

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 7157 PCB ENRC 07-06 Watershed Restoration  
**SPONSOR(S):** Environment & Natural Resources Council; Mayfield and others  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
<u>Orig. Comm.: Environment &amp; Natural Resources Council</u>	<u>12 Y, 0 N</u>	<u>Deslatte</u>	<u>Hamby</u>
<u>1) Policy &amp; Budget Council</u>	<u></u>	<u>Davila</u>	<u>Hansen</u>
<u>2)</u>	<u></u>	<u></u>	<u></u>
<u>3)</u>	<u></u>	<u></u>	<u></u>
<u>4)</u>	<u></u>	<u></u>	<u></u>
<u>5)</u>	<u></u>	<u></u>	<u></u>

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**SUMMARY ANALYSIS**

HB 7157 changes the Lake Okeechobee Protection Program to the Northern Everglades and Estuaries Protection Program. Legislative findings are revised to: reflect the expansion of the program; economic, natural habitat and biodiversity functions of the system; the effects of loss of surface water storage; the significance of pollutants other than phosphorous to water quality; the use of total maximum daily load requirements to address water quality; and the need to expeditiously implement the program to improve the quality, quantity, timing, and distribution of water in the Northern Everglades ecosystem. The bill expands the program to include protection of the Lake Okeechobee Watershed and the Caloosahatchee & St. Lucie Rivers Watersheds; provides for the Lake Okeechobee and Caloosahatchee and St. Lucie River Watershed Protection Program, including a Protection Plan, Construction Project, Watershed Pollutant Control Program, and Research, Water Quality, and Habitat Monitoring Program; and provides new or revised definitions for "Caloosahatchee River Watershed," "Lake Okeechobee Watershed," "Northern Everglades," "River Watershed Protection Plans," and "St. Lucie River Watershed." The bill provides for implementation and evaluation within the Protection Plans; provides for protection permits; requires the Department of Environmental Protection (DEP) to expedite the development and implementation of total maximum daily loads for the Caloosahatchee River and estuary and develop basin management action plans for the Lake Okeechobee Watershed and estuaries; and revises requirements relating to the annual progress report of the South Florida Water Management District (SFWMD).

The bill requires the modified Phase II technical plan of the Lake Okeechobee Water Construction Project to be submitted to the Legislature for ratification during the 2008 regular session. The bill requires the River Watershed Protection Plans to be submitted to the Legislature for ratification during the 2009 regular session.

Furthermore, the bill provides for the expanded uses of bonds issued for Everglades restoration to include the Lake Okeechobee Watershed Protection Plan and the River Watershed Protection Plans. The bill also expands the use of Save Our Everglades Trust Fund appropriations through Fiscal Year 2019-2020 to be used for the Lake Okeechobee Protection Plan and Caloosahatchee and St. Lucie River Watershed Protection Plans. The bill extends the South Florida Water Management District's match requirements for the life of the trust fund; allows funds to be distributed for implementation of the River Watershed Protection Plans including a local match requirement for Lee and Martin counties; and allows funds to be distributed to the Department of Agriculture and Consumer Services for implementation of agricultural nonpoint source controls.

The bill has an indeterminate negative fiscal impact on state agencies and the SFWMD. (See "Fiscal Comments" Section).

The bill takes effect July 1, 2007.

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

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**DATE:** 4/21/2007

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide Limited Government:** The bill expands the Lake Okeechobee Protection Program to include the Lake's watershed and the Caloosahatchee River watershed and the St. Lucie River watershed. Additional planning, reporting, regulatory and implementation requirements are placed on the SFWMD, DEP, the Department of Agriculture and Consumer Services (DACS), and the Department of Health (DOH).

#### B. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### Comprehensive Everglades Restoration Plan (CERP)

The Comprehensive Everglades Restoration Plan (CERP) is a large, comprehensive, long-term project to restore the Everglades in terms of the quantity, quality, timing, and distribution of water to the Everglades ecosystem. The goal of CERP is to restore, preserve, and protect South Florida's ecosystem, and to provide for other water-related needs of the region, including water supply and flood protection.

The plan originally approved in the 2000 federal Water Resources Development Act includes more than 60 projects, that will take more than 30 years to complete and will cost an estimated \$10.5 billion.

To date, the state, including the South Florida Water Management District, has invested \$2 billion of a total \$3.3 billion committed through the end of the decade to CERP activities. To assist the South Florida Water Management District in funding this project, the Legislature created s. 215.619, F.S. This provision provided for the issuance of Everglades restoration bonds to finance or refinance the cost of acquisition and improvement of land and water areas necessary for implementing CERP. The statute provides that up to \$100 million in bonds may be annually issued. Though authorized to be issued since 2002, the state has only done one issue in fiscal year 2005-2006.

