

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2694

SPONSOR: Appropriations Committee and Senator Pruitt

SUBJECT: Lake Okeechobee Protection Program

DATE: March 30, 2004

REVISED: 03/22/2004

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Molloy</u>	<u>Kiger</u>	<u>NR</u>	<u>Fav/1 amendment</u>
2.	<u></u>	<u></u>	<u>AG</u>	<u>Withdrawn</u>
3.	<u>Blizzard</u>	<u>Hayes</u>	<u>AGG</u>	<u>Fav/CS</u>
4.	<u></u>	<u></u>	<u>AP</u>	<u>Withdrawn: Fav/CS</u>
5.	<u></u>	<u></u>	<u></u>	<u></u>
6.	<u></u>	<u></u>	<u></u>	<u></u>

## I. Summary:

This bill establishes legislative findings and intent for the effective implementation of the Lake Okeechobee Watershed Phosphorus Control Program through a continually funded program that targets the most significant sources contributing to phosphorus loads within the watershed. The bill also establishes legislative findings and intent for the effective implementation of the Lake Okeechobee Protection Plan. The Department of Agriculture & Consumer Services, the Department of Environment Protection, and the South Florida Water Management District (coordinating agencies) are directed to establish annual funding priorities and must assign the highest priority to programs and projects that address sources having the highest relative contribution to phosphorus loading and the greatest potential for phosphorus reduction.

This bill substantially amends s. 373.4595, Florida Statutes.

## II. Present Situation:

**Lake Okeechobee Protection Program** - Lake Okeechobee, the second largest freshwater lake in the continental United States, has a surface area of 730 square miles, an average depth of 8.6 feet, and a drainage basin that covers more than 4,600 square miles. Lake Okeechobee is used as a public and agricultural water supply source, and has natural system and recreational uses. Over the years, excessive phosphorus loads from farms surrounding the Lake, harmful high and low water flows, and an increased spread of exotic vegetation have all created significant water quality issues within the watershed.

A 1999 report entitled the "Lake Okeechobee Action Plan" identified both watershed phosphorus loading and internal phosphorus loading as two of three major issues affecting the lake. In

response, the 2000 Legislature enacted Chapter 2000-130, Laws of Florida, to create the Lake Okeechobee Protection Program.

The Lake Okeechobee Protection Program has eight program components which include:

- The *Lake Okeechobee Protection Plan* completed by the South Florida Water Management District in January 2004.
- The *Lake Okeechobee Watershed Phosphorus Control Program* that is designed to be a multi-faceted approach to reducing phosphorus loads by improving the management of phosphorus sources within the watershed.

**Lake Okeechobee Protection Plan (Plan)** - Section 373.4595 (3)(a), F.S., provides for the Plan to be developed by the coordinating agencies by January 1, 2004 and to provide an implementation schedule for subsequent phases of phosphorus load reduction consistent with the required total daily maximum load (TMDL). The January 2004 Final Plan contains owner-implemented best management practices which are primarily operational changes, cost-share best management practices which are primarily structural changes, and regional projects outside of the Comprehensive Everglades Restoration Plan (CERP). The Plan must be re-evaluated every 3 years to incorporate any new or updated information.<sup>1</sup>

**Lake Okeechobee Watershed Phosphorus Control Program (Program)** - Section 373.4595 (3) (c), F.S., provides for a multi-faceted approach to reducing phosphorus loads by improving the management of phosphorus sources within the Lake Okeechobee watershed. Efforts include the continued use of existing best management practices, the development and implementation of improved best management practices, improving and restoring the hydrologic function of natural and managed systems, and the use of alternative technologies for nutrient reduction, as applied to both agricultural and non-agricultural contributors of phosphorus loading.

**Total Daily Maximum Load (TMDL)** - As provided in s. 403.031, F.S., a TMDL is the sum of the individual wasteload allocations for point sources, and the load allocation for nonpoint sources and natural background. Prior to determining individual 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 be first calculated.

The Lake Okeechobee TMDL was adopted by the State in May 2001 and established at 140 metric tons of phosphorus<sup>2</sup>, including atmospheric deposition. In 2002, the annual measured phosphorus load to Lake Okeechobee was 543 metric tons. The 5-year average measured load from 1998 to 2002 was 554 metric tons which exceed the Lake Okeechobee TMDL by 414 metric tons. The 5-year average included the smallest measured load of 169 metric tons in 2000 due to drought, and the highest measured load of 780 metric tons in 1998, a very wet year.<sup>3</sup> Attainment of the TMDL is calculated using a 5-year rolling average of the monthly loads

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<sup>1</sup> Lake Okeechobee Protection Plan, January 2004, South Florida Water Management District, the Department of Environmental Protection, and the Department of Agriculture & Consumer Services, pg. E-2

<sup>2</sup> 62-304.700, F.A.C.

<sup>3</sup> Lake Okeechobee Protection Plan, January 2004, South Florida Water Management District, the Department of Environmental Protection, and the Department of Agriculture & Consumer Services, pg. 4

calculated from measured flow and concentration values. As new research and data become available, the TMDL for Lake Okeechobee must be re-evaluated

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 373.4595, F.S., to establish legislative findings that in order to achieve the goals and objectives of the Lake Okeechobee Protection Program, and in order to effectively implement the Lake Okeechobee Watershed Phosphorus Control Program, the state must expeditiously implement the Lake Okeechobee Protection Plan.

Establishes legislative findings that a continuing source of funding is needed to effectively implement a phosphorus control program initially targeting the most significant sources contributing to phosphorus loads within the Lake Okeechobee watershed and addressing other sources as necessary to achieve the phased phosphorus load reductions required under the Lake Okeechobee Protection Program.

Establishes the Legislature's intent to provide funding on a continuous basis for the implementation of the Lake Okeechobee Protection Plan and achieving phosphorus load reductions consistent with total maximum daily loads established pursuant to s. 403.067, F.S.

Provides for the implementation of the Lake Okeechobee Protection Plan by requiring that:

- The coordinating agencies shall be jointly responsible for implementation of the Plan.
- Annual funding priorities must be jointly established.
- Highest priority must be assigned to programs and projects addressing phosphorus sources with the highest relative contribution to phosphorus loading and the greatest potential for phosphorus reduction.
- The coordinating agencies consider the need for regulatory compliance, the extent to which a program or project is ready to proceed, and the availability of federal matching or other nonstate funding when determining funding priorities.
- Federal and other nonstate funding must be maximized to the greatest extent practicable.

**Section 2.** Provides that the act shall take effect on July 1, 2004.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The coordinating agencies estimate that the total cost of the Lake Okeechobee Protection Program is \$322.2 million. This estimate excludes the costs of the CERP Lake Okeechobee Watershed Project. With operation, maintenance costs, and cost-share funds backed out of the total, the coordinating agencies will need approximately \$114 million.

Senate Bill 2500, the General Appropriations Act for fiscal year 2004-05, provides \$10 million from the General Revenue Fund to the Department of Agriculture and Consumer Services and \$15 million from the General Revenue Fund to the Department of Environmental Protection for the Lake Okeechobee Protection Program.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.