Florida House of Representatives - 2001 CS/CS/HB 721

By the Council for Competitive Commerce and 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
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measures, best management practices, or other measures are 1 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, in accordance with applicable rules, of practices that have 6 7 been verified by the department to be effective at representative sites shall provide a presumption of compliance 8 9 with state water quality standards and release from the provisions of s. 376.307(5) for those pollutants addressed by 10 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 pollutants. In the process of developing and adopting rules 15 16 for interim measures, best management practices, or other measures, the Department of Agriculture and Consumer Services 17 shall consult with the department, the Department of Health, 18 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 implementation of the practices, including recordkeeping 23 requirements. Where water quality problems are detected 24 despite the appropriate implementation, operation, and 25 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. 31

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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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of governmental functions. Individual agricultural records relating to processes or methods of production and to costs of production, profits, or other financial information are sensitive, proprietary business information, the release of which would give competitors an unfair economic advantage. б Thus, the public and private harm in releasing such information substantially outweighs the minimal public benefit derived therefrom. Section 3. This act shall take effect upon becoming a law.

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