##### Lake Okeechobee

Lake Okeechobee (Lake) and its watershed are major components of the south Florida's Kissimmee-Okeechobee-Everglades ecosystem. The Lake is the second largest freshwater body of water located entirely within the continental United States. The Lake serves multiple purposes and functions including recreational and commercial fishery, a habitat for flora and fauna, a source for drinking water for surrounding cities and towns including being a backup source for water for communities along the lower east coast of Florida, a source of irrigation water for the regional agricultural community, and a major supplier of water for the Everglades.

Throughout the 20th Century, much of the land around the Lake was converted to agricultural use with dairy farms and cattle ranches being primary users of the lands north of the Lake and sugar cane and vegetable farms occupying the lands south of the Lake. These activities have rapidly increased the amounts of nutrient (nitrogen and phosphorus) inputs to the Lake. Over the past several decades, numerous programs and projects have been implemented for the purpose of reducing the amounts of nutrients flowing into and contained within the Lake.

In the 1920's, two major hurricanes struck south Florida with one of them producing a storm surge in the Lake that flooded coastal areas and acreage to the south of the Lake, killing about 2,000 people. As a result, at the request of the State, Congress directed the U.S. Army Corps of Engineer to address the flooding issue and subsequently constructed the Herbert Hoover Dike, which is an earthen levee surrounding the Lake's perimeter. In addition, the U. S. Army Corps of Engineers has adopted a "regulation schedule" which determines the timing and volume of water to be released from the Lake in order to prevent a breach of the Hoover Dike.

According to the South Florida Water Management District (SFWMD), because high phosphorous loads have occurred over several decades, a large amount of phosphorous has accumulated at the bottom of the Lake in the form of soft organic mud. Because of the Lake's shallow depth (averaging 9 feet), the mud is mixed into the water every time strong winds blow across the surface of the Lake, keeping phosphorous levels high in the Lake. Such internal phosphorous loads have reached the same levels as external loads coming from the watershed to the Lake.

#### St. Lucie River

The St. Lucie Estuary and River watershed are located on the central coast of Florida with the watershed covering about 780 square miles. The St. Lucie River's headwaters lie between the lands west of Ft. Pierce in St. Lucie County to near the north boundary of Jonathan Dickinson State Park in Martin County. The south fork of the St. Lucie River connects with the cross state Okeechobee Waterway which was built by the U.S. Army Corps of Engineers and completed in 1937.

The purpose of the Okeechobee Waterway is to provide a means for releasing water from Lake Okeechobee when the level of the Lake reaches flooding stages. As water is released from the Lake, the Lake water's quality along with sediment from the banks of the waterway and pollutants for stormwater runoff all have negative effects on the water quality of the St. Lucie River.

#### Caloosahatchee River

The Caloosahatchee River and Estuary are located on the Southwest coast of Florida. The Caloosahatchee River connects Lake Okeechobee to the Caloosahatchee Estuary. The river was originally a shallow meandering stream, which has gone through numerous dredging and rechannelization projects over a long period of time. In the early 1930s locks and water control structures were constructed on the river. Some of these locks act as salinity barriers, since the river is composed of fresh water (entering the river at Lake Okeechobee) and salt water as it empties its waters into the Gulf of Mexico. Dredging and channelization of the river, as well as its artificial connection to the Lake and the Lake's use as a water supply for urban and agricultural uses, have drastically altered the hydrology of the river.

#### Lake Okeechobee Protection Program (LOPP)

In 2000, the Legislature created the Lake Okeechobee Protection Program (s. 373.4595, F.S.) requiring the SFWMD, the Department of Agriculture and Consumer Services, and the Department of Environmental Protection to implement programs and projects that will restore the Lake and its watershed. The Legislature determined that improving the hydrology and water quality of the Lake is essential to the restoration and protection of the Everglades and that it is "imperative for the state, local governments, and agricultural and environmental communities to commit to restoring and protecting the Lake and downstream receiving waters." The Legislature also determined that phosphorous loads from the Lake Okeechobee watershed have contributed to excessive phosphorous levels in the Lake and downstream receiving waters and that a "reduction in the levels of phosphorous levels will benefit the ecology of these systems."

In January of 2004, the initial Lake Okeechobee Protection Plan was delivered. The plan details an integrated management strategy based on the implementation of phosphorous control programs, including best management practices, water flow control projects, and in-lake remediation activities.

The Lake Okeechobee Construction Project is being implemented in two phases. Phase I construction is complete for the two critical projects (Taylor Creek and Nubbin Slough) and start-up operations have begun. Phase II, referred to as the Lake Okeechobee Watershed Project, will construct reservoir storage and stormwater treatment facilities. In addition, land will be acquired for wetland and habitat restoration efforts.

