

**STORAGE NAME:** h0879.nrep.doc  
**DATE:** January 26, 2002

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
HOUSE NATURAL RESOURCES & ENVIRONMENTAL PROTECTION  
ANALYSIS**

**BILL #:** HB 879  
**RELATING TO:** Lake Okeechobee Protection  
**SPONSOR(S):** Representative(s) Spratt

**TIED BILL(S):**

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) NATURAL RESOURCES & ENVIRONMENTAL PROTECTION
  - (2) GENERAL GOVERNMENT APPROPRIATIONS
  - (3) COUNCIL FOR READY INFRASTRUCTURE
  - (4)
  - (5)
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I. SUMMARY:

HB 879 amends s. 373.4595, F.S., relating to the Lake Okeechobee Protection Program, to provide that private property nutrient reduction projects are eligible to receive grants from the Department of Environmental Protection (DEP), the Department of Agriculture & Consumer Services (DACCS), or the South Florida Water Management District (district), the coordinating agencies responsible for implementing the program. Priority will be given to projects involving public/private partnerships or obtaining federal matching funds. Eligible projects include the purchase of conservation and flowage easements, hydrologic restoration of wetlands, development of management plans for natural resources, and financial support to implement a management plan. Project purposes include restoration of the basin hydrology, restoration of wildlife habitat or impacted wetlands, increasing aquifer recharge, and the reduction of stormwater flow.

HB 879 further amends s. 373.4595, F.S., to provide that after January 1, 2003, the disposal of domestic wastewater residuals (also known as "sludge") within the Lake Okeechobee watershed by means of land application is prohibited. The bill creates a first degree misdemeanor penalty for violations of this provision.

HB 879 takes effect upon becoming a law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |  |   |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/>            |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

HB 879 does not support less government because the bill creates further restrictions on activities authorized within the watershed right now. The provision of the bill banning the disposal of domestic wastewater residual by land application is in conflict with s. 373.4595(3)(c)6., F.S., which requires DEP to participate in the development of a phosphorus load reduction program with agricultural interests, and provides that the phosphorus load originating from the land application sites can not exceed limits established in the South Florida Water Management District's "Works of the District" (WOD) program.

HB 879 also creates another layer of projects that must receive priority consideration in the grant process. However, HB 879 does increase personal responsibility by funding private property owners for voluntarily participating in basin restoration projects.

B. PRESENT SITUATION:

**Lake Okeechobee**

During the 2000 Regular Session, the Legislature created the "Lake Okeechobee Protection Act" to coordinate and expedite existing programs to achieve initial phosphorus load reductions to and within the watershed, and to create a long-term framework for achieving subsequent phosphorus load reductions. Among other goals, the Plan provided that projects reducing the phosphorus load originating from domestic wastewater systems within the Lake Okeechobee watershed receive funding priority under the DEP's revolving loan program.

Domestic wastewater residuals (wastewater treatment facilities) and septage (on-site sewage disposal systems) can contain high levels of phosphorus, a nutrient that can cause water quality problems depending on the concentration and amounts being discharged into surface waters such as Lake Okeechobee. Despite past and continuing efforts to reduce phosphorus loading in the Lake Okeechobee watershed, the current loading to the lake is considered in excess of the amount of phosphorus that even a healthy, functioning Lake Okeechobee could be expected to assimilate without adverse impacts. Agricultural activities are believed to be the major contributor of phosphorus to the lake, but the DEP and agricultural interests have worked hard during the past 10 years to regulate phosphorus discharges into the lake through best management practices and land use regulation. Also, phosphorus runoff into the lake is compounded by excessive amounts of phosphorus within the lake itself.

### **Wastewater Facilities**

The DEP permits approximately 4,130 wastewater facilities in Florida that discharge treated wastewater into either the ground or surface waters of the state. The department estimates that approximately 560 facilities discharge to surface waters, and are subject to the federal requirements of the National Pollution Discharge Elimination System (NPDES). The more than 3,000 remaining facilities are permitted for groundwater discharges. Domestic wastewater facilities primarily collect and treat sanitary wastewater or sewage from homes, business buildings, and institutions, and make up two-thirds (2,750) of the individually permitted facilities in Florida. Wastewater treatment facilities are licensed under the rules of the DEP found in chapter 62-640 of the Florida Administrative Code.

