribution of phosphorus  
22 from all identifiable sources and all primary and secondary  
23 land uses.

24       4. Conduct an assessment of the sources of phosphorus  
25 from the Upper Kissimmee Chain-of-Lakes and Lake Istokpoga,  
26 and their relative contribution to the water quality of Lake  
27 Okeechobee. The results of this assessment shall be used by  
28 the coordinating agencies to develop interim measures, best  
29 management practices, or regulation, as applicable.

30       5. Assess current water management practices within  
31 the Lake Okeechobee watershed and develop recommendations for

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1 structural and operational improvements. Such recommendations  
2 shall balance water supply, flood control, estuarine salinity,  
3 maintenance of a healthy lake littoral zone, and water quality  
4 considerations.

5           6. Evaluate the feasibility of alternative nutrient  
6 reduction technologies, including sediment traps, canal and  
7 ditch maintenance, fish production or other aquaculture,  
8 bioenergy conversion processes, and algal or other biological  
9 treatment technologies.

10           (e) Lake Okeechobee Exotic Species Control  
11 Program.--The coordinating agencies shall identify the exotic  
12 species that threaten the native flora and fauna within the  
13 Lake Okeechobee watershed and develop and implement measures  
14 to protect the native flora and fauna.

15           (f) Lake Okeechobee Internal Phosphorus Management  
16 Program.--The district, in cooperation with the other  
17 coordinating agencies and interested parties, shall complete a  
18 Lake Okeechobee internal phosphorus load removal feasibility  
19 study. The feasibility study shall be based on technical  
20 feasibility, as well as economic considerations, and address  
21 all reasonable methods of phosphorus removal. If methods are  
22 found to be feasible, the district shall immediately pursue  
23 the design, funding, and permitting for implementing such  
24 methods.

25           (g) Lake Okeechobee Watershed Protection Plan  
26 implementation.--The coordinating agencies shall be jointly  
27 responsible for implementing the Lake Okeechobee Watershed  
28 Protection Plan, consistent with the statutory authority and  
29 responsibility of each agency. Annual funding priorities shall  
30 be jointly established, and the highest priority shall be  
31 assigned to programs and projects that address phosphorus

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1 sources that have the highest relative contribution to  
 2 phosphorus loading and the greatest potential for phosphorus  
 3 reduction. In determining funding priorities, the coordinating  
 4 agencies shall also consider the need for regulatory  
 5 compliance, the extent to which the program or project is  
 6 ready to proceed, and the availability of federal matching  
 7 funds or other nonstate funding, including public-private  
 8 partnerships. Federal and other nonstate funding shall be  
 9 maximized to the greatest extent practicable.

10 (h) Legislative approval--The coordinating agencies  
 11 shall submit the Phase II technical plan developed pursuant to  
 12 paragraph (b) of this section to the President of the Senate  
 13 and the Speaker of the House of Representatives prior to the  
 14 2008 Legislative session for review. If the Legislature takes  
 15 no action on the plan during the 2008-089islative Session, the  
 16 plan is deemed approved and may be implemented.

17 (i)~~(h)~~ Annual progress report.--Each March 1,  
 18 beginning in 2006, the district shall report on implementation  
 19 of this section as part of the consolidated annual report  
 20 required in s. 373.036(7). The annual report shall include a  
 21 summary of water quality and habitat conditions in Lake  
 22 Okeechobee and the Lake Okeechobee watershed and the status of  
 23 the Lake Okeechobee Watershed Construction Project. The  
 24 district shall prepare the report in cooperation with the  
 25 other coordinating agencies.

26 Section 2. Subsections (5),(6),(7),(8), and (9) of  
 27 section 373.4595, Florida Statutes, are renumbered as  
 28 subsections (7),(8),(9),(10), and (11), respectively, and new  
 29 subsections (5) and (6) are added to said section, to read:

30 373.4595 Lake Okeechobee Protection Program.--

31 (5) CALOOSAHATCHEE AND ST. LUCIE RIVER AND ESTUARY

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1 PROTECTION PROGRAM.--A protection program for the estuaries  
 2 shall be developed and implemented as specified in this  
 3 subsection. The program shall address the reduction of  
 4 pollutant loadings to the estuaries, restoration of natural  
 5 hydrology, and compliance with applicable state water quality  
 6 standards. The program shall be achieved through a phased  
 7 program of implementation. In addition, pollutant load  
 8 reductions based upon adopted total maximum daily loads  
 9 established in accordance with s. 403.067 shall serve as a  
 10 program objective. In the development and administration of  
 11 the program, the coordinating agencies shall maximize  
 12 opportunities provided by federal and local government  
 13 cost-sharing programs and opportunities for partnerships with  
 14 the private sector and local governments.

