

Bill No. SB 1380

Amendment No.      Barcode 902472

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Laurent moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 Delete everything after the enacting clause

16 and insert:

17 Section 1. Paragraph (d) of subsection (7) of section  
18 403.067, Florida Statutes, is amended to read:

19 403.067 Establishment and implementation of total  
20 maximum daily loads.--

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

22 (d)1. The Department of Agriculture and Consumer  
23 Services may develop and adopt by rule pursuant to ss.  
24 120.536(1) and 120.54 suitable interim measures, best  
25 management practices, or other measures necessary to achieve  
26 the level of pollution reduction established by the department  
27 for agricultural pollutant sources in allocations developed  
28 pursuant to paragraph (6)(b). These practices and measures may  
29 be implemented by those parties responsible for agricultural  
30 pollutant sources and the department, the water management  
31 districts, and the Department of Agriculture and Consumer

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1 Services shall assist with implementation. Where interim  
2 measures, best management practices, or other measures are  
3 adopted by rule, the effectiveness of such practices in  
4 achieving the levels of pollution reduction established in  
5 allocations developed by the department pursuant to paragraph  
6 (6)(b) shall be verified by the department. Implementation,  
7 in accordance with applicable rules, of practices that have  
8 been verified by the department to be effective at  
9 representative sites shall provide a presumption of compliance  
10 with state water quality standards and release from the  
11 provisions of s. 376.307(5) for those pollutants addressed by  
12 the practices, and the department is not authorized to  
13 institute proceedings against the owner of the source of  
14 pollution to recover costs or damages associated with the  
15 contamination of surface or ground water caused by those  
16 pollutants. In the process of developing and adopting rules  
17 for interim measures, best management practices, or other  
18 measures, the Department of Agriculture and Consumer Services  
19 shall consult with the department, the Department of Health,  
20 the water management districts, representatives from affected  
21 farming groups, and environmental group representatives. Such  
22 rules shall also incorporate provisions for a notice of intent  
23 to implement the practices and a system to assure the  
24 implementation of the practices, including recordkeeping  
25 requirements. Where water quality problems are detected  
26 despite the appropriate implementation, operation, and  
27 maintenance of best management practices and other measures  
28 according to rules adopted under this paragraph, the  
29 Department of Agriculture and Consumer Services shall  
30 institute a reevaluation of the best management practice or  
31 other measure.

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1           2. Individual agricultural records relating to  
2 processes or methods of production, or relating to costs of  
3 production, profits, or other financial information which are  
4 otherwise not public records, which are reported to the  
5 Department of Agriculture and Consumer Services pursuant to  
6 this paragraph or pursuant to any rule adopted pursuant to  
7 this paragraph shall be confidential and exempt from s.  
8 119.07(1) and s. 24(a), Art. I of the State Constitution. Upon  
9 request of the department or any water management district,  
10 the Department of Agriculture and Consumer Services shall make  
11 such individual agricultural records available to that agency,  
12 provided that the confidentiality specified by this  
13 subparagraph for such records is maintained. This subparagraph  
14 is subject to the Open Government Sunset Review Act of 1995 in  
15 accordance with s. 119.15, and shall stand repealed on October  
16 2, 2006, unless reviewed and saved from repeal through  
17 reenactment by the Legislature.

18           Section 2. The Legislature finds that it is a public  
19 necessity that individual agricultural records as specified in  
20 s. 403.067(7)(d)2., Florida Statutes, be kept confidential and  
21 exempt when held by the Department of Agriculture and Consumer  
22 Services pursuant to the authority granted under said section.  
23 Individual agricultural records relating to processes or  
24 methods of production and to costs of production, profits, or  
25 other financial information submitted to the Department of  
26 Agriculture and Consumer Services contain sensitive business  
27 and financial information. Disclosure of such records would  
28 negatively impact the business interests of those providing  
29 the department with such records and individuals disclosing  
30 such records would hesitate to cooperate with that agency,  
31 which would impair the effective and efficient administration

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1 of governmental functions. Individual agricultural records  
 2 relating to processes or methods of production and to costs of  
 3 production, profits, or other financial information are  
 4 sensitive, proprietary business information, the release of  
 5 which would give competitors an unfair economic advantage.  
 6 Thus, the public and private harm in releasing such  
 7 information substantially outweighs the minimal public benefit  
 8 derived therefrom.

9           Section 3. This act shall take effect upon becoming a  
 10 law.

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13 ===== T I T L E    A M E N D M E N T =====

14 And the title is amended as follows:

15           Delete everything before the enacting clause

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17 and insert:

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                  A bill to be entitled

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          An act relating to public records; amending s.

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          403.067, F.S.; providing an exemption from

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          public records requirements for certain

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          individual agricultural records reported to the

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          Department of Agriculture and Consumer Services

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          in connection with its duties relating to

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          pollution reduction under the total maximum

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          daily load program for water bodies; providing

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          for future review and repeal; providing a

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          finding of public necessity; providing an

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          effective date.

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