#### Conditions and Release of Water from Lake Okeechobee

Section 373.4595(5), F.S., prohibits the SFWMD from diverting waters from the Lake to the St. Lucie River, the Indian River estuary, the Caloosahatchee River and its estuary, or the Everglades National

Park “in such a way that the state water quality standards are violated, that the nutrients in such diverted waters adversely affect indigenous vegetation communities or wildlife, or that fresh waters diverted to the St. Lucie River or the Caloosahatchee or Indian River estuaries adversely affect the estuarine vegetation or wildlife, unless the receiving waters will biologically benefit by the diversion. However, diversion of waters from the Lake is permitted when an emergency is declared by the SFWMD if the Secretary of the Department of Environmental Protection concurs.”

The SFWMD in collaboration with the U.S. Army Corps of Engineer has developed a “regulation schedule” for the Lake designed to provide floodwater storage capacity during the wet season and to supplement water supply during the dry season. However, when Lake water levels are extremely high, water discharges are sent through canals to the St. Lucie and Caloosahatchee estuaries in order to prevent a breach of the Hoover Dike.

The 2006 South Florida Environmental Report, by SFWMD provided an update on the status of the Lake and the need to divert waters out of the Lake. During August-October 2004, the Lake received a large volume of water from rainfall and inflows. During this same time period, the Lake received about 83% of the total phosphorous load for the water year. Water levels in the Lake increased by about 6 feet. As a result, it was necessary to reduce water levels in the Lake through discharges into the St. Lucie and Caloosahatchee rivers in order to prevent a possible catastrophic failure of the Hoover Dike.

Effects of the 2004 hurricanes and related windy conditions re-suspended and distributed large amounts of phosphorous-laden sediments throughout the Lake. These sediments significantly reduced the amount of light available to submerged aquatic vegetation and increased the amount of blue-green algae. Also, the Lake experienced excessive phosphorus loads, averaging 540 metric tons per year, which is more than four times higher than the recently established Total Maximum Daily Loads for the Lake, pursuant to the 2000 Lake Okeechobee Protection Act.

As discussed above, an operating schedule for the Lake, jointly established and managed by SFWMD and the U.S. Army Corps of Engineers, determines the extent to which water will be released from the Lake into the downstream ecosystems and watersheds, including the St. Lucie and Caloosahatchee rivers and their estuaries. According to the 2006 Report by SFWMD, the operating schedule was reassessed with the intent of maintaining the Lake’s long-term ecological health and reducing large water discharges from the Lake to downstream ecosystems.

#### 2007 South Florida Environmental Report

The 2007 South Florida Environmental Report, by SFWMD, provides the latest update on the status of Lake Okeechobee through 2006 stating that “phosphorus control programs continued to exceed expectations, with Stormwater Treatment Areas cleansing nearly 1.5 million acre-feet of water and reducing phosphorus inflows to the Everglades by 68 percent. Best farming practices achieved a 44 percent reduction in phosphorus load from the Everglades Agricultural Area, well above the 25 percent reduction required by law. Over the past decade, these phosphorus control programs together prevented 2,500 metric tons of phosphorus from entering America's Everglades.”<sup>1</sup>

#### Caloosahatchee/St. Lucie Rivers Corridor Advisory Committee

The Caloosahatchee/St. Lucie Rivers Corridor Advisory Committee was established by DEP for the purpose of developing recommendations regarding:

- Scientifically, viable, economically feasible projects and programs, and regulations that address or mitigate the impacts of high-level discharges from Lake Okeechobee on the St. Lucie and Caloosahatchee estuaries.
- Ongoing projects and plans authorized pursuant to the Lake Okeechobee Protection Plan Program and the Comprehensive Everglades Restoration Plan under s. 373.4592, F.S.
- Environmentally and economically feasible projects to remove accumulated sedimentation from Lake Okeechobee.

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<sup>1</sup> 2007 South Florida Environmental Report  
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- Alternative treatment strategies, projects, best management practices, and funding sources to manage more effectively the hydrology of the corridor to minimize adverse ecological effects upon the receiving waters from Lake Okeechobee discharges.
- Long-term funding for implementation of the projects and programs.<sup>2</sup>

