

By the Committee on Agriculture

575-1154B-05

1 A bill to be entitled
2 An act relating to agricultural water
3 conservation; requiring the water management
4 districts to review permit-exemption programs
5 and recommend additional permit exemptions that
6 will encourage agricultural water conservation;
7 requiring a report by the Department of
8 Agriculture and Consumer Services to the
9 appropriate legislative committees; amending s.
10 373.236, F.S.; authorizing the issuance of
11 permits for agricultural production for a
12 specified period for uses that incorporate
13 agricultural water conservation measures and
14 provide a net reduction in water use or replace
15 a water supply source; amending s. 373.406,
16 F.S.; providing that an exemption provided for
17 activities having minimal adverse impact does
18 not apply to certain environmental restoration
19 or water quality improvement activities;
20 amending s. 373.414, F.S.; authorizing the
21 governing board of a water management district
22 or the department to adopt criteria by rule for
23 issuing permits for the use of wetlands for
24 implementing agricultural water conservation
25 measures; authorizing a water management
26 district or the department to authorize, under
27 a general permit, the on-site relocation or
28 filling of isolated wetlands on agricultural
29 lands under specified conditions; amending s.
30 373.2234, F.S.; conforming a cross-reference;
31 providing an effective date.

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

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3 Section 1. The water management districts, in
4 cooperation with the Department of Environmental Protection
5 and the Department of Agriculture and Consumer Services, shall
6 review rule criteria for environmental resource permits,
7 associated documents pertaining to the basis of review,
8 existing permit-exemption programs, and alternative to
9 standard permitting programs, such as the Agricultural Ground
10 and Surface Water Management Program implemented within the
11 Southwest Florida Water Management District, and make
12 recommendations to the Legislature regarding regulatory
13 alternatives that will encourage agricultural water
14 conservation while adequately protecting the resource. By
15 October 1, 2005, the Department of Agriculture and Consumer
16 Services shall provide recommendations developed by the review
17 to the chairs of the Senate Committee on Agriculture, the
18 Senate Committee on Environmental Preservation, the House of
19 Representatives Committee on Agriculture, and the House of
20 Representatives Committee on Water and Natural Resources.

21 Section 2. Present subsection (3) of section 373.236,
22 Florida Statutes, is redesignated as subsection (4), and a new
23 subsection (3) is added to that section, to read:

24 373.236 Duration of permits; compliance reports.--

25 (3) Permits for agricultural production shall be
26 issued for a period of 20 years for uses that incorporate
27 agricultural water conservation measures and that provide a
28 net reduction in water use or the replacement of a water
29 supply source that has been negatively impacted by water-use
30 withdrawals if there is sufficient data to provide reasonable
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1 assurance that the conditions for issuance will be met for the
2 20-year duration.

3 Section 3. Subsection (9) of section 373.406, Florida
4 Statutes, is amended to read:

5 373.406 Exemptions.--The following exemptions shall
6 apply:

7 (9) Implementation of measures having the primary
8 purpose of environmental restoration, water conservation, or
9 water quality improvement on agricultural lands are exempt
10 from regulation under this part where these measures or
11 practices are determined by the district or department, on a
12 case-by-case basis, to have minimal or insignificant
13 individual and cumulative adverse impact on the water
14 resources of the district ~~state~~. The district or department
15 shall provide written notification as to whether the proposed
16 activity qualifies for the exemption within 30 days after
17 receipt of a written notice requesting the exemption. No
18 activity under this exemption shall commence until the
19 district or department has provided written notice that the
20 activity qualifies for the exemption. This exemption does not
21 apply to any environmental restoration or water quality
22 improvement activities that are conducted as mitigation for
23 wetland or other surface water impacts or any activities
24 within a proposed mitigation bank.

25 Section 4. Subsections (4) and (9) of section 373.414,
26 Florida Statutes, are amended to read:

27 373.414 Additional criteria for activities in surface
28 waters and wetlands.--

29 (4)(a) It is the intent of the Legislature to provide
30 for the use of certain wetlands for implementing agricultural
31 water conservation measures, including the storage of

1 irrigation tailwater for future use, when such measures are
2 compatible with the ecological characteristics of such waters.
3 To accomplish this, the governing board or the department may
4 establish by rule criteria for the issuance of general permits
5 for the use of certain wetlands for implementing agricultural
6 water conservation measures. The rule must include specific
7 criteria for the rehydration of small, previously drained
8 isolated wetlands, including size thresholds and consideration
9 of the resource benefits of water conservation.

10 (b) It is the intent of the Legislature to provide for
11 the use of certain wetlands to receive and treat domestic
12 wastewater that at a minimum has been treated to secondary
13 standards. The department may by rule establish criteria for
14 this activity, which criteria protect the type, nature, and
15 function of the wetlands receiving the wastewater.

