

By the Committee on Agriculture & Consumer Affairs and
 Representatives Stansel, Alexander, Kendrick and Spratt

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 403.067, F.S.; providing an exemption from
 4 public records requirements for certain
 5 individual agricultural records reported to the
 6 Department of Agriculture and Consumer Services
 7 in connection with its duties relating to
 8 pollution reduction under the total maximum
 9 daily load program for water bodies; providing
 10 for future review and repeal; providing a
 11 finding of public necessity; providing an
 12 effective date.

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 14 Be It Enacted by the Legislature of the State of Florida:

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

18 403.067 Establishment and implementation of total
 19 maximum daily loads.--

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

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

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

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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