Pursuant to s. 381.0065, F.S., and chapter 64E-6 of the Florida Administrative Code, the Department of Health (DOH) regulates onsite sewage disposal systems such as aerobic treatment units, septic tanks, pump tanks, or solids or effluent pumps. When an onsite sewage treatment and disposal system is pumped, the resulting mixture of sludge, fatty materials, human feces, and wastewater is called septage. The land application of septage is not specifically addressed in the Lake Okeechobee Protection Act.

### **Wastewater Septage Management**

Pursuant to s. 381.0065(3)(b), F.S., and under an Interagency Agreement with the DEP executed in September 2001, the DOH regulates septage management facilities intending to treat 10,000 gallons or less per day on a monthly average daily flow with no more than 20,000 gallons treated on any given day, including the land application of septage from these facilities at sites regulated and approved by DOH. The DEP regulates septage management facilities intending to treat more than 10,000 gallons per day on a monthly average daily flow with more than 20,000 gallons treated on any given day. The land application of septage from these facilities is regulated and approved by DEP.

DOH's rule governing the land application of septage provides for treatment by an approved septage-stabilization process, and for uniform application over a site. Land application on playgrounds, parks, golf course, lawns, hospital grounds, or other unrestricted public access areas where frequent human contact is likely to occur is prohibited. Domestic septage can not be used for growing or cultivating tobacco, root crops, leafy vegetables, or vegetables that are eaten raw. Application is limited to sod farms, pasture lands, forests, highway shoulders and medians, plant nursery use, land reclamation projects, and soil used for growing human food chain crops. Land application within 3000 feet of Class I (potable) water bodies or Outstanding Florida Waters is prohibited, as is application within 2000 feet of any surface waterbodies except canals or bodies of water used for irrigation within but not discharging from the site.

DEP's rule (62-640, F.A.C.) defines septage exactly the same way and provides that if properly treated with lime, septage can meet the Class B residual uses. Restrictions include a prohibition from use in unrestricted public access areas such as playgrounds, golf courses, parks, lawns and hospital grounds, and use is limited to agricultural sites, forests, roadway shoulders and medians.

### **Wastewater Residuals Management (Sludge)**

Residuals are the solid, semisolid, or liquid residues remaining after treatment of domestic wastewater. More commonly known as "sludge", residuals can contain high amounts of phosphorus. Runoff from lands fertilized with residuals can cause water quality problems depending on the phosphorus load, and the sensitivity of the receiving water body.

Under DEP rules, sludge is divided into three categories: Class AA, Class A, and Class B. All three classes have to meet the reduction criteria related to pathogens such as fecal coliform or salmonella. Class AA residuals must meet additional requirements prior to distribution and marketing for use as fertilizers on agricultural lands, lawns, home gardens, reclamation sites, or forest lands, and are the highest quality of residuals being distributed and marketed. The level of treatment for residual material is based on disposal methods and proposed use.

**Chapter 2001-173, Laws of Florida (CS/SB 1662, 1<sup>st</sup> Eng.)**

The 2001 Legislature enacted chapter 2001-173, Florida Statutes, which provides an incentive to private and government-owned utilities within Monroe, Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River, Okeechobee, Highlands, Hendry, and Glades counties, that dispose of residual and septage by land spreading in the Lake Okeechobee watershed. These entities are authorized to assess an "environmental protection disposal fee" as an additional line item if **residual** treatment and disposal is done at an approved alternative treatment methodology facility within areas designated as rural areas of critical economic concern. The disposal fee may be assessed outside of the regular sewer rate and is not to be considered a rate increase under PSC standards. Proceeds from the fee are to be used for treatment and disposal of wastewater residuals, including any treatment technology that helps reduce residual volume. However, the proceeds can not be used for the transportation or shipment costs for disposal relating to land applications within the Lake Okeechobee watershed, no matter what the alternative treatment may be.

