534254

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
	.	
	.	
	.	

The Committee on Appropriations (Hays) recommended the following:

Senate Amendment

Delete lines 1615 - 2591
and insert:
~~immediately implemented as specified in this subsection~~. The Lake Okeechobee Watershed Protection 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~~

534254

~~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 Watershed 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 Watershed Protection Plan.*—In order to protect and restore surface water resources, the district, in cooperation with the other coordinating agencies, shall complete a Lake Okeechobee Watershed Protection Plan in accordance with this section and ss. 373.451-373.459. Beginning March 1, 2020, and every 5 years thereafter, the district shall update the Lake Okeechobee Watershed Protection Plan to ensure that it is consistent with the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067. The Lake Okeechobee Watershed Protection Plan shall identify the geographic extent of the watershed, be coordinated with the plans developed pursuant to paragraphs (4)(a) and (c) ~~(b)~~, and include the Lake Okeechobee Watershed Construction Project and the Lake Okeechobee Watershed Research and Water Quality Monitoring Program ~~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

534254

consider and build upon a review and analysis of ~~the following~~:

~~1.~~ the performance of projects constructed during Phase I and Phase II of the Lake Okeechobee Watershed Construction Project, pursuant to subparagraph 1.; ~~paragraph (b).~~

~~2.~~ relevant information resulting from the Lake Okeechobee Basin Management Action Plan ~~Watershed Phosphorus Control Program~~, pursuant to paragraph (b); ~~(c).~~

~~3.~~ relevant information resulting from the Lake Okeechobee Watershed Research and Water Quality Monitoring Program, pursuant to subparagraph 2.; ~~paragraph (d).~~

~~4.~~ relevant information resulting from the Lake Okeechobee Exotic Species Control Program, pursuant to paragraph (c); and ~~(e).~~

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

1.~~(b)~~ Lake Okeechobee Watershed Construction Project.—To improve the hydrology and water quality of Lake Okeechobee and downstream receiving waters, including the Caloosahatchee and St. Lucie Rivers and their estuaries, the district, in cooperation with the other coordinating agencies, shall design and construct the Lake Okeechobee Watershed Construction Project. The project shall include:

a.~~1.~~ Phase I.—Phase I of the Lake Okeechobee Watershed 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

534254

obtain phosphorus load reductions to Lake Okeechobee as soon as possible, the following actions shall be implemented:

(I)~~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. Should delays be encountered in the implementation of either of these facilities, the district shall notify the department and recommend corrective actions.

(II)~~b.~~ 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 further reduce phosphorus loading to Lake Okeechobee.

(III)~~c.~~ 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 Comprehensive Everglades Restoration Plan. 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 Comprehensive Everglades Restoration Plan.

b.~~2.~~ Phase II technical plan and construction.~~ By February 1, 2008,~~ The district, in cooperation with the other coordinating agencies, shall develop a detailed technical plan

534254

for Phase II of the Lake Okeechobee Watershed Construction Project which provides the basis for the Lake Okeechobee Basin Management Action Plan adopted by the department pursuant to s. 403.067. The detailed technical plan shall include measures for the improvement of the quality, quantity, timing, and distribution of water in the northern Everglades ecosystem, including the Lake Okeechobee watershed and the estuaries, and for facilitating the achievement of water quality standards. Use of cost-effective biologically based, hybrid wetland/chemical and other innovative nutrient control technologies shall be incorporated in the plan where appropriate. The detailed technical plan shall also include a Process Development and Engineering component to finalize the detail and design of Phase II projects and identify additional measures needed to increase the certainty that the overall objectives for improving water quality and quantity can be met. Based on information and recommendations from the Process Development and Engineering component, the Phase II detailed technical plan shall be periodically updated. Phase II shall include construction of additional facilities in the priority basins identified in sub-subparagraph a. ~~subparagraph 1.~~, as well as facilities for other basins in the Lake Okeechobee watershed. ~~This detailed technical plan will require legislative ratification pursuant to paragraph (i).~~ The technical plan shall:

(I)~~a.~~ Identify Lake Okeechobee Watershed Construction Project facilities designed to contribute to achieving all applicable total maximum daily loads established pursuant to s. 403.067 within the Lake Okeechobee watershed.

(II)~~b.~~ Identify the size and location of all such Lake

534254

Okeechobee Watershed Construction Project facilities.