## **Proposed Changes**

### **Summary**

The bill changes the Lake Okeechobee Protection Program to the Northern Everglades and Estuaries Protection Program. Legislative findings are revised to: reflect the expansion of the program; economic, natural habitat and biodiversity functions of the system; the effects of loss of surface water storage; the significance of pollutants other than phosphorous to water quality; the use of total maximum daily load requirements to address water quality; and the need to expeditiously implement the program to improve the quality, quantity, timing, and distribution of water in the Northern Everglades ecosystem. The bill expands the program to include protection of the Lake Okeechobee Watershed and the Caloosahatchee & St. Lucie Rivers Watersheds; provides for the Lake Okeechobee and Caloosahatchee and St. Lucie River Watershed Protection Program, including a Protection Plan, Construction Project, Watershed Pollutant Control Program, and Research, Water Quality, and Habitat Monitoring Program; and provides new or revised definitions for “Caloosahatchee River Watershed,” “Lake Okeechobee Watershed,” “Northern Everglades,” “River Watershed Protection Plans,” and “St. Lucie River Watershed.” The bill provides for implementation and evaluation within the Protection Plans; provides for protection permits; requires the Department of Environmental Protection (DEP) to develop total maximum daily loads for the Caloosahatchee River and estuary and basin management action plans for the Lake Okeechobee Watershed and estuaries; and revises requirements relating to the annual progress report of the South Florida Water Management District (SFWMD).

### **Lake Okeechobee Watershed Protection Program**

Current law requiring the completion of a Lake Okeechobee Protection Plan is amended to require that in order to protect and restore surface water resources, the South Florida Water Management District (SFWMD), in cooperation with other coordinating agencies, complete a Lake Okeechobee Watershed Protection Plan in accordance with s. 373.4595 and s. 373.451-373.459, F.S. The plan is to identify the watershed’s geographic extent, be coordinated with the St. Lucie and Caloosahatchee Watershed Protection Program, and contain an implementation schedule for subsequent phases of phosphorus load reduction consistent with the total maximum daily load requirements established in accordance with s. 403.067, F.S. Current law requiring the plan to consider and build upon a review and analysis of the following is retained:

1. The performance of projects constructed during Phase I, as well as Phase II, of the Lake Okeechobee Watershed Construction Project
2. Relevant information resulting from the Lake Okeechobee Watershed Phosphorus Control Program
3. Relevant information resulting from the Lake Okeechobee Watershed Research and Water Quality Monitoring Program
4. Relevant information resulting from the Lake Okeechobee Exotic Species Control Program
5. Relevant information resulting from the Lake Okeechobee Internal Phosphorus Management Program

### **Lake Okeechobee Watershed Construction Project**

Current law requiring the design and construction of the Lake Okeechobee Construction Project is amended to add the watershed and improvement of the hydrology and water quality of the Caloosahatchee and St. Lucie Rivers and their estuaries. There are two phases to the project.

<sup>2</sup> 2006 Caloosahatchee/St. Lucie Rivers Corridor Advisory Committee recommendations

### Phase I

Current law providing for Phase 1 is amended to replace references to the “Restudy” with references to the “Comprehensive Everglades Restoration Plan.”

### Phase II

Current law requiring development of Phase II is amended to require by Feb. 1, 2008, SFWMD, in cooperation with other coordinating agencies, to develop a detailed technical plan for the Lake Okeechobee Watershed Construction Project. This plan must include improvement measures for the quality, quantity, timing, and distribution of water in the northern Everglades ecosystem, including Lake Okeechobee and the estuaries. Moreover, the technical plan must include a Process Development and Engineering component to finalize detail and design of Phase II projects. The component will also be used to identify additional measures needed to increase the certainty that the overall water quality and quantity improvement objectives can be met. Use of cost-effective biologically-based, hybrid wetland/chemical and other innovative nutrient control technologies must be incorporated in the plan where appropriate. The Phase II plan shall be periodically updated. It will also require legislative ratification. Current law specifying content of the plan is retained and revised to require the technical plan to:

- Identify Lake Okeechobee Watershed Construction Project facilities designed to contribute to achieving all applicable total maximum daily loads established pursuant to s. 403.067, F.S., within the Lake Okeechobee Watershed
- Identify the size and location of all such Lake Okeechobee Watershed Construction Project facilities
- Provide a construction schedule for all said facilities
- Provide a detailed schedule of costs associated with the schedule
- Identify, to the maximum extent practicable, the impact on wetlands and state-listed species associated with the construction of such facilities
- Provide for additional measures, including voluntary water storage and quality improvements on private lands, to increase water storage and reduce excess water levels in Lake Okeechobee and to reduce excess discharges to the estuaries. The plan will also develop the appropriate water quantity storage goal to achieve the desired Lake Okeechobee range of lake levels and inflow volumes to the Caloosahatchee and St. Lucie estuaries while meeting the other water related needs of the region, including water supply and flood protection
- Provide for additional source controls needed to enhance performance of the Lake Okeechobee Watershed Construction Project facilities.