15 (a) Caloosahatchee Estuary Protection Plan.--No later  
 16 than January 1, 2009, the district, in cooperation with the  
 17 other coordinating agencies, Lee County, Hendry County and  
 18 other affected local governments, shall complete an Estuary  
 19 Protection Plan in accordance with this subsection. The plan  
 20 shall contain an implementation schedule for pollutant load  
 21 reductions consistent with any adopted total maximum daily  
 22 loads and compliance with applicable state water quality  
 23 standards. The Caloosahatchee Estuary protection Plan shall  
 24 include:

25 1. Caloosahatchee Estuary Construction Project.--To  
 26 improve the hydrology, water quality, and habitats within the  
 27 estuaries, the district shall, no later than January 1, 2012,  
 28 plan, design, and construct the initial phase of estuary  
 29 construction projects. In doing so, the district shall:

30 a. Develop and designate the Estuary Construction  
 31 Project facilities to be constructed to achieve stated goals



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1 and objectives of the Caloosahatchee Estuary Protection Plan.

2 b. Identify the size and location of all such  
3 Caloosahatchee Estuary Construction Project facilities.

4 c. Provide a construction schedule for all such  
5 Estuary Construction Project facilities, including the  
6 sequencing and specific timeframe for construction of each  
7 Caloosahatchee Estuary Construction Project facility.

8 d. Provide a schedule for the acquisition of lands or  
9 sufficient interests necessary to achieve the construction  
10 schedule.

11 e. Provide a schedule of costs and benefits associated  
12 with each construction project and identify funding sources.

13 f. To ensure the timely implementation of the Estuary  
14 Construction Project, the design, scheduling and sequencing of  
15 project facilities shall be coordinated with the coordinating  
16 agencies, Lee County, Hendry County, other interested parties,  
17 and other affected local governments.

18 2. Caloosahatchee Estuary Watershed Pollutant Control  
19 Program.--The Caloosahatchee Estuary Watershed Pollutant  
20 Control Program is designed to be a multifaceted approach to  
21 reducing pollutant loads by improving the management of  
22 pollutant sources within the estuary watersheds through  
23 continued implementation of existing regulations and best  
24 management practices, development and implementation of  
25 improved best management practices, improvement and  
26 restoration of the hydrologic function of natural and managed  
27 systems, and utilization of alternative technologies for  
28 pollutant reduction. The coordinating agencies shall  
29 facilitate the utilization of federal programs that offer  
30 opportunities for water quality treatment, including  
31 preservation, restoration, or creation of wetlands on

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1 agricultural lands.

2       a. Nonpoint source best management practices, designed  
3 to achieve the objectives of the Estuary Protection Program,  
4 shall be implemented on an expedited basis. The coordinating  
5 agencies shall develop an intergovernmental agreement that  
6 ensures the development of best management practices that  
7 complement existing regulatory programs and specifies how such  
8 best management practices are implemented and verified. The  
9 coordinating agencies may enter into intergovernmental  
10 agreements with local governments. The coordinating agencies  
11 shall develop an intergovernmental agreement with Lee County  
12 to implement this subsection within their respective  
13 geographic boundaries.

14       b. Nothing in this subsection precludes the department  
15 or the district from requiring compliance with water quality  
16 standards, adopted total maximum daily loads, or current best  
17 management practices requirements set forth in any applicable  
18 regulatory program authorized by law for the purpose of  
19 protecting water quality. This subsection is applicable only  
20 to the extent that it does not conflict with any rules  
21 promulgated by the department or district that are necessary  
22 to maintain a federally delegated or approved program.