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

(IV) ~~d.~~ Provide a schedule for the acquisition of lands or sufficient interests necessary to achieve the construction schedule.

(V) ~~e.~~ Provide a detailed schedule of costs associated with the construction schedule.

(VI) ~~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.

(VII) ~~g.~~ Provide for additional measures, including voluntary water storage and quality improvements on private land, to increase water storage and reduce excess water levels in Lake Okeechobee and to reduce excess discharges to the estuaries.

(VIII) ~~The technical plan shall 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.

(IX) ~~h.~~ Provide for additional source controls needed to enhance performance of the Lake Okeechobee Watershed Construction Project facilities. Such additional source controls

534254

shall be incorporated into the Lake Okeechobee Basin Management Action Plan ~~Watershed Phosphorous Control Program~~ pursuant to paragraph (b) ~~(c)~~.

c.~~3.~~ Evaluation.—Within 5 years after the adoption of the Lake Okeechobee Basin Management Action Plan pursuant to s. 403.067 and every 5 ~~By January 1, 2004, and every 3~~ years thereafter, the department ~~district~~, in cooperation with the other coordinating agencies, shall conduct an evaluation of the Lake Okeechobee Watershed Construction Project and identify any further load reductions necessary to achieve compliance with the ~~all~~ Lake Okeechobee ~~watershed~~ total maximum daily loads established pursuant to s. 403.067. ~~Additionally,~~ The district shall identify modifications to facilities of the Lake Okeechobee Watershed Construction Project as appropriate to meet the total maximum daily loads. Modifications to the Lake Okeechobee Watershed Construction Project resulting from this evaluation shall be incorporated into the Lake Okeechobee Basin Management Action Plan and ~~The evaluation shall be~~ included in the applicable annual progress report submitted pursuant to subsection (6).

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

534254

2. Lake Okeechobee Watershed Research and Water Quality Monitoring Program.—The coordinating agencies shall implement a Lake Okeechobee Watershed Research and Water Quality Monitoring Program. Results from the program shall be used by the department, in cooperation with the other coordinating agencies, to make modifications to the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067, as appropriate. The program shall:

a. 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 any applicable total maximum daily load for the Lake Okeechobee watershed as established pursuant to s. 403.067. Beginning March 1, 2020, and every 5 years thereafter, the department shall reevaluate water quality and quantity data to ensure that the appropriate projects are being designated and incorporated into the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067. The district shall implement a total phosphorus monitoring program at appropriate structures owned or operated by the district and within the Lake Okeechobee watershed.

b. Develop a Lake Okeechobee water quality model that reasonably represents the phosphorus dynamics of Lake Okeechobee and incorporates an uncertainty analysis associated with model predictions.

c. Determine the relative contribution of phosphorus from

534254

all identifiable sources and all primary and secondary land uses.

d. 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 as part of the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067 to develop interim measures, best management practices, or regulations, as applicable.

e. 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, estuarine salinity, maintenance of a healthy lake littoral zone, and water quality considerations.

f. 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 and include any alternative nutrient reduction technologies determined to be feasible in the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067.

g. Conduct an assessment of the water volumes and timing from the Lake Okeechobee watershed and their relative contribution to the water level changes in Lake Okeechobee and to the timing and volume of water delivered to the estuaries.

(b) ~~(c)~~ *Lake Okeechobee Basin Management Action Plan* ~~*Watershed Phosphorus Control Program.*~~—The Lake Okeechobee Basin

534254

Management Action Plan adopted pursuant to s. 403.067 shall be the watershed phosphorus control component for Lake Okeechobee. The Lake Okeechobee Basin Management Action Plan shall be ~~Program is designed to be~~ a multifaceted approach designed to achieve the total maximum daily load ~~reducing phosphorus loads~~ by improving the management of phosphorus sources within the Lake Okeechobee watershed through implementation of regulations and best management practices, continued development and continued implementation of improved best management practices, improvement and restoration of the hydrologic function of natural and managed systems, and use ~~utilization~~ of alternative technologies for nutrient reduction. The plan must include an implementation schedule pursuant to this subsection for pollutant load reductions. As provided in s. 403.067(7)(a)6., the Lake Okeechobee Basin Management Action Plan must include milestones for implementation and water quality improvement and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. The department shall develop a schedule to establish 5-, 10-, and 15-year measurable milestones and a target to achieve the adopted total maximum daily load no more than 20 years after adoption of the plan. The schedule shall be used to provide guidance for planning and funding purposes and is exempt from s. 120.54(1)(a). An assessment of progress toward these milestones shall be conducted every 5 years and revisions to the plan shall be made, as appropriate, as a result of each 5-year review. The assessment shall be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