Current law requiring, by January 1, 2004, and every 3 years thereafter, the district, in cooperation with the coordinating agencies, to conduct an evaluation of any further phosphorus load reductions necessary to achieve the Lake Okeechobee phosphorus total maximum daily load is amended to address the total maximum daily loads in the Lake Okeechobee watershed, established pursuant to s. 403.067, F.S. Moreover, the district will identify modifications to facilities in the Construction Project as appropriate to meet the total maximum daily loads. The evaluation shall be included in the annual progress report.

Current law requiring SFWMD to coordinate with DEP and other interested parties on the design of project facilities for the Lake Okeechobee Watershed Construction Project, is amended to explicitly require coordination with local governments. These facilities shall be reviewed and commented upon by DEP prior to the execution of a construction contract by the district for that facility.

### Lake Okeechobee Watershed Phosphorus Control Program

The bill expands the Lake Okeechobee Phosphorus Control Program to include the lake’s watershed. The Lake Okeechobee Watershed Phosphorus Control Program is a multifaceted approach to reducing phosphorus loads by improving the management of phosphorus sources within the Lake Okeechobee watershed through implementation regulations and best management practices (BMBs), improvement and restoration of the hydrologic function of natural and managed systems, and utilization of alternative

technologies for nutrient reduction. The bill expands the nonagricultural nonpoint source BMPs to include the Lake Okeechobee Watershed and total maximum daily loads in addition to phosphorus. The bill also provides for DACS to work with the University of Florida's Institute of Food and Agricultural Sciences to review and, where appropriate, develop revised nutrient application rates for all agricultural soil amendments in the watershed, and to develop interim measures, BMPs, or other measures necessary for Lake Okeechobee total maximum daily load reduction.

Currently, DEP requires all entities disposing of domestic wastewater residuals within the Lake Okeechobee watershed to develop and submit an agricultural use plan that limits applications based upon phosphorus loading. The bill provides that after December 31, 2007 the department shall not authorize the disposal of domestic wastewater residuals within the Lake Okeechobee watershed unless the applicant can demonstrate that the phosphorus in the residuals will not add to phosphorus loadings in Lake Okeechobee or its tributaries. This demonstration shall be based on achieving a net balance between phosphorus imports relative to exports on the permitted application site. This prohibition does not apply to Class AA residuals that are marketed and distributed as fertilizer products in accordance with department rule.

Current law requiring conservation plans or nutrient management plans is revised to require DACS to initiate rulemaking requiring entities within the Lake Okeechobee watershed which land-apply animal manure to develop a resource management system level conservation plan, according to United States Department of Agriculture criteria, that limits such application.

#### Lake Okeechobee Watershed Research and Water Quality Monitoring Program

This bill expands the Lake Okeechobee Research and Water Quality Monitoring Program to include the lake's watershed. Current requirements of the plan are supplemented to require that every three years, SFWMD to reevaluate water quality and quantity data to ensure that the appropriate projects are being designed and implemented to meet the water quality and storage goals of the plan. The bill also provides that SFWMD implement a total phosphorus monitoring program at appropriate structures owned or operated by the district and within the Lake Okeechobee watershed.

#### Lake Okeechobee Watershed Protection Plan implementation

The bill expands current law addressing Lake Okeechobee Protection Plan implementation to include the lake's watershed. The bill also provides that annual funding priorities shall be established and the highest priority shall be assigned to programs and projects that address sources, rather than phosphorous sources as provided in current law, that have the highest relative contribution to loading and the greatest potential for reductions needed to meet the total maximum daily loads.

#### Priorities and implementation schedule

The bill provides that coordinating agencies are authorized and directed to establish priorities and implementation schedules for the achievement of total maximum daily loads, the requirements of s. 403.067, F.S., and compliance with applicable water quality standards within the waters and watersheds subject to this section.

#### Legislative ratification

The coordinating agencies shall submit the Phase II technical plan to the President of the Senate and the Speaker of the House of Representatives prior to the 2008 legislative session for review. If the legislature takes no action on the plan during the 2008 legislative session, the plan is deemed approved and may be implemented.

#### Caloosahatchee and St. Lucie River Watershed Protection Plan

The bill provides for the development of a phased implementation plan to address the reduction of pollutant loadings, restoration of natural hydrology, and compliance with applicable state water quality standards within the Caloosahatchee and St. Lucie River watersheds. The plan must also include a goal for salinity envelopes and freshwater inflow targets for the estuaries based upon existing research and documentation.

