By the Committees on Environmental Protection, Water & Resource Management and Representatives Pruitt, Eggelletion, Feeney, Constantine, Putnam, Maygarden, Jones, Cantens, Dockery, Argenio, Fasano, Lynn, Peaden, Murman, Minton, (Additional Sponsors on Last Printed Page)

A bill to be entitled

An act relating to Lake Okeechobee; amending s. 373.4595, F.S.; providing legislative findings and intent; providing definitions; providing for implementation of a Lake Okeechobee Protection Program; requiring completion of a Lake Okeechobee Protection Plan by a specified date; requiring implementation of a regional water quality treatment construction project; requiring completion of research and rulemaking related to Lake Okeechobee; requiring regional water quality monitoring; requiring a phosphorus control program and implementation of a best management practices program; providing for interagency agreements and for interim measures; providing for protection of native flora and fauna; providing for a study regarding phosphorus removal; requiring annual reports; requiring certain permits for activities in the Lake Okeechobee watershed; restricting certain diversions of waters; preserving provisions relating to the Everglades; preserving rights of the Seminole Tribe of Florida; preserving all existing state water quality standards; preserving existing authority; amending s. 373.406, F.S.; providing exemptions from regulation under pt. IV of ch. 373, F.S., relating to management and storage of surface waters; amending s. 403.067, F.S.; clarifying total maximum daily load calculation; clarifying that allocations may be

made for basins; clarifying reporting requirements; clarifying name of basin plans; providing the South Florida Water Management District with certain authority to manage lands it acquires for the Kissimmee River Headwaters Revitalization Project; encouraging less than fee title acquisition under certain circumstances; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 373.4595, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 373.4595, F.S., for present text.)

373.4595 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 land uses in the Lake Okeechobee watershed and the construction of the Central and Southern Florida Project have resulted in adverse changes to the hydrology and water quality of Lake Okeechobee. These hydrology and water quality changes have resulted in algal blooms and other adverse impacts to water quality both in Lake Okeechobee and in downstream receiving waters.

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

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

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

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

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

(h) The Legislature finds that the implementation of the programs contained in this section is for the benefit of

the public health, safety, and welfare and is in the public interest.

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

(j) It is the intent of the Legislature to achieve and maintain compliance with water quality standards in Lake Okeechobee and downstream receiving waters through a phased, comprehensive, and innovative protection program to reduce both internal and external phosphorus loads to Lake Okeechobee through immediate actions to achieve the phosphorus load reductions set forth in Technical Publication 81-2 and long-term solutions based upon the total maximum daily loads established in accordance with s. 403.067. This program shall be watershed-based, shall provide for consideration of all potential phosphorus sources, and shall include research and monitoring, development and implementation of best management practices, refinement of existing regulations, and structural and nonstructural projects, including public works.

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

(l) It is the intent of the Legislature that the coordinating agencies encourage and support the development of creative public-private partnerships and programs, including opportunities for pollutant trading and credits, to facilitate

or further the restoration of Lake Okeechobee, consistent with s. 403.067.

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

(a) "Best management practice" means a practice or combination of practices determined by the coordinating agencies, based on research, field-testing, and expert review, to be the most effective and practicable on-location means, including economic and technological considerations, for improving water quality in agricultural and urban discharges. Best management practices for agricultural discharges shall reflect a balance between water quality improvements and agricultural productivity.

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

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

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

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

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

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

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

(i) "Lake Okeechobee watershed" means Lake Okeechobee and the area surrounding and tributary to Lake Okeechobee, composed of 39 surrounding hydrologic basins, as defined by South Florida Water Management District SWIM Plan Update dated August 8, 1997.

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

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

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

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

(3) LAKE OKEECHOBEE PROTECTION PROGRAM.--A protection program for Lake Okeechobee that achieves phosphorus load

reductions for Lake Okeechobee shall be immediately implemented as specified in this subsection. The program shall address the reduction of phosphorus loading to the lake from both internal and external sources. Phosphorus load reductions shall be achieved through a phased program of implementation. Initial implementation actions shall be technology-based, based upon a consideration of both the availability of appropriate technology and the cost of such technology, and shall include phosphorus reduction measures at both the source and the regional level. The initial phase of phosphorus load reductions shall be based upon the district's Technical Publication 81-2 and the district's WOD program, with subsequent phases of phosphorus load reductions based upon the total maximum daily loads established in accordance with s. 403.067. In the development and administration of the Lake Okeechobee Protection Program, the coordinating agencies shall maximize opportunities provided by federal cost-sharing programs and opportunities for partnerships with the private sector.