16 (9) The department and the governing boards, ~~on or~~
17 ~~before July 1, 1994,~~ shall adopt rules to incorporate the
18 provisions of this section, relying primarily on the existing
19 rules of the department and the water management districts,
20 into the rules governing the management and storage of surface
21 waters. Such rules shall seek to achieve a statewide,
22 coordinated and consistent permitting approach to activities
23 regulated under this part. Variations in permitting criteria
24 in the rules of individual water management districts or the
25 department shall only be provided to address differing
26 physical or natural characteristics. Such rules adopted
27 pursuant to this subsection shall include the special criteria
28 adopted pursuant to s. 403.061(29) and may include the special
29 criteria adopted pursuant to s. 403.061(34). Such rules shall
30 include a provision requiring that a notice of intent to deny
31 or a permit denial based upon this section shall contain an

1 explanation of the reasons for such denial and an explanation,
2 in general terms, of what changes, if any, are necessary to
3 address such reasons for denial. ~~Such~~ Rules adopted pursuant
4 to this part may establish exemptions and general permits, if
5 such exemptions and general permits do not allow significant
6 adverse impacts to occur individually or cumulatively. The
7 department and the governing boards may establish general
8 permits that authorize the on-site relocation or filling of
9 isolated wetlands that are individually less than 5 acres in
10 area for any person engaged in the occupation of agriculture
11 if such activity is consistent with the practice of such
12 occupation. This general permit may provide for sufficient
13 mitigation measures in order to offset any adverse impacts to
14 wetland functions and may authorize only up to 40 acres of
15 wetland impacts within contiguous landholdings under common
16 ownership. ~~Such~~ Rules adopted pursuant to this part may
17 require submission of proof of financial responsibility which
18 may include the posting of a bond or other form of surety
19 prior to the commencement of construction to provide
20 reasonable assurance that any activity permitted pursuant to
21 this section, including any mitigation for such permitted
22 activity, will be completed in accordance with the terms and
23 conditions of the permit once the construction is commenced.
24 Until rules adopted pursuant to this subsection become
25 effective, existing rules adopted under this part and rules
26 adopted pursuant to the authority of ss. 403.91-403.929 shall
27 be deemed authorized under this part and shall remain in full
28 force and effect. Neither the department nor the governing
29 boards are limited or prohibited from amending any such rules.
30 Section 5. Section 373.2234, Florida Statutes, is
31 amended to read:

1 373.2234 Preferred water supply sources.--The
2 governing board of a water management district is authorized
3 to adopt rules that identify preferred water supply sources
4 for consumptive uses for which there is sufficient data to
5 establish that a preferred source will provide a substantial
6 new water supply to meet the existing and projected
7 reasonable-beneficial uses of a water supply planning region
8 identified pursuant to s. 373.0361(1), while sustaining
9 existing water resources and natural systems. At a minimum,
10 such rules must contain a description of the preferred water
11 supply source and an assessment of the water the preferred
12 source is projected to produce. If an applicant proposes to
13 use a preferred water supply source, that applicant's proposed
14 water use is subject to s. 373.223(1), except that the
15 proposed use of a preferred water supply source must be
16 considered by a water management district when determining
17 whether a permit applicant's proposed use of water is
18 consistent with the public interest pursuant to s.
19 373.223(1)(c). A consumptive use permit issued for the use of
20 a preferred water supply source must be granted, when
21 requested by the applicant, for at least a 20-year period and
22 may be subject to the compliance reporting provisions of s.
23 373.236(4) ~~s. 373.236(3)~~. Nothing in this section shall be
24 construed to exempt the use of preferred water supply sources
25 from the provisions of ss. 373.016(4) and 373.223(2) and (3),
26 or be construed to provide that permits issued for the use of
27 a nonpreferred water supply source must be issued for a
28 duration of less than 20 years or that the use of a
29 nonpreferred water supply source is not consistent with the
30 public interest. Additionally, nothing in this section shall
31 be interpreted to require the use of a preferred water supply

1 source or to restrict or prohibit the use of a nonpreferred
2 water supply source. Rules adopted by the governing board of a
3 water management district to implement this section shall
4 specify that the use of a preferred water supply source is not
5 required and that the use of a nonpreferred water supply
6 source is not restricted or prohibited.

7 Section 6. This act shall take effect July 1, 2005.

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10 SENATE SUMMARY

11 Requires each water management district to review its
12 permit-exemption programs and recommend to the
13 Legislature additional permit exemptions that will
14 encourage agricultural water conservation. Authorizes
15 20-year permits for agricultural production that
16 incorporates water conservation measures and provides a
17 net reduction in water use or replaces a water supply
18 source. Authorizes the governing board of a water
19 management district or the Department of Environmental
20 Protection to adopt rules for issuing permits for the use
21 of wetlands for implementing agricultural water
22 conservation measures. Provides for a water management
23 district or the department to issue a general permit for
24 the on-site relocation or filling of isolated wetlands on
25 agricultural lands. (See bill for details.)
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