23       c. Projects that make use of private lands, or lands  
24 held in trust for Indian tribes, to reduce pollutant loadings  
25 or concentrations within a basin, or that reduce the volume of  
26 harmful discharges from Lake Okeechobee or the estuary  
27 watersheds, by one or more of the following methods:  
28 restoring the natural hydrology of the basin, restoring  
29 wildlife habitat or impacted wetlands, reducing peak flows  
30 after storm events, or increasing aquifer recharge, are  
31 eligible for grants available under this section from the

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1 coordinating agencies.

2 d. Assess current water management practices within  
3 the estuary watersheds and develop recommendations for  
4 structural, nonstructural, and operational improvements. Such  
5 recommendations shall consider and balance water supply, flood  
6 control, estuarine salinity, estuarine habitat, and water  
7 quality considerations.

8 (b) St. Lucie Estuary Protection Plan.--No later than  
9 January 1, 2009 the district, in cooperation with the other  
10 coordinating agencies, Martin County, St. Lucie County, and  
11 other affected local governments, shall complete an Estuary  
12 Protection Plan in accordance with this subsection. The plan  
13 shall contain an implementation schedule for pollutant load  
14 reductions consistent with any adopted total maximum daily  
15 loads and compliance with applicable state water quality  
16 standards. The St. Lucie Estuary Protection Plan shall  
17 include:

18 1. St. Lucie Estuary Construction Project.--To improve  
19 the hydrology, water quality, and habitats within the  
20 estuaries, the district shall, no later than January 1, 2012,  
21 plan, design, and construct the initial phase of estuary  
22 construction projects. In doing so, the district shall;

23 a. Develop and designate the Estuary Construction  
24 Project facilities to be constructed to achieve stated goals  
25 and objectives of the St. Lucie Estuary Protection Plan.

26 b. Identify the size and location of all such St.  
27 Lucie Estuary Construction Project facilities.

28 c. Provide a construction schedule for all such  
29 Estuary Construction Project facilities, including the  
30 sequencing and specific timeframe for construction of each St.  
31 Lucie Estuary Construction Project facility.

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1 d. Provide a schedule for the acquisition of lands or  
2 sufficient interests necessary to achieve the construction  
3 schedule.

4 e. Provide a schedule of costs and benefits associated  
5 with each construction project and identify funding sources.

6 f. To ensure the timely implementation of the Estuary  
7 Construction Project, the design, scheduling and sequencing of  
8 project facilities shall be coordinated with the coordinating  
9 agencies, Martin County, St. Lucie County, other interested  
10 parties, and other affected local governments.

11 2. St. Lucie Estuary Watershed Pollutant Control  
12 Program.--The St. Lucie Estuary Watershed Pollutant Control  
13 Program is designed to be a multifaceted approach to reducing  
14 pollutant loads by improving the management of pollutant  
15 sources within the estuary watersheds 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 pollutant  
21 reduction. The coordinating agencies shall facilitate the  
22 utilization of federal programs that offer opportunities for  
23 water quality treatment, including preservation, restoration,  
24 or creation of wetlands on agricultural lands.

25 a. Nonpoint source best management practices, designed  
26 to achieve the objectives of the St. Lucie Estuary Protection  
27 Program, shall be implemented on an expedited basis. The  
28 coordinating agencies shall develop an intergovernmental  
29 agreement that ensures the development of best management  
30 practices that complement existing regulatory programs and  
31 specifies how such best management practices are implemented

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1 and verified. The coordinating agencies may enter into  
 2 intergovernmental agreements with local governments. The  
 3 coordinating agencies shall develop an intergovernmental  
 4 agreement with Martin County to implement this subsection  
 5 within their respective geographic boundaries.

6 b. Nothing in this subsection precludes the department  
 7 or the district from requiring compliance with water quality  
 8 standards, adopted total maximum daily loads, or current best  
 9 management practices requirements set forth in any applicable  
 10 regulatory program authorized by law for the purpose of  
 11 protecting water quality. This subsection is applicable only  
 12 to the extent that it does not conflict with any rules  
 13 promulgated by the department or district that are necessary  
 14 to maintain a federally delegated or approved program.