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

1. The performance of projects constructed during Phase I of the Lake Okeechobee Construction Project, pursuant to paragraph (b).

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

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

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

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

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

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

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

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

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

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

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

2. Phase II.--By January 1, 2004, the district, in cooperation with the other coordinating agencies and the Corps

of Engineers, shall develop an implementation plan for Phase II of the Lake Okeechobee Construction Project. Phase II shall include construction of additional facilities in the priority basins identified in subparagraph (b)1., as well as facilities for other basins in the Lake Okeechobee watershed. The implementation plan shall:

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

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

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

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

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

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

3. Evaluation.--By January 1, 2004, and every 3 years thereafter, the district, in cooperation with the coordinating agencies, shall conduct an evaluation of any further phosphorus load reductions necessary to achieve compliance

with the Lake Okeechobee total maximum daily load established pursuant to s. 403.067. Additionally, the district shall identify modifications to facilities of the Lake Okeechobee Construction Project as appropriate if the design objective of 40 parts per billion (ppb) or the allocation established pursuant to s. 403.067 for the Lake Okeechobee total maximum daily load established pursuant to s. 403.067 is not being met. The evaluation shall be included in the applicable annual progress report submitted pursuant to paragraph (g).

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

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

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

a. As provided in s. 403.067(7)(d), by October 1, 2000, the Department of Agriculture and Consumer Services, in consultation with the department, the district, and affected parties, shall initiate rule development for interim measures, best management practices, conservation plans, nutrient management plans, or other measures necessary for Lake Okeechobee phosphorus load reduction. The rule shall include thresholds for requiring conservation and nutrient management plans and criteria for the contents of such plans. Development of agricultural nonpoint source best management practices shall initially focus on those priority basins listed in subparagraph (b)1. The Department of Agriculture and Consumer Services, in consultation with the department, the district, and affected parties, shall conduct an ongoing program for improvement of existing and development of new interim

measures or best management practices for the purpose of adoption of such practices by rule.

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

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

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

2. Nonagricultural nonpoint source best management practices, developed in accordance with s. 403.067 and

designed to achieve the objectives of the Lake Okeechobee Protection Program, shall be implemented on an expedited basis. By March 1, 2001, the department and the district shall develop an interagency agreement pursuant to ss. 373.046 and 373.406(5) that assures the development of best management practices that complement existing regulatory programs and specifies how those best management practices are implemented and verified. The interagency agreement shall address measures to be taken by the department and the district during any best management practice reevaluation performed pursuant to sub-subparagraph d.

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

b. Where nonagricultural nonpoint source best management practices or interim measures have been developed by the department and adopted by the district, the owner or

operator of a nonagricultural nonpoint source shall implement interim measures or best management practices and be subject to the provisions of s. 403.067(7). The department and district shall provide technical and financial assistance for implementation of nonagricultural nonpoint source best management practices, subject to the availability of funds.

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

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

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

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

5. The department shall require all entities disposing of domestic wastewater residuals within the Lake Okeechobee watershed to develop and submit to the department by July 1, 2001, an agricultural use plan that limits applications based upon phosphorus loading. Phosphorus loading originating from these application sites shall not exceed the limits established in the district's WOD program.

6. By July 1, 2001, the Department of Agriculture and Consumer Services shall initiate rulemaking requiring entities within the Lake Okeechobee watershed which land-apply animal manure to develop conservation or nutrient management plans that limit application, based upon phosphorus loading. Such rules may include criteria and thresholds for the requirement to develop a conservation or nutrient management plan, requirements for plan approval, and recordkeeping requirements.

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

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

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

1. Evaluate all available existing water quality data concerning total phosphorus in the Lake Okeechobee watershed, develop a water quality baseline to represent existing conditions for total phosphorus, monitor long-term ecological changes, including water quality for total phosphorus, and measure compliance with water quality standards for total phosphorus, including the total maximum daily load for Lake Okeechobee as established pursuant to s. 403.067. The district shall also implement a total phosphorus monitoring program at all inflow structures to Lake Okeechobee.