534254

Upon the first 5-year review, the schedule of measurable milestones and a target to achieve water quality improvement consistent with this section shall be adopted into the plan. Revisions to the basin management action plan shall be made by the department in cooperation with the basin stakeholders. Revisions to best management practices or other measures must follow the procedures set forth in s. 403.067(7)(c)4. Revised basin management plans must be adopted pursuant to s. 403.067(7)(a)4. If achieving the adopted total maximum daily load within 20 years is not practicable, the schedule must contain an explanation of the constraints that prevent the achievement of the total maximum daily load within 20 years, an estimate of the time needed to achieve the total maximum daily load, and additional 5-year measurable milestones, as necessary. The coordinating agencies shall develop an interagency agreement pursuant to ss. 373.046 and 373.406 which is consistent with the department taking the lead on water quality protection measures through the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067; the district taking the lead on hydrologic improvements pursuant to paragraph (a); and the Department of Agriculture and Consumer Services taking the lead on agricultural interim measures, best management practices, and other measures adopted pursuant to s. 403.067. The interagency agreement must specify how best management practices for nonagricultural nonpoint sources are developed and how all best management practices are implemented and verified consistent with s. 403.067 and this section. The interagency agreement must address measures to be taken by the coordinating agencies during any best management practice reevaluation performed pursuant to

534254

subparagraphs 5. and 10. The department shall use best professional judgment in making the initial determination of best management practice effectiveness. The coordinating agencies may develop an intergovernmental agreement with local governments to implement nonagricultural nonpoint source best management practices within their respective geographic boundaries. 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 Watershed Protection Program as part of a phased approach of management strategies within the Lake Okeechobee Basin Management Action Plan, shall be implemented on an expedited basis. ~~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.~~

2.~~a.~~ As provided in s. 403.067~~(7)(c)~~, the Department of Agriculture and Consumer Services, in consultation with the department, the district, and affected parties, shall initiate

534254

rule development for interim measures, best management practices, conservation plans, nutrient management plans, or other measures necessary for Lake Okeechobee watershed total maximum daily 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 sub-subparagraph (a)1.a. ~~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 agricultural nonpoint source interim measures and ~~or~~ best management practices. The Department of Agriculture and Consumer Services shall adopt ~~for the purpose of adoption of~~ such practices by rule. The Department of Agriculture and Consumer Services shall work with the University of Florida ~~Florida's~~ Institute of Food and Agriculture Sciences to review and, where appropriate, develop revised nutrient application rates for all agricultural soil amendments in the watershed.

3.~~b.~~ As provided in s. 403.067, 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 state water quality standards addressed by the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067 ~~the district's WOD program~~ by conducting monitoring

534254

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.~~

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

5.~~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 shall be conducted pursuant to s. 403.067(7)(c)4. Should the reevaluation determine that the best management practices or other measures require modification, the rule shall be revised to require implementation of the modified practice within a reasonable period as specified in the rule ~~and make appropriate changes to the rule adopting best management practices~~.

6.~~2.~~ As provided in s. 403.067, nonagricultural nonpoint source best management practices, developed in accordance with s. 403.067 and designed to achieve the objectives of the Lake Okeechobee Watershed Protection Program as part of a phased approach of management strategies within the Lake Okeechobee

534254

Basin Management Action Plan, shall be implemented on an expedited basis. ~~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.~~

7.~~a.~~ The department and the district are directed to work with the University of Florida ~~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 ~~s. 403.067(7)(c)~~, the department, in consultation with the district and affected parties, shall develop nonagricultural nonpoint source interim measures, best management practices, or other measures necessary for Lake Okeechobee watershed total maximum daily load reduction. Development of nonagricultural nonpoint source best management practices shall initially focus on those priority basins listed in sub-subparagraph (a)1.a. ~~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 and ~~or~~ best management practices. The department or the district shall adopt such practices by rule ~~The district shall adopt technology-based standards under the district's WOD program for nonagricultural nonpoint sources of phosphorus~~. ~~Nothing in this sub-subparagraph shall affect the authority of the department or the district to adopt basin-~~


534254

~~specific criteria under this part to prevent harm to the water resources of the district.~~

8.~~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.~~

9.~~c.~~ As provided in s. 403.067, the district or the department shall conduct monitoring at representative sites to verify the effectiveness of nonagricultural nonpoint source best management practices.