15 c. Projects that make use of private lands, or lands  
 16 held in trust for Indian tribes, to reduce pollutant loadings  
 17 or concentrations within a basin, or that reduce the volume of  
 18 harmful discharges from Lake Okeechobee or the estuary  
 19 watersheds, by one or more of the following methods:  
 20 restoring the natural hydrology of the basin, restoring  
 21 wildlife habitat or impacted wetlands, reducing peak flows  
 22 after storm events, or increasing aquifer recharge, are  
 23 eligible for grants available under this section from the  
 24 coordinating agencies.

25 d. Assess current water management practices within  
 26 the estuary watersheds and develop recommendations for  
 27 structural, nonstructural, and operational improvements. Such  
 28 recommendations shall consider and balance water supply, flood  
 29 control, estuarine salinity, estuarine habitat, and water  
 30 quality considerations.

31 (c) Estuary Protection Plan implementation.--The

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1 coordinating agencies shall be jointly responsible for  
 2 implementing the Caloosahatchee and St. Lucie Estuary  
 3 Protection Plans, consistent with the statutory authority and  
 4 responsibility of each agency. Annual funding priorities  
 5 shall be jointly established, and the highest priority shall  
 6 be assigned to programs and projects that have the greatest  
 7 potential for achieving the goals and objectives of the plan.  
 8 In determining funding priorities, the coordinating agencies  
 9 shall also consider the need for regulatory compliance, the  
 10 extent to which the program or project is ready to proceed,  
 11 and the availability of federal or local government matching  
 12 funds. Federal and other non-state funding shall be maximized  
 13 to the greatest extent practicable.

14 (d) Legislative approval.--The coordinating agencies  
 15 shall submit the Caloosahatchee and St. Lucie Estuary  
 16 Protection Plans, developed pursuant to paragraphs (a) and (b)  
 17 of this section to the President of the Senate, and the  
 18 Speaker of the House of Representatives prior to the 2009  
 19 Legislative Session for review. If the Legislature takes no  
 20 action on the plan during the 2009 Legislative Session, the  
 21 plan is deemed approved and may be implemented.

22 (6) IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS AND  
 23 DEVELOPMENT OF BASIN MANAGEMENT ACTION PLANS.--Upon  
 24 legislative approval of the Phase II technical plan developed  
 25 pursuant to paragraph (3)(b) and the Estuary Protection Plans  
 26 developed pursuant to paragraphs (5)(a) and (b), the  
 27 department shall initiate development of basin management  
 28 action plans as provided in s. 403.067(7)(a) as follows:

29 (a) Basin management action plans shall be developed  
 30 as determined necessary by the department to achieve the total  
 31 maximum daily loads established for the Lake Okeechobee

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1 watershed and the estuaries.

2 (b) The Phase II technical plan developed pursuant to  
3 paragraph (3)(b), and the Estuary Protection Plans developed  
4 pursuant to paragraphs (5)(a) and (b), shall provide the basis  
5 for basin management action plans developed by the department.

6 (c) As determined necessary by the department in order  
7 to achieve the total maximum daily loads, additional or  
8 modified projects or programs which complement those in the  
9 legislatively approved plans may be included during the  
10 development of the basin management action plan.

11 (d) Development of basin management action plans which  
12 implement the provisions of the legislatively approved plans  
13 shall be initiated by the department no later than September  
14 30 of the year in which the applicable plan is approved.  
15 Where a total maximum daily load has not been established at  
16 the time of plan approval, development of basin management  
17 action plans shall be initiated no later than 90 days  
18 following adoption of the applicable total maximum daily load.

19 Section 3. Subsection (8) of section 373.4595, Florida  
20 Statutes, is amended to read:

21 373.4595 Lake Okeechobee Protection Program.--

22 (8) RELATIONSHIP TO STATE WATER QUALITY  
23 STANDARDS.--Nothing in this section shall be construed to  
24 modify any existing state water quality standard or to modify  
25 the provisions of ss. 403.067(6) and (7)(a).