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

3. By July 1, 2003, determine the relative contribution of phosphorus from all identifiable sources and all primary and secondary land uses.

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

5. By July 1, 2003, assess current water management practices within the Lake Okeechobee watershed and develop recommendations for structural and operational improvements. Such recommendations shall balance water supply, flood control, and water quality considerations.

6. By July 1, 2003, evaluate the feasibility of alternative nutrient reduction technologies, including

sediment traps, canal and ditch maintenance, fish production or other aquaculture, bioenergy conversion processes, and algal or other biological treatment technologies.

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

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

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

(4) LAKE OKEECHOBEE PROTECTION PERMITS.--

(a) The Legislature finds that the Lake Okeechobee Protection Program will benefit Lake Okeechobee and downstream

receiving waters and is consistent with the public interest. The Lake Okeechobee Construction Project and structures discharging into or from Lake Okeechobee shall be constructed, operated, and maintained in accordance with this section.

(b) Permits obtained pursuant to this section are in lieu of all other permits under chapter 373 or chapter 403, except those issued under s. 403.0885, if applicable. No additional permits are required for the Lake Okeechobee Construction Project or structures discharging into or from Lake Okeechobee. Construction activities related to implementation of the Lake Okeechobee Construction Project may be initiated prior to final agency action, or notice of intended agency action, on any permit from the department under this section.

(c) Within 90 days of completion of the diversion plans set forth in Department Consent Orders 91-0694, 91-0707, 91-0706, 91-0705, and RT50-205564, owners or operators of existing structures which discharge into or from Lake Okeechobee that are subject to the provisions of s. 373.4592(4)(a) shall apply for a permit from the department to operate and maintain such structures. By September 1, 2000, owners or operators of all other existing structures which discharge into or from Lake Okeechobee shall apply for a permit from the department to operate and maintain such structures. The department shall issue one or more such permits for a term of 5 years upon the demonstration of reasonable assurance that schedules and strategies to achieve and maintain compliance with water quality standards have been provided for, to the maximum extent practicable, and that operation of the structures otherwise complies with provisions of ss. 373.413 and 373.416.

1. Permits issued under this paragraph shall also contain reasonable conditions to ensure that discharges of waters through structures:

a. Are adequately and accurately monitored;

b. Will not degrade existing Lake Okeechobee water quality and will result in an overall reduction of phosphorus input into Lake Okeechobee, as set forth in the district's Technical Publication 81-2 and the total maximum daily load established in accordance with s. 403.067, to the maximum extent practicable; and

c. Do not pose a serious danger to public health, safety, or welfare.

2. For the purposes of this paragraph, owners and operators of existing structures which are subject to the provisions of s. 373.4592(4)(a) and which discharge into or from Lake Okeechobee shall be deemed in compliance with the term "maximum extent practicable" if they are in full compliance with the conditions of permits under chapters 40E-61 and 40E-63, Florida Administrative Code.

3. By January 1, 2004, the district shall submit to the department a permit modification to the Lake Okeechobee structure permits to incorporate proposed changes necessary to ensure that discharges through the structures covered by this permit achieve state water quality standards, including the total maximum daily load established in accordance with s. 403.067. These changes shall be designed to achieve such compliance with state water quality standards no later than January 1, 2015.

(d) The department shall require permits for Lake Okeechobee Construction Project facilities. Such permits shall

be issued for a term of 5 years upon the demonstration of reasonable assurances that:

1. The Lake Okeechobee Construction Project facility, based upon the conceptual design documents and any subsequent detailed design documents developed by the district, will achieve the design objectives for phosphorus required in paragraph (3)(b);

2. For water quality standards other than phosphorus, the quality of water discharged from the facility is of equal or better quality than the inflows;

3. Discharges from the facility do not pose a serious danger to public health, safety, or welfare; and

4. Any impacts on wetlands or state-listed species resulting from implementation of that facility of the Lake Okeechobee Construction Project are minimized and mitigated, as appropriate.