10.~~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 shall be conducted pursuant to s. 403.067(7)(c)4. Should the reevaluation determine that the best management practices or other measures require modification, the rule shall be revised to require implementation of the modified practice within a reasonable time period as specified in the rule.

11.~~3.~~ ~~The provisions of~~ Subparagraphs ~~1. and~~ 2. and 7. do ~~may~~ 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

534254

regulatory program authorized by law for the purpose of protecting water quality. ~~Additionally,~~ Subparagraphs ~~1. and~~ 2. and 7. are applicable only to the extent that they do not conflict with any rules adopted by the department that are necessary to maintain a federally delegated or approved program.

12. The program of agricultural best management practices set forth in the Everglades Program of the district, meets the requirements of this paragraph and s. 403.067(7) for the Lake Okeechobee watershed. An entity in compliance with best management practices set forth in the Everglades Program of the district, may elect to use that permit in lieu of the requirements of this paragraph. The provisions of s. 373.4595(3)(b)5. apply to this subparagraph. This subparagraph does not alter any requirement under s. 373.4592.

13. 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. 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.

14.~~4.~~ Projects that 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.

15.~~5.~~ Projects that make use of private lands, or lands

534254

held in trust for Indian tribes, to reduce nutrient loadings or concentrations within a basin by one or more of the following methods: restoring the natural hydrology of the basin, restoring wildlife habitat or impacted wetlands, reducing peak flows after storm events, increasing aquifer recharge, or protecting range and timberland from conversion to development, are eligible for grants available under this section from the coordinating agencies. For projects of otherwise equal priority, special funding priority will be given to those projects that make best use of the methods outlined above that involve public-private partnerships or that obtain federal match money. Preference ranking above the special funding priority will be given to projects located in a rural area of opportunity designated by the Governor. Grant applications may be submitted by any person or tribal entity, and eligible projects may include, but are not limited to, the purchase of conservation and flowage easements, hydrologic restoration of wetlands, creating treatment wetlands, development of a management plan for natural resources, and financial support to implement a management plan.

16.~~6.a.~~ The department shall require all entities disposing of domestic wastewater biosolids ~~residuals~~ within the Lake Okeechobee watershed and the remaining areas of Okeechobee, Glades, and Hendry Counties to develop and submit to the department an agricultural use plan that limits applications based upon phosphorus loading consistent with the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067. ~~By July 1, 2005, phosphorus concentrations originating from these application sites may not exceed the limits established in the district's WOD program. After December 31,~~

534254

~~2007,~~ The department may not authorize the disposal of domestic wastewater biosolids ~~residuals~~ within the Lake Okeechobee watershed unless the applicant can affirmatively demonstrate that the phosphorus in the biosolids ~~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. Exports shall include only phosphorus removed from the Lake Okeechobee watershed through products generated on the permitted application site. This prohibition does not apply to Class AA biosolids ~~residuals~~ that are marketed and distributed as fertilizer products in accordance with department rule.

17.~~b.~~ Private and government-owned utilities within Monroe, Miami-Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River, Okeechobee, Highlands, Hendry, and Glades Counties that dispose of wastewater biosolids ~~residual~~ sludge from utility operations and septic removal by land spreading in the Lake Okeechobee watershed may use a line item on local sewer rates to cover wastewater biosolids ~~residual~~ treatment and disposal if such disposal and treatment is done by approved alternative treatment methodology at a facility located within the areas designated by the Governor as rural areas of opportunity pursuant to s. 288.0656. This additional line item is an environmental protection disposal fee above the present sewer rate and may not be considered a part of the present sewer rate to customers, notwithstanding provisions to the contrary in chapter 367. The fee shall be established by the county commission or its designated assignee in the county in which the

534254

alternative method treatment facility is located. The fee shall be calculated to be no higher than that necessary to recover the facility's prudent cost of providing the service. Upon request by an affected county commission, the Florida Public Service Commission will provide assistance in establishing the fee. Further, for utilities and utility authorities that use the additional line item environmental protection disposal fee, such fee may not be considered a rate increase under the rules of the Public Service Commission and shall be exempt from such rules. Utilities using ~~the provisions of~~ this section may immediately include in their sewer invoicing the new environmental protection disposal fee. Proceeds from this environmental protection disposal fee shall be used for treatment and disposal of wastewater biosolids ~~residuals~~, including any treatment technology that helps reduce the volume of biosolids ~~residuals~~ that require final disposal, but such proceeds may not be used for transportation or shipment costs for disposal or any costs relating to the land application of biosolids ~~residuals~~ in the Lake Okeechobee watershed.