26 Section 4. Subsection (8) of section 373.026, Florida  
27 Statutes, is amended to read:

28 373.026 General powers and duties of the  
29 department.--The department, or its successor agency, shall be  
30 responsible for the administration of this chapter at the  
31 state level. However, it is the policy of the state that, to

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1 the greatest extent possible, the department may enter into  
 2 interagency or interlocal agreements with any other state  
 3 agency, any water management district, or any local government  
 4 conducting programs related to or materially affecting the  
 5 water resources of the state. All such agreements shall be  
 6 subject to the provisions of s. 373.046. In addition to its  
 7 other powers and duties, the department shall, to the greatest  
 8 extent possible:

9           (8)(a) Provide such coordination, cooperation, or  
 10 approval necessary to the effectuation of any plan or project  
 11 of the Federal Government in connection with or concerning the  
 12 waters in the state. Unless otherwise provided by state or  
 13 federal law, the department shall, subject to confirmation by  
 14 the Legislature, have the power to approve or disapprove such  
 15 federal plans or projects on behalf of the state. If such plan  
 16 or project is for a coastal inlet, the department shall first  
 17 determine the impact of the plan or project on the sandy  
 18 beaches in the state. If the department determines that the  
 19 plan will have a significant adverse impact on the sandy  
 20 beaches, the department may not approve the plan or project  
 21 unless it is revised to mitigate those impacts.

22           (b) To ensure to the greatest extent possible that  
 23 project components will go forward as planned, the department  
 24 shall collaborate with the South Florida Water Management  
 25 District in implementing the comprehensive plan as defined in  
 26 s. 373.470(2)(a), the Lake Okeechobee Watershed Protection  
 27 Plan as defined in s. 373.4595(2), and the Estuary Plans as  
 28 defined in s. 373.4595(5). Before any project component is  
 29 submitted to Congress for authorization or receives an  
 30 appropriation of state funds, the department must approve, or  
 31 approve with amendments, each project component within 60 days



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1 following formal submittal of the project component to the  
2 department. For the release of state funds for the  
3 implementation of the comprehensive plan, department approval  
4 shall be based upon a determination of the South Florida Water  
5 Management District's compliance with s. 373.1501(5). For the  
6 release of state funds for the implementation of the Lake  
7 Okeechobee Watershed Protection Plan or the Estuary Plans,  
8 department approval shall be based upon a determination of the  
9 South Florida Water Management District's compliance with s.  
10 373.45955. Once a project component is approved, the South  
11 Florida Water Management District shall provide to the Joint  
12 Legislative Committee on Everglades Oversight a schedule for  
13 implementing the project component, the estimated total cost  
14 of the project component, any existing federal or nonfederal  
15 credits, the estimated remaining federal and nonfederal share  
16 of costs, and an estimate of the amount of state funds that  
17 will be needed to implement the project component. All  
18 requests for an appropriation of state funds needed to  
19 implement the project component shall be submitted to the  
20 department, and such requests shall be included in the  
21 department's annual request to the Governor.

22 (c) Notwithstanding paragraph (b), the use of state  
23 funds for land purchases from willing sellers is authorized  
24 for projects within the South Florida Water Management  
25 District's approved 5-year plan of acquisition pursuant to s.  
26 373.59 or within the South Florida Water Management District's  
27 approved Florida Forever water management district work plan  
28 pursuant to s. 373.199.

29 (d) The Executive Office of the Governor, pursuant to  
30 its duties under s. 373.536(5) to approve or disapprove, in  
31 whole or in part, the budget of each water management

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1 district, shall review all proposed expenditures for project  
2 components in the district's budget.

3 (e) The department, subject to confirmation by the  
4 Legislature, shall act on behalf of the state in the  
5 negotiation and consummation of any agreement or compact with  
6 another state or states concerning waters of the state.