C. EFFECT OF PROPOSED CHANGES:

HB 879 amends s. 373.4595, F.S., to provide the following:

- Priority consideration for grants to projects on private property that voluntarily participate in nutrient reduction programs to restore the hydrology of the basin, or restore wildlife habitat and impacted wetlands, reduce stormwater runoff, increase aquifer recharge, or protect range and timberland from conversion to development.
- Prohibits the disposal of domestic wastewater residuals within the Lake Okeechobee watershed after January 1, 2003.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1.** Amends s. 373.4595, F.S.; to provide that certain projects reducing nutrient outputs on private lands are eligible for grants from the coordinating agencies. Provides that priority will be given to projects involving public/private partnerships, or obtaining federal matching money. Provides that grant applications may be submitted by any person, and establishes projects eligible for grant consideration.

Further amends s. 373.4595, F.S., to provide that after January 1, 2003, the disposal of domestic wastewater residuals within the Lake Okeechobee watershed by land application is prohibited. Creates a first degree misdemeanor penalty for persons committing violations of this provision which can result in a jail term of not more than one year, or a fine of not more than \$1,000, or both.

**Section 2.** Provides that the bill will take effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to DEP, in its current form, the bill can be interpreted to expand the grant program away from its intended purposes. However, the expansion would not result in increased revenues or expenditures. HB 879 may need language to clarify that projects receiving priority consideration for grant funding are related to the protection of Lake Okeechobee or activities providing for the protection of the watershed.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

According to DEP, the Lake Okeechobee Utility Authority is the only entity that will be affected by the proposed ban on land application of residuals. The utility would be forced to find another method of disposal. However, the provisions of chapter 2000-173, Laws of Florida, enacted last year, provide an incentive to this utility and others within specified areas for alternative treatment and disposal methodologies by providing for an "environmental disposal fee" to be assessed outside of regular sewer rates.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There are currently five private property owners within the Lake Okeechobee watershed which are currently accepting residuals for land application at reduce phosphorus levels. While these properties would no longer be eligible as land application disposal sites, under the provisions of the bill they could qualify for priority consideration in grant funds by voluntarily participating in other nutrient reduction programs. Approximately 24 other private property owners are approved to accept residuals for land application but are not actively doing so.

D. FISCAL COMMENTS:

None

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

HB 879 does not require municipalities or counties to spend money.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

HB 879 does not reduce the authority that municipalities or counties have to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

HB 879 does not reduce the percentage of state tax revenues shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

CS/SB 678, by Senator Pruitt, is the companion to HB 879. On January 23, 2002, the Senate Natural Resources Committee adopted three amendments to SB 678 that provided the following, and then moved a committee substitute:

- Limited projects eligible for priority grant consideration to those projects funded by the coordinating agencies under the provisions of the Lake Okeechobee Protection Program.
- Provided that by July 1, 2005, phosphorus loads originating from domestic wastewater residual land application sites within the Lake Okeechobee watershed shall not exceed the load limits established in the South Florida Water Management District's "Works of the District" program.
- Eliminated provisions banning the land application of domestic wastewater residuals after January 1, 2003 and provided that the DOH shall require all entities disposing of septage within the watershed to develop and submit a plan to the department that by July 1, 2002, limits land applications based on phosphorus loading. By July 1, 2005, phosphorus loading from septage land application sites may not exceed the load limits established in the South Florida Water Management District's "Works of the District" program.

Also, the staff of the House Natural Resources & Environmental Protection Committee are awaiting a review of the CS/SB 678 by the DOH.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The House sponsor is expected to offer amendments to conform HB 879 to the CS/SB 678. However, the DOH shares the regulation of facilities disposing of septage with DEP and a further amendment may be necessary to distinguish the areas of responsibility between the agencies with regard to plans limiting septage land application based on phosphorus loading.

VII. SIGNATURES:

COMMITTEE ON HOUSE NATURAL RESOURCES & ENVIRONMENTAL PROTECTION:

Prepared by:

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