18.~~c.~~ No less frequently than once every 3 years, the Florida Public Service Commission or the county commission through the services of an independent auditor shall perform a financial audit of all facilities receiving compensation from an environmental protection disposal fee. The Florida Public Service Commission or the county commission through the services of an independent auditor shall also perform an audit of the methodology used in establishing the environmental protection disposal fee. The Florida Public Service Commission or the county commission shall, within 120 days after completion of an

534254

audit, file the audit report with the President of the Senate and the Speaker of the House of Representatives and shall provide copies to the county commissions of the counties set forth in subparagraph 17. ~~sub-subparagraph b.~~ The books and records of any facilities receiving compensation from an environmental protection disposal fee shall be open to the Florida Public Service Commission and the Auditor General for review upon request.

19.~~7.~~ The Department of Health shall require all entities disposing of septage within the Lake Okeechobee watershed to develop and submit to that agency an agricultural use plan that limits applications based upon phosphorus loading consistent with the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067. ~~By July 1, 2005, phosphorus concentrations originating from these application sites may not exceed the limits established in the district's WOD program.~~

20.~~8.~~ The Department of Agriculture and Consumer Services shall initiate rulemaking requiring entities within the Lake Okeechobee watershed which land-apply animal manure to develop resource management system level conservation plans, according to United States Department of Agriculture criteria, which limit such application. Such rules shall ~~may~~ include criteria and thresholds for the requirement to develop a conservation or nutrient management plan, requirements for plan approval, site inspection requirements, and recordkeeping requirements.

21. The district shall revise chapter 40E-61, Florida Administrative Code, to be consistent with this section and s. 403.067; provide for a monitoring program for nonpoint source dischargers required to monitor water quality by s. 403.067; and

534254

provide for the results of such monitoring to be reported to the coordinating agencies.

~~9. 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 Watershed Research and Water Quality Monitoring Program.* The district, in cooperation with the other coordinating agencies, shall establish a Lake Okeechobee Watershed 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 any applicable total maximum daily load for the Lake Okeechobee watershed as established pursuant to s. 403.067. Every 3 years, the district shall reevaluate water quality and quantity data to ensure that the appropriate projects are being designated and implemented to meet the water quality and storage goals of the plan. The district shall also implement a total phosphorus monitoring program at appropriate structures owned or operated by the South Florida Water Management District and within the Lake Okeechobee watershed.~~

~~2. Develop a Lake Okeechobee water quality model that reasonably represents phosphorus dynamics of the lake and~~

534254

~~incorporates an uncertainty analysis associated with model predictions.~~

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

~~4. 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. 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, estuarine salinity, maintenance of a healthy lake littoral zone, and water quality considerations.~~

~~6. 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.~~

~~7. Conduct an assessment of the water volumes and timing from the Lake Okeechobee watershed and their relative contribution to the water level changes in Lake Okeechobee and to the timing and volume of water delivered to the estuaries.~~

(c) ~~(e)~~ *Lake Okeechobee Exotic Species Control Program.*—The coordinating agencies shall identify the exotic species that threaten the native flora and fauna within the Lake Okeechobee

534254

watershed and develop and implement measures to protect the native flora and fauna.

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

(e) ~~(g)~~ *Lake Okeechobee Watershed Protection Program ~~Plan~~ implementation.*—The coordinating agencies shall be jointly responsible for implementing the Lake Okeechobee Watershed Protection Program ~~Plan~~, consistent with the statutory authority and responsibility of each agency. Annual funding priorities shall be jointly established, and the highest priority shall be assigned to programs and projects that address sources that have the highest relative contribution to loading and the greatest potential for reductions needed to meet the total maximum daily loads. In determining funding priorities, the coordinating agencies shall also consider the need for regulatory compliance, the extent to which the program or project is ready to proceed, and the availability of federal matching funds or other nonstate funding, including public-private partnerships. Federal and other nonstate funding shall be maximized to the greatest extent practicable.