7 Section 5. Section 373.45955, Florida Statutes, is  
8 created to read:

9 373.45955 South Florida Water Management District  
10 responsibilities.--

11 (1) The South Florida Water Management District shall  
12 comply with its responsibilities under s. 373.4595 and  
13 implement project components through appropriate provisions of  
14 this section. In the development of project components, the  
15 district shall:

16 (a) Analyze and evaluate all needs to be met in a  
17 comprehensive manner and consider all applicable water  
18 resource issues, including water supply, water quality, flood  
19 protection, threatened and endangered species, and other  
20 natural system and habitat needs;

21 (b) Determine with reasonable certainty that all  
22 project components are feasible based upon standard  
23 engineering practices and technologies and are the most  
24 efficient and cost-effective of feasible alternatives, or  
25 combination of alternatives, consistent with the Lake  
26 Okeechobee Watershed Protection Plan and Estuary Protection  
27 Plan purposes, implementation of project components, and  
28 operation of the project;

29 (c) Determine with reasonable certainty that all  
30 project components are consistent with applicable law and  
31 regulations, and can be permitted and operated as proposed.

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1 For purposes of such determination:

2       1. The district shall convene a preapplication  
3 conference with all state and federal agencies with applicable  
4 regulatory jurisdiction;

5       2. State agencies with applicable regulatory  
6 jurisdiction shall participate in the preapplication  
7 conference and provide information necessary for the  
8 district's determination; and

9       3. The district shall request that federal agencies  
10 with applicable regulatory jurisdiction participate in the  
11 preapplication conference and provide information necessary  
12 for the district's determination.

13       (d) Ensure that implementation of project components  
14 is coordinated with existing utilities and public  
15 infrastructure and that impacts to and relocation of existing  
16 utility or public infrastructure are minimized.

17       (2) Notwithstanding any provision of this section,  
18 nothing herein shall be construed to modify or supplant the  
19 authority of the district or the department to prevent harm to  
20 the water resources as provided in this chapter.

21       (3) Final agency action with regard to any project  
22 component subject to s. 373.026(8)(b) shall be taken by the  
23 department. Actions taken by the district pursuant to  
24 subsection (1) shall not be considered final agency action.  
25 Any petition for formal proceedings filed pursuant to ss.  
26 120.569 and 120.57 shall require a hearing under the summary  
27 hearing provisions of s. 120.574, which shall be mandatory.  
28 The final hearing under this section shall be held within 30  
29 days after receipt of the petition by the Division of  
30 Administrative Hearings.

31       Section 6. This act shall take effect July 1, 2007.

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1 ===== T I T L E    A M E N D M E N T =====

2 And the title is amended as follows:

3           Delete everything before the enacting clause

4

5 and insert:

6                           A bill to be entitled

7           An act relating to watershed restoration;

8           amending s. 373.4595, F.S.; providing

9           Legislative findings as to the importance of

10           the Lake Okeechobee watershed, the

11           Caloosahatchee Estuary, and the St. Lucie

12           Estuary; providing Legislative findings that

13           the Lake Okeechobee Watershed Protection Plan,

14           the Caloosahatchee Estuary Protection Plan, and

15           the st. Lucie Estuary Protection Plan provide

16           the foundation for establishing basin

17           Management Action Plans and Total Maximum Daily

18           Loads; providing Legislative finding that the

19           expeditious implementation of the Lake

20           Okeechobee Watershed Protection Plan is needed

21           to improve water quality and water quantity in

22           the Northern Everglades; providing Legislative

23           finding that the Caloosahatchee Estuary and the

24           St. Lucie Estuary be included to received

25           sources of funding for nutrient control

26           programs; providing Legislative intent that

27           coordinating agencies include the

28           Caloosahatchee Estuary and the St. Lucie

29           Estuary when creating partnerships and programs

30           relating to Everglades restoration; providing

31           that a technical plan be developed by a

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1 specified date; providing required elements to  
2 be included in the technical plan; requiring  
3 Legislative approval of the technical plan;  
4 revising requirements for implementation of a  
5 total phosphorus monitoring program by the  
6 South Florida Water Management District;  
7 conforming cross-references; creating the  
8 Caloosahatchee Estuary and the St. Lucie  
9 Estuary Protection Program; creating a process  
10 that requires Legislative approval of the plans  
11 developed under both programs; requiring the  
12 implementation of Total Maximum Daily Loads and  
13 development of Basin Management Action Plans;  
14 amends subsection (8) of s. 373.4595, F.S.;  
15 conforming cross-reference; creating s.  
16 373.45955, F.S.; detailing the responsibilities  
17 of the South Florida Water Management District;  
18 providing an effective date.

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