(e) At least 60 days prior to the expiration of any permit issued under this section, the permittee may apply for a renewal thereof for a period of 5 years.

(f) Permits issued under this section may include any standard conditions provided by department rule which are appropriate and consistent with this section.

(g) Permits issued pursuant to this section may be modified, as appropriate, upon review and approval by the department.

(5) RESTRICTIONS ON WATER DIVERSIONS.--The South Florida Water Management District shall not divert waters to the St. Lucie River, the Indian River estuary, the Caloosahatchee River or 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 is permitted when an emergency is declared by the water management district, if the Secretary of Environmental Protection concurs.

(6) PRESERVATION OF PROVISIONS RELATING TO THE EVERGLADES.--Nothing in this section shall be construed to modify any provision of s. 373.4592.

(7) RIGHTS OF SEMINOLE TRIBE OF FLORIDA.--Nothing in this section is intended to diminish or alter the governmental authority and powers of the Seminole Tribe of Florida, or diminish or alter the rights of that tribe, including, but not limited to, rights under the water rights compact among the Seminole Tribe of Florida, the state, and the South Florida Water Management District as enacted by Pub. L. No. 100-228, 101 Stat. 1556, and chapter 87-292, Laws of Florida, and codified in s. 285.165, and rights under any other agreement between the Seminole Tribe of Florida and the state or its agencies. No land of the Seminole Tribe of Florida shall be used for water storage or stormwater treatment without the consent of the tribe.

(8) RELATIONSHIP TO STATE WATER QUALITY STANDARDS.--Nothing in this section shall be construed to modify any existing state water quality standard.

(9) PRESERVATION OF AUTHORITY.--Nothing in this section shall be construed to restrict the authority otherwise granted to agencies pursuant to chapters 373 and 403, and provisions of this section shall be deemed supplemental to the

authority granted to agencies pursuant to chapters 373 and 403.

Section 2. Subsections (9) and (10) are added to section 373.406, Florida Statues, to read:

373.406 Exemptions.--The following exemptions shall apply:

(9) Implementation of measures having the primary purpose of environmental restoration or water quality improvement on agricultural lands are exempt from regulation under this part where these measures or practices are determined by the district or department, on a case-by-case basis, to have minimal or insignificant individual and cumulative adverse impact on the water resources of the state. The district or department shall provide written notification as to whether the proposed activity qualifies for the exemption within 30 days after receipt of a written notice requesting the exemption. No activity under this exemption shall commence until the district or department has provided written notice that the activity qualifies for the exemption.

(10) Implementation of interim measures or best management practices adopted pursuant to s. 403.067 that are by rule designated as having minimal individual or cumulative adverse impacts to the water resources of the state are exempt from regulation under this part.

Section 3. Paragraphs (a), (b), and (c) of subsection (6) and paragraphs (a) and (b) of subsection (7) of section 403.067, Florida Statutes, are amended to read:

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

(6) CALCULATION AND ALLOCATION.--

(a) Calculation of total maximum daily load.

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

2. The department shall develop total maximum daily load calculations for each water body or water body segment on the list described in subsection (4) according to the priority ranking and schedule unless the impairment of such waters is due solely to activities other than point and nonpoint sources of pollution. For waters determined to be impaired due solely to factors other than point and nonpoint sources of pollution, no total maximum daily load will be required. A total maximum daily load may be required for those waters that are impaired predominantly due to activities other than point and nonpoint sources. The total maximum daily load calculation shall establish the amount of a pollutant that a water body or water body segment may receive from all sources ~~can assimilate~~ without exceeding water quality standards, and shall account for seasonal variations and include a margin of safety that takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. The total maximum daily load may be based on a pollutant load reduction goal developed by a water management district,

provided that such pollutant load reduction goal is promulgated by the department in accordance with the procedural and substantive requirements of this subsection.