534254

(f) ~~(h)~~ *Priorities and implementation schedules.*—The coordinating agencies are authorized and directed to establish priorities and implementation schedules for the achievement of total maximum daily loads, compliance with the requirements of s. 403.067, and compliance with applicable water quality standards within the waters and watersheds subject to this section.

~~(i) *Legislative ratification.*—The coordinating agencies shall submit the Phase II technical plan developed pursuant to paragraph (b) 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.~~

(4) CALOOSAHATCHEE RIVER WATERSHED PROTECTION PROGRAM AND ST. LUCIE RIVER WATERSHED PROTECTION PROGRAM.—A protection program shall be developed and implemented as specified in this subsection. In order to protect and restore surface water resources, the program shall address the reduction of pollutant loadings, restoration of natural hydrology, and compliance with applicable state water quality standards. The program shall be achieved through a phased program of implementation. In addition, pollutant load reductions based upon adopted total maximum daily loads established in accordance with s. 403.067 shall serve as a program objective. In the development and administration of the program, the coordinating agencies shall maximize opportunities provided by federal and local government cost-sharing programs and opportunities for partnerships with the private sector and local government. The program ~~plan~~ shall

534254

include a goal for salinity envelopes and freshwater inflow targets for the estuaries based upon existing research and documentation. The goal may be revised as new information is available. This goal shall seek to reduce the frequency and duration of undesirable salinity ranges while meeting the other water-related needs of the region, including water supply and flood protection, while recognizing the extent to which water inflows are within the control and jurisdiction of the district.

(a) *Caloosahatchee River Watershed Protection Plan.* ~~No later than January 1, 2009,~~ The district, in cooperation with the other coordinating agencies, Lee County, and affected counties and municipalities, shall complete a River Watershed Protection Plan in accordance with this subsection. The Caloosahatchee River Watershed Protection Plan shall identify the geographic extent of the watershed, be coordinated as needed with the plans developed pursuant to paragraph (3)(a) and paragraph (c) ~~(b)~~ of this subsection, and ~~contain an implementation schedule for pollutant load reductions consistent with any adopted total maximum daily loads and compliance with applicable state water quality standards. The plan shall~~ include the Caloosahatchee River Watershed Construction Project and the Caloosahatchee River Watershed Research and Water Quality Monitoring Program.~~:~~

1. Caloosahatchee River Watershed Construction Project.—To improve the hydrology, water quality, and aquatic habitats within the watershed, the district shall, no later than January 1, 2012, plan, design, and construct the initial phase of the Watershed Construction Project. In doing so, the district shall:

a. Develop and designate the facilities to be constructed

534254

to achieve stated goals and objectives of the Caloosahatchee River Watershed Protection Plan.

b. Conduct scientific studies that are necessary to support the design of the Caloosahatchee River Watershed Construction Project facilities.

c. Identify the size and location of all such facilities.

d. Provide a construction schedule for all such facilities, including the sequencing and specific timeframe for construction of each facility.

e. Provide a schedule for the acquisition of lands or sufficient interests necessary to achieve the construction schedule.

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

g. To ensure timely implementation, coordinate the design, scheduling, and sequencing of project facilities with the coordinating agencies, Lee County, other affected counties and municipalities, and other affected parties.

2. Caloosahatchee River Watershed Research and Water Quality Monitoring Program.—The district, in cooperation with the other coordinating agencies and local governments, shall implement a Caloosahatchee River Watershed Research and Water Quality Monitoring Program that builds upon the district's existing research program and that is sufficient to carry out, comply with, or assess the plans, programs, and other responsibilities created by this subsection. The program shall also conduct an assessment of the water volumes and timing from Lake Okeechobee and the Caloosahatchee River watershed and their relative contributions to the timing and volume of water

534254

delivered to the estuary.