## Caloosahatchee River Watershed Protection Plan

No later than January 1, 2009, the SFWMD, in cooperation with the other coordinating agencies, Lee County, and affected counties and municipalities, shall complete a River Watershed Protection Plan. The plan will identify the geographic extent of the watershed and contain an implementation schedule for pollutant load reductions that is consistent with any adopted total maximum daily loads and compliant with any state water quality standards. Specifically the plan:

1. **Creates the Caloosahatchee River Watershed Construction Project** to improve the hydrology, water quality, and aquatic habitats within the watershed. An initial phase must be designed and constructed by the SFWMD no later than January 1, 2012. The district shall:
  - Develop and designate facilities to achieve stated goals and objectives
  - Conduct scientific studies
  - Identify the size and location of all facilities
  - Provide a construction schedule for all such facilities
  - Provide a schedule for the acquisition of lands to achieve the construction schedule
  - Provide a schedule of costs and benefits associated with each construction project and identify funding sources
  - To ensure timely implementation, coordinate with coordinating agencies, Lee County, and other affected counties and municipalities.
  
2. **Creates the Caloosahatchee River Watershed Pollutant Control Program** to reduce pollutant loads by improving the management of pollutant sources within the Caloosahatchee River watershed through implementation of regulations and BMPs, development and implementation of improved BMPs, improvement and restoration of the hydrologic function of natural and managed systems, and utilization of alternative technologies such as cost-effective biologically-based, hybrid wetland/chemical and other innovative nutrient control technologies. Coordinating agencies must utilize federal programs that offer opportunities for water treatment. The program includes:
  - Nonpoint source BMPs must be implemented on an expedited basis.
  - Neither DEP nor the SFWMD are precluded from complying with water quality standards, adopted total maximum daily loads, or current BMP requirements set forth in any regulatory program authorized by law for the purpose of protecting water quality.
  - Projects using private lands or lands held in trust for Indian tribes that restore the natural hydrology of the basin, restore wildlife habitat or impacted wetlands, reduce peak flows after storm events, or increase aquifer recharge, are eligible for grants.
  - An assessment of current water management practices within the watershed is required as are recommendations for structural, nonstructural, and operational improvements.
  - After December 31, 2007, DEP may not authorize the disposal of domestic wastewater residuals within the watershed unless the applicant can affirmatively demonstrate that the nutrients in the residuals will not add to nutrient loadings in the watershed. This prohibition does not apply to Class AA residuals that are marketed and distributed as fertilizer products in accordance with department rule.
  - All entities disposing of septage within the watershed are to develop and submit to the Department of Health, an agricultural use plan that limits applications based upon nutrient loading. By July 1, 2008, nutrient concentrations may not exceed the limits established in the SFWMD's WOD program.
  - DACS must initiate rulemaking requiring entities within the Caloosahatchee River watershed which land-apply animal manure to develop a resource management system level conservation plan, according to United States Department of Agriculture criteria, that limits such application.
  
3. **Creates the Caloosahatchee River Watershed Research and Water Quality Monitoring Program** to evaluate the program and conduct an assessment of the water volumes and timing from the Lake Okeechobee and Caloosahatchee River watersheds and their relative contributions to the timing and volume of water delivered to the watershed.



### St. Lucie River Watershed Protection Plan

No later than January 1, 2009, the SFWMD, in cooperation with the other coordinating agencies, Martin County, and affected counties and municipalities, shall complete a River Watershed Protection Plan. The plan will identify the geographic extent of the watershed and contain an implementation schedule for pollutant load reductions that is consistent with any adopted total maximum daily loads and compliant with any state water quality standards. Specifically the plan:

1. **Creates the St. Lucie River Watershed Construction Project** to improve the hydrology, water quality, and aquatic habitats within the watershed. An initial phase must be designed and constructed by the SFWMD no later than January 1, 2012. The district shall:
  - Develop and designate facilities to achieve stated goals and objectives
  - Conduct scientific studies
  - Identify the size and location of all facilities
  - Provide a construction schedule for all such facilities
  - Provide a schedule for the acquisition of lands to achieve the construction schedule
  - Provide a schedule of costs and benefits associated with each construction project and identify funding sources
  - To ensure timely implementation, coordinate with coordinating agencies, Lee County, and other affected counties and municipalities
  