(b) Allocation of total maximum daily loads. The total maximum daily loads shall include establishment of reasonable and equitable allocations of the total maximum daily load among point and nonpoint sources that will alone, or in conjunction with other management and restoration activities, provide for the attainment of water quality standards and the restoration of impaired waters. The allocations may ~~shall~~ establish the maximum amount of the water pollutant from a given source or category of sources that may be discharged or released into the water body or water body segment in combination with other discharges or releases. Allocations may also be made to individual basins and sources or as a whole to all basins and sources or categories of sources of inflow to the water body or water body segments. Allocations ~~Such allocations~~ shall be designed to attain water quality standards and shall be based on consideration of the following:

1. Existing treatment levels and management practices;

2. Differing impacts pollutant sources may have on water quality;

3. The availability of treatment technologies, management practices, or other pollutant reduction measures;

4. Environmental, economic, and technological feasibility of achieving the allocation;

5. The cost benefit associated with achieving the allocation;

6. Reasonable timeframes for implementation;

7. Potential applicability of any moderating provisions such as variances, exemptions, and mixing zones; and

8. The extent to which nonattainment of water quality standards is caused by pollution sources outside of Florida, discharges that have ceased, or alterations to water bodies prior to the date of this act.

(c) Not later than February 1, 2001, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing recommendations, including draft legislation, for any modifications to the process for allocating total maximum daily loads, including the relationship between allocations and the watershed or basin management planning process. Such recommendations shall be developed by the department in cooperation with a technical advisory committee which includes representatives of affected parties, environmental organizations, water management districts, and other appropriate local, state, and federal government agencies. The technical advisory committee shall also include such members as may be designated by the President of the Senate and the Speaker of the House of Representatives.

(7) IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.--

(a) The department shall be the lead agency in coordinating the implementation of the total maximum daily loads ~~load allocation~~ through water quality protection programs. Application of a total maximum daily load ~~calculation or allocation~~ by a water management district shall be consistent with this section and shall not require the issuance of an order or a separate action pursuant to s. 120.536(1) or s. 120.54 for adoption of the calculation and

allocation previously established by the department. Such programs may include, but are not limited to:

1. Permitting and other existing regulatory programs;

2. Nonregulatory and incentive-based programs, including best management practices, cost sharing, waste minimization, pollution prevention, and public education;

3. Other water quality management and restoration activities, for example surface water improvement and management plans approved by water management districts under s. 373.456 or watershed or basin management plans developed pursuant to this subsection;

4. Pollutant trading or other equitable economically based agreements;

5. Public works including capital facilities; or

6. Land acquisition.

(b) In developing and implementing the total maximum daily load for a water body ~~allocation~~, the department, or the department in conjunction with a water management district, may develop a watershed or basin management ~~basin~~ plan that addresses some or all of the watersheds and basins tributary to the water body. These plans ~~The basin plan~~ will serve to fully integrate ~~all~~ the management strategies available to the state for the purpose of implementing the total maximum daily loads and achieving water quality restoration. The watershed or basin management ~~basin~~ planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. The department or water management district shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the ~~basin~~ planning process and shall otherwise

encourage public participation to the greatest practical extent. Notice of the public meeting shall be published in a newspaper of general circulation in each county in which the watershed or basin lies not less than 5 days nor more than 15 days before the public meeting. A watershed or basin management ~~basin~~ plan shall not supplant or otherwise alter any assessment made under s. 403.086(3) and (4), or any calculation or allocation made under s. 403.086(6).

Section 4. The South Florida Water Management District shall have the authority to manage lands it acquires for the Kissimmee River Headwaters Revitalization Project to protect and improve water quality, implement hydrological improvements, protect fish and wildlife and endangered species, and accomplish other best management practices on district land in a manner that is consistent with surrounding parks and preserves owned by the state. In acquiring land for the Kissimmee River Headwaters Revitalization Project, the South Florida Water Management District is encouraged to acquire less than fee title where feasible and beneficial to the protection of ecological values, fish and wildlife, and endangered species, provided the objectives of restoring the Everglades system are advanced and the project purposes of the Kissimmee River Restoration Project and the Kissimmee River Headwaters Revitalization Project are met. In determining the fair market value of lands to be acquired from willing sellers in the Upper Kissimmee chain-of-lakes hydrologic basin for such purposes, all appraisals of such lands may consider income from the use of the property for permanent plantings. The derived value may be deemed attributable to the real estate. Appraisers shall comply with the Uniform Standards of Professional Appraisal Practice.

Section 5. This act shall take effect upon becoming a law.

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