(b) ~~2.~~ *Caloosahatchee River Watershed Basin Management Action Plans* ~~Pollutant Control Program.~~ The basin management action plans adopted pursuant to s. 403.067 for the Caloosahatchee River watershed shall be the Caloosahatchee River Watershed Pollutant Control Program. The plans shall be ~~is~~ designed to be a multifaceted approach to reducing pollutant loads by improving the management of pollutant sources within the Caloosahatchee River watershed through implementation of 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 pollutant reduction, such as cost-effective biologically based, hybrid wetland/chemical and other innovative nutrient control technologies. The plans must include an implementation schedule pursuant to this subsection for pollutant load reductions. As provided in s. 403.067(7)(a)6., the Caloosahatchee River Watershed Basin Management Action Plan must include milestones for implementation and water quality improvement and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. The department shall develop a schedule to establish 5-, 10-, and 15-year measurable milestones and a target to achieve the total maximum daily load no more than 20 years after adoption of the plan. The schedule shall be used to provide guidance for planning and funding purposes and is exempt from s. 120.54(1)(a). An assessment of progress toward these milestones shall be

534254

conducted every 5 years, and revisions to the plan shall be made, as appropriate, as a result of each 5-year review. The assessment shall be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Upon the first 5-year review, the schedule of measurable milestones and a target to achieve water quality improvement consistent with this section shall be adopted into the plan. Revisions to the basin management action plan shall be made by the department in cooperation with the basin stakeholders. Revisions to best management practices or other measures must follow the procedures set forth in s. 403.067(7)(c)4. Revised basin management action plans must be adopted pursuant to s. 403.067(7)(a)4. If achieving the adopted total maximum daily load within 20 years is not practicable, the schedule must contain an explanation of the constraints that prevent achievement of the total maximum daily load within 20 years, an estimate of the time needed to achieve the total maximum daily load, and additional 5-year measurable milestones, as necessary. The coordinating agencies shall facilitate the use ~~utilization~~ of federal programs that offer opportunities for water quality treatment, including preservation, restoration, or creation of wetlands on agricultural lands.

1.~~a.~~ Nonpoint source best management practices consistent with s. 403.067 ~~paragraph (3)(c)~~, designed to achieve the objectives of the Caloosahatchee River Watershed Protection Program, shall be implemented on an expedited basis. The coordinating agencies may develop an intergovernmental agreement with local governments to implement the nonagricultural, nonpoint-source best management practices within their

534254

respective geographic boundaries.

2.~~b.~~ This subsection does not preclude the department or the district from requiring compliance with water quality standards, adopted total maximum daily loads, or current best management practices requirements set forth in any applicable regulatory program authorized by law for the purpose of protecting water quality. This subsection applies only to the extent that it does not conflict with any rules adopted by the department or district which are necessary to maintain a federally delegated or approved program.

3.~~c.~~ Projects that make use of private lands, or lands held in trust for Indian tribes, to reduce pollutant loadings or concentrations within a basin, or that reduce the volume of harmful discharges by one or more of the following methods: restoring the natural hydrology of the basin, restoring wildlife habitat or impacted wetlands, reducing peak flows after storm events, or increasing aquifer recharge, are eligible for grants available under this section from the coordinating agencies.

4.~~d.~~ The Caloosahatchee River Watershed Basin Management Action Plans ~~Pollutant Control Program~~ shall require assessment of current water management practices within the watershed and shall require development of recommendations for structural, nonstructural, and operational improvements. Such recommendations shall consider and balance water supply, flood control, estuarine salinity, aquatic habitat, and water quality considerations.

5.~~e.~~ ~~After December 31, 2007,~~ The department may not authorize the disposal of domestic wastewater biosolids ~~residuals~~ within the Caloosahatchee River watershed unless the

534254

applicant can affirmatively demonstrate that the nutrients in the biosolids ~~residuals~~ will not add to nutrient loadings in the watershed. This demonstration shall be based on achieving a net balance between nutrient imports relative to exports on the permitted application site. Exports shall include only nutrients removed from the watershed through products generated on the permitted application site. This prohibition does not apply to Class AA biosolids ~~residuals~~ that are marketed and distributed as fertilizer products in accordance with department rule.

6.~~f.~~ The Department of Health shall require all entities disposing of septage within the Caloosahatchee River watershed to develop and submit to that agency an agricultural use plan that limits applications based upon nutrient loading consistent with any basin management action plan adopted pursuant to s. 403.067. ~~By July 1, 2008, nutrient concentrations originating from these application sites may not exceed the limits established in the district's WOD program.~~

7.~~g.~~ The Department of Agriculture and Consumer Services shall require ~~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, which limit such application. Such rules shall ~~may~~ include criteria and thresholds for the requirement to develop a conservation or nutrient management plan, requirements for plan approval, site inspection requirements, and recordkeeping requirements.

