

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Lake Okeechobee

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

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

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

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

St. Lucie River

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

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

Caloosahatchee River

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

Comprehensive Everglades Restoration Plan

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

According to the 2006 South Florida Environmental Report by SFWMD, total anticipated expenditures for CERP projects in FY 2006 are about \$442 million. In FY 2005, land acquisitions for CERP and CERP-related projects were 1,211,704 acres, which is more than 50% of the land projected to be acquired for CERP. In 2004, eight ecosystem restoration CERP projects were accelerated at an estimated cost of \$1.5 billion with construction to begin in fiscal years 2006-07.

Lake Okeechobee Protection Program

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

Conditions and Release of Water from Lake Okeechobee

Section 373.4595(5), F.S., prohibits the SFWMD for diverting waters from the Lake to the St. Lucie River, the Indian River estuary, the Caloosahatchee River and its estuary, or the Everglades National Park "in such a way that the state water quality standards are violated, that the nutrients in such diverted waters adversely affect indigenous vegetation communities or wildlife, or that fresh waters diverted to the St. Lucie River or the Caloosahatchee or Indian River estuaries adversely affect the estuarine vegetation or wildlife, unless the receiving waters will biologically benefit by the diversion. However, diversion of waters from the Lake is permitted when an emergency is declared by the SFWMD if the Secretary of the Department of Environmental Protection concurs.

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

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

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

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

Effect of Proposed Changes

The bill creates the Caloosahatchee-St. Lucie Rivers Corridor Advisory Council under the Department of Environmental Protection for the purpose of holding meetings and public hearings to collect public comments and information and review the operation and management of Lake Okeechobee and the associated water discharges from the lake into the two rivers and their estuaries.

The bill establishes a method and criteria for selecting the 17 members for the Advisory Council.

The Governor appoints the following five members (and appoints the chair of the Advisory Council):

- a consumer;
- an engineer with hydrologic experience in the Caloosahatchee-St. Lucie Rivers Corridor;
- a representative from the agricultural industry;
- a representative of an environmental group; and
- a representative from the business or tourism community in Okeechobee, Martin, or Palm Beach counties.

The President of the Senate appoints the following six members:

- a representative of local government in Lee County;
- a hydrologist with experience in the Caloosahatchee-St. Lucie Rivers Corridor;
- a representative of the agricultural industry;
- a representative of an environmental group;
- a representative from the business or tourism community in Lee or Charlotte county; and
- a member of the Senate.

The Speaker of the House of Representatives appoints the following six members:

- a representative of local government in Martin County;
- a biologist with hydrologic experience in the Caloosahatchee-St. Lucie Rivers Corridor;
- a representative of the agricultural industry;
- a representative of an environmental group;
- a representative from the business or tourism community in Hendry or Glades county; and
- a member of the House of Representatives.

The bill provides for per diem and travel expenses for the members which must hold its first meeting no later than 60 days after the effective date of the act.

The bill provides that the Advisory Council will be staffed by an executive director and other personnel (exempt from career service) selected and hired by the Department of Environmental Protection which may also employ staff and consultants to the Advisory Council. The SFWMD and DEP must each appoint a liaison to work with the executive director and provide expertise and assistance to the Advisory Council.

The bill requires the Advisory Council to develop recommendations related to the following:

- Projects, programs, and regulations addressing or mitigating the impacts of high level water discharges from Lake Okeechobee into the waters of the Caloosahatchee River, the St. Lucie Canal, and the St. Lucie River and their estuaries.
- Projects and plans related to the Lake Okeechobee Protection Program and the Comprehensive Everglades Restoration Plan.
- Projects to remove accumulated sediments from Lake Okeechobee.
- Alternative treatment strategies, projects, best management practices, and funding sources to more effectively manage the hydrology of the lake and the two rivers.
- Identifying and securing long-term funding for implementing projects and programs identified by the Advisory Council.

The bill requires the advisory council to submit the following two reports:

- A report to the President of the Senate and the Speaker of the House of Representatives prior to the 2007 regular Session of the Legislature for implementation of projects and strategies to mitigate the effects of high water discharges from Lake Okeechobee into the two rivers.
- A report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2007 with recommendations for implementation by the Legislature and the Governor that will mitigate the ecological effects upon the two rivers and their corridors, and stabilize the effect of high water discharges from Lake Okeechobee upon the tourist economy of Southwest and Southeast Florida.

The bill abolishes the advisory commission on April 1, 2007.

The bill becomes effective upon becoming law.

C. SECTION DIRECTORY:

Section 1: Creates the Caloosahatchee-St. Lucie Rivers Corridor Advisory Council under the Department of Environmental Protection.

Section 2: The bill takes effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Expenditures would be needed to fund the positions of executive director and other staff for the Advisory Council and for per diem and travel expenses for meetings and related activities of the Advisory Council. There is no appropriation specifically provided for in the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Findings and recommendations from the Advisory Council could have a positive fiscal benefit upon the Lake Okeechobee, St. Lucie, and Caloosahatchee rivers regions in terms of enhancing the economy of the regions.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds. Nor does the bill reduce the authority that cities and counties have to raise revenues in the aggregate or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

N/A