2. **Creates the St. Lucie River Watershed Pollutant Control Program** to reduce pollutant loads by improving the management of pollutant sources within the St. Lucie River watershed through implementation of regulations and BMPs, development and implementation of improved BMPs, improvement and restoration of the hydrologic function of natural and managed systems, and utilization of alternative technologies such as cost-effective biologically-based, hybrid wetland/chemical and other innovative nutrient control technologies. Coordinating agencies must utilize federal programs that offer opportunities for water treatment. The program includes:
  - Nonpoint source BMPs must be implemented on an expedited basis.
  - Neither DEP nor the SFWMD are precluded from complying with water quality standards, adopted total maximum daily loads, or current BMP requirements set forth in any regulatory program authorized by law for the purpose of protecting water quality.
  - Projects on private lands or lands held in trust for Indian tribes that restore the natural hydrology of the basin, restore wildlife habitat or impacted wetlands, reduce peak flows after storm events, or increase aquifer recharge, are eligible for grants.
  - An assessment of current water management practices within the watershed is required as are recommendations for structural, nonstructural, and operational improvements.
  - After December 31, 2007, DEP may not authorize the disposal of domestic wastewater residuals within the watershed unless the applicant can affirmatively demonstrate that the nutrients in the residuals will not add to nutrient loadings in the watershed. This prohibition does not apply to Class AA residuals that are marketed and distributed as fertilizer products in accordance with department rule.
  - All entities disposing of septage within the watershed are to develop and submit to the Department of Health, an agricultural use plan that limits applications based upon nutrient loading. By July 1, 2008, nutrient concentrations may not exceed the limits established in the SFWMD's WOD program.
  - DACS must initiate rulemaking requiring entities within the Caloosahatchee River watershed which land-apply animal manure to develop a resource management system level conservation plan, according to United States Department of Agriculture criteria, that limits such application.
  
3. **Creates the St. Lucie River Watershed Research and Water Quality Monitoring Program** to evaluate the program and conduct an assessment of the water volumes and timing from the Lake Okeechobee and St. Lucie River watersheds.

### River Watershed Protection Plan Implementation

Annual funding priorities shall be established and the highest priority shall be assigned to programs and projects that have the greatest potential for achieving the goals and objectives of the plans.

### Evaluation

By March 1, 2012, and every three years thereafter, the SFWMD shall conduct an evaluation of any pollutant load reduction goals. Moreover, the SFWMD shall identify modifications to facilities of the watershed projects and the evaluation shall be included in the annual progress report.

### Priorities and Implementation Schedules

Implementation schedules and priorities are to be established for the achievement of total maximum daily loads, the requirements of s. 403.067, F.S., and compliance with water quality standards within the waters and watersheds.

### Legislative ratification

Coordinating agencies shall submit the River Watershed Protection Plans to the President of the Senate and the Speaker of the House of Representatives prior to the 2009 legislative session for review. If no action is taken during the 2009 session, the plan is deemed approved and may be implemented.

### Total Maximum Daily Loads Implementation and Basin Management Action Plans

DEP is directed to expedite development and adoption of total maximum daily loads for the Caloosahatchee River and estuary. No later than December 31, 2008, DEP must propose for final agency action total maximum daily loads for nutrients in the tidal portions of the Caloosahatchee River and estuary. The department shall also develop basin management action plans (BMAPS) to achieve total maximum daily loads established for the Lake Okeechobee Watershed. Phase II of the Lake Okeechobee Watershed Construction Project and the River Watershed Protection Plans shall provide the basis for BMAPS. Additional or modified programs that complement those in the legislatively ratified plan may be included during the development of the BMAP. These ratified plans shall be initiated by DEP no later than Sept. 30 of the year in which the applicable plan is ratified. Where a total maximum daily load has not been established at the time of ratification, BMAPS shall be initiated no later than 90 days following adoption of the applicable total maximum daily load.

### Annual Progress Report

Each March 1 the SFWMD shall report on implementation as part of the consolidated annual report. The report shall include a summary of the conditions of the hydrology, water quality and aquatic habitat in the northern Everglades, the status of the Lake Okeechobee Construction Project, the status of the Caloosahatchee River and St. Lucie River Watershed Construction Projects, and an annual accounting of the expenditure of funds from the Save Our Everglades Trust Fund.

### Everglades Restoration

In s. 373.470, F.S, the bill adds the definitions for the "Caloosahatchee and St. Lucie River Watershed Protection Plan", the "Lake Okeechobee Watershed Protection Plan," the "River Watershed Protection Plans," and the "St. Lucie River Watershed Protection Plan."

### Save Our Everglades Trust Fund

The bill provides for the expanded use of bonds issued for Everglades restoration to include the Lake Okeechobee Watershed Protection Plan and the River Watershed Protection Plans. The bill also expands the use of Save Our Everglades Trust Fund appropriations through Fiscal Year 2019-2020 to be used for the Lake Okeechobee Protection Plan and Caloosahatchee and St. Lucie River Watershed Protection Plans. The bill extends the South Florida Water Management District's match requirements for the life of the trust fund; allows funds to be distributed for implementation of the River Watershed Protection Plans including a local match requirement for Lee and Martin counties; and allows funds to be distributed to the Department of Agriculture and Consumer Services for implementation of agricultural nonpoint source controls.