8. The district shall initiate rulemaking to provide for a monitoring program for nonpoint source dischargers required to

534254

monitor water quality pursuant to s. 403.067(7)(b)2.g. or s. 403.067(7)(c)3. The results of such monitoring must be reported to the coordinating agencies.

~~3. Caloosahatchee River Watershed Research and Water Quality Monitoring Program.—The district, in cooperation with the other coordinating agencies and local governments, shall establish a Caloosahatchee River Watershed Research and Water Quality Monitoring Program that builds upon the district's existing research program and that is sufficient to carry out, comply with, or assess the plans, programs, and other responsibilities created by this subsection. The program shall also 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 estuary.~~

(c)~~(b)~~ *St. Lucie River Watershed Protection Plan.*~~—No later than January 1, 2009,~~ The district, in cooperation with the other coordinating agencies, Martin County, and affected counties and municipalities shall complete a plan in accordance with this subsection. The St. Lucie River Watershed Protection Plan shall identify the geographic extent of the watershed, be coordinated as needed with the plans developed pursuant to paragraph (3)(a) and paragraph (a) of this subsection, and ~~contain an implementation schedule for pollutant load reductions consistent with any adopted total maximum daily loads and compliance with applicable state water quality standards. The plan shall~~ include the St. Lucie River Watershed Construction Project and St. Lucie River Watershed Research and Water Quality Monitoring Program.~~÷~~

534254

1. St. Lucie River Watershed Construction Project.—To improve the hydrology, water quality, and aquatic habitats within the watershed, the district shall, no later than January 1, 2012, plan, design, and construct the initial phase of the Watershed Construction Project. In doing so, the district shall:

a. Develop and designate the facilities to be constructed to achieve stated goals and objectives of the St. Lucie River Watershed Protection Plan.

b. Identify the size and location of all such facilities.

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

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

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

f. To ensure timely implementation, coordinate the design, scheduling, and sequencing of project facilities with the coordinating agencies, Martin County, St. Lucie County, other interested parties, and other affected local governments.

2. St. Lucie River Watershed Research and Water Quality Monitoring Program.—The district, in cooperation with the other coordinating agencies and local governments, shall establish a St. Lucie River Watershed Research and Water Quality Monitoring Program that builds upon the district's existing research program and that is sufficient to carry out, comply with, or assess the plans, programs, and other responsibilities created by this subsection. The district shall also conduct an

534254

assessment of the water volumes and timing from Lake Okeechobee and the St. Lucie River watershed and their relative contributions to the timing and volume of water delivered to the estuary.

(d)~~2.~~ *St. Lucie River Watershed Basin Management Action Plan* ~~Pollutant Control Program.~~ Basin management action plan for the St. Lucie River watershed adopted pursuant to s. 403.067 shall be the St. Lucie River Watershed Pollutant Control Program and shall be ~~is~~ designed to be a multifaceted approach to reducing pollutant loads by improving the management of pollutant sources within the St. Lucie River watershed through implementation of 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 use ~~utilization~~ of alternative technologies for pollutant reduction, such as cost-effective biologically based, hybrid wetland/chemical and other innovative nutrient control technologies. The plan must include an implementation schedule pursuant to this subsection for pollutant load reductions. As provided in s. 403.067(7)(a)6., the St. Lucie Watershed Basin Management Action Plan must include milestones for implementation and water quality improvement and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. The department shall develop a schedule to establish 5-, 10-, and 15-year measurable milestones and a target to achieve the adopted total maximum daily load no more than 20 years after adoption of the plan. The schedule shall be used to provide guidance for

534254

planning and funding purposes and is exempt from s. 120.54(1)(a). An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made, as appropriate, as a result of each 5-year review. The assessment shall be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Upon the first 5-year review, the schedule of measurable milestones and a target to achieve water quality improvement consistent with this section shall be adopted into the plan. Revisions to the basin management action plan shall be made by the department in cooperation with the basin stakeholders. Revisions to best management practices or other measures must follow the procedures set forth in s. 403.067(7)(c)4. Revised basin management action plans must be adopted pursuant to s. 403.067(7)(a)4. If achieving the adopted total maximum daily load is not practicable, the schedule must contain an explanation of the constraints that prevent achievement of the total maximum daily load within 20 years, an estimate of the time needed to achieve the total maximum daily load, and additional 5-year measurable milestones, as necessary. The coordinating agencies shall facilitate the