The DEP may reserve a minimum of \$10 million annually, to the extent that funds are available, from the Save Our Everglades Trust Fund for the implementation of the River Watershed Protection Plans within the Northern Everglades. Distribution of funds from the Save Our Everglades Trust Fund for the implementation of the River Watershed Protection Plans shall be equally matched by the SFWMD and Lee and Martin Counties by fiscal year 2019-2020 by providing funding or credits toward project components. The dollar value of in-kind project design and construction work by the SFWMD and the counties are credits towards the SFWMD's and counties' contributions.

Subject to appropriation and written request by DACS, the DEP would transfer the appropriation from the Save Our Everglades Trust Fund to the DACS General Inspection Trust Fund in order to implement agricultural nonpoint source controls identified in statute or in the Lake Okeechobee Watershed Protection Plan and River Watershed Protection Plans.

C. SECTION DIRECTORY:

**Section 1.** Amends s. 215.619, F.S., to expand the use of Bonds for Everglades Restoration to include the Lake Okeechobee Protection Plan and the Caloosahatchee and St. Lucie Estuaries Protection Plans.

**Section 2.** Amends s. 373.026 (8), F.S., to require approval from the department for the release of state funds for the implementation of the Lake Okeechobee Watershed Protection Plan or the Estuary Plans.

**Section 3.** Amends s. 373.4595, F.S., to rename the Lake Okeechobee Protection Act as the Northern Everglades and Estuaries Protection Act; provide Legislative intent; provide definitions; require agencies to develop a detailed technical plan for Phase II of the Lake Okeechobee Watershed Construction Project; establish the Caloosahatchee and St. Lucie River Watershed Protection Program; provide for adoption and implementation of total maximum daily loads; and provide for annual progress reports.

**Section 4.** Amends s. 373.470, F.S., to add definitions of the Lake Okeechobee Protection Plan and the Caloosahatchee and St. Lucie Estuaries Protection Plan; provide agreements for project components and allocation of project benefits; expand the use of Save Our Everglades Trust Fund appropriations to be used for Lake Okeechobee Protection Plan and Caloosahatchee and St. Lucie Estuaries Protection Plan.

**Section 5.** Amends s. 373.472 (1), F.S., to expand the use of funds from the Save Our Everglades Trust Fund to be used to implement the Lake Okeechobee Protection Plan and Caloosahatchee and St. Lucie Estuaries Protection Plan.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

See "Fiscal Comments."

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill could have a negative fiscal impact on the private sector. New environmental requirements included in the bill are likely to require expenditures by the private sector.

D. FISCAL COMMENTS:

This bill has an indeterminate negative fiscal impact on the state and the SFWMD. This bill places additional planning and reporting requirements on the SFWMD and coordinating agencies relating to the Lake Okeechobee Watershed Protection Program and the Caloosahatchee and St. Lucie River Watershed Protection Program. DACS is required to work with IFAS to review and develop revised nutrient application rates for all soil amendments in the Lake Okeechobee Watershed. DEP is required to develop total maximum daily loads for the Caloosahatchee River and estuary and basin management action plans for the Lake Okeechobee Watershed and estuaries.

The bill provides for the expanded use of bonds issued for Everglades restoration to include the Lake Okeechobee Watershed Protection Plan and the River Watershed Protection Plans. The bill also expands the use of Save Our Everglades Trust Fund appropriations through Fiscal Year 2019-2020 to be used for the Lake Okeechobee Protection Plan and Caloosahatchee and St. Lucie River Watershed Protection Plans. The bill extends the South Florida Water Management District's match requirements for the life of the trust fund; allows funds to be distributed for implementation of the River Watershed Protection Plans including a local match requirement for Lee and Martin counties; and allows funds to be distributed to the Department of Agriculture and Consumer Services for implementation of agricultural nonpoint source controls.

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Subject to appropriation and written request by DACS, the DEP would transfer the appropriation from the Save Our Everglades Trust Fund to the DACS General Inspection Trust Fund in order to implement agricultural nonpoint source controls identified in statute or in the Lake Okeechobee Watershed Protection Plan and River Watershed Protection Plans.

According to the South Florida Water Management District, the total cost to complete these plans is as follows:

Lake Okeechobee	\$2.1 billion
Caloosahatchee River	\$300 million
St. Lucie River	\$300 million

The costs will be shared on 50/50 basis between the state and the water management districts. The districts share would include funds generated from local governments.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

##### 2. Other:

None

#### B. RULE-MAKING AUTHORITY:

The bill requires rules to be adopted by DACS to require entities which apply animal manure to develop a resource management system level conservation plan to limit certain applications.

The bill provides rule making authority to the SFWMD to implement the Northern Everglades and Estuaries Protection Program.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None

#### D. STATEMENT OF THE SPONSOR

N/A

### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

N/A