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A bill to be entitled
 An act relating to agricultural water conservation;
 requiring each water management district to review rule
 criteria for environmental resource permits, existing
 permit exemptions, and alternatives to standard permitting
 programs, and recommend regulatory alternatives that will
 encourage agricultural water conservation; requiring a
 report by the Department of Agriculture and Consumer
 Services and the Department of Environmental Protection to
 the appropriate legislative committees; amending s.
 373.236, F.S.; authorizing the issuance of permits for
 agricultural production for a specified period for uses
 that replace a water supply source that has been impacted
 by water-use withdrawals; amending s. 373.406, F.S.;
 providing that an exemption provided for activities having
 minimal adverse impact does not apply to any activities
 that are conducted as mitigation for wetland or other
 surface water impacts; amending s. 373.414, F.S.;
 authorizing the governing board of a water management
 district or the Department of Environmental Protection to
 adopt criteria by rule for issuing permits for the use of
 wetlands for implementing agricultural water conservation
 measures; amending s. 373.2234, F.S.; conforming a cross
 reference; providing an effective date.

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

Section 1. Each water management district, in cooperation

29 with the Department of Environmental Protection and the
 30 Department of Agriculture and Consumer Services, shall review
 31 rule criteria for environmental resource permits, existing
 32 permit exemptions, and alternatives to standard permitting
 33 programs, such as the Agricultural Ground and Surface Water
 34 Management Program implemented within the Southwest Florida
 35 Water Management District, and make recommendations to the
 36 Legislature regarding regulatory alternatives that will
 37 encourage agricultural water conservation. By October 1, 2005,
 38 the Department of Agriculture and Consumer Services and the
 39 Department of Environmental Protection shall provide
 40 recommendations developed by the review to the chairs of the
 41 Senate Committee on Agriculture, the Senate Committee on
 42 Environmental Preservation, the House of Representatives
 43 Committee on Agriculture, and the House of Representatives
 44 Committee on Water and Natural Resources.

45 Section 2. Subsection (3) of section 373.236, Florida
 46 Statutes, is renumbered as subsection (4), and a new subsection
 47 (3) is added to that section, to read:

48 373.236 Duration of permits; compliance reports.--

49 (3) In addition to other provisions of this section,
 50 permits for agricultural production shall be issued for a period
 51 of 20 years for uses that replace a water supply source that has
 52 been impacted by water-use withdrawals, if there is sufficient
 53 data to provide reasonable assurance that the conditions for
 54 issuance will be met for the 20-year duration; otherwise,
 55 permits may be issued for shorter durations that reflect the
 56 period for which such reasonable assurances can be provided.

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

59 373.406 Exemptions.--The following exemptions shall apply:

60 (9) Implementation of measures having the primary purpose
61 of environmental restoration, water conservation, or water
62 quality improvement on agricultural lands are exempt from
63 regulation under this part where these measures or practices are
64 determined by the district or department, on a case-by-case
65 basis, to have minimal or insignificant individual and
66 cumulative adverse impact on the water resources of the district
67 ~~state~~. The district or department shall provide written
68 notification as to whether the proposed activity qualifies for
69 the exemption within 30 days after receipt of a written notice
70 requesting the exemption. No activity under this exemption shall
71 commence until the district or department has provided written
72 notice that the activity qualifies for the exemption. This
73 exemption does not apply to any activities that are conducted as
74 mitigation for wetland or other surface water impacts or any
75 activities within a mitigation bank.

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

78 373.414 Additional criteria for activities in surface
79 waters and wetlands.--

80 (4)(a) It is the intent of the Legislature to provide for
81 the use of certain wetlands for implementing agricultural water
82 conservation measures, including the storage of irrigation
83 tailwater for future use, when such measures are compatible with
84 the ecological characteristics of such waters. To accomplish

85 this, the governing board or the department may establish by
 86 rule criteria for the issuance of general permits for the use of
 87 certain wetlands for implementing agricultural water
 88 conservation measures. At a minimum, the rule must include
 89 specific criteria for the use of small, previously drained
 90 isolated wetlands, including size thresholds, and consideration
 91 of the resource benefits of water conservation.

92 (b) It is the intent of the Legislature to provide for the
 93 use of certain wetlands to receive and treat domestic wastewater
 94 that at a minimum has been treated to secondary standards. The
 95 department may by rule establish criteria for this activity,
 96 which criteria protect the type, nature, and function of the
 97 wetlands receiving the wastewater.

98 (9) The department and the governing boards, ~~on or before~~
 99 ~~July 1, 1994,~~ shall adopt rules to incorporate the provisions of
 100 this section, relying primarily on the existing rules of the
 101 department and the water management districts, into the rules
 102 governing the management and storage of surface waters. Such
 103 rules shall seek to achieve a statewide, coordinated, and
 104 consistent permitting approach to activities regulated under
 105 this part. Variations in permitting criteria in the rules of
 106 individual water management districts or the department shall
 107 only be provided to address differing physical or natural
 108 characteristics. Such rules adopted pursuant to this subsection
 109 shall include the special criteria adopted pursuant to s.
 110 403.061(29) and may include the special criteria adopted
 111 pursuant to s. 403.061(34). Such rules shall include a provision
 112 requiring that a notice of intent to deny or a permit denial

113 based upon this section shall contain an explanation of the
 114 reasons for such denial and an explanation, in general terms, of
 115 what changes, if any, are necessary to address such reasons for
 116 denial. ~~Such~~ Rules adopted pursuant to this chapter may
 117 establish exemptions and general permits, if such exemptions and
 118 general permits do not allow significant adverse impacts to
 119 occur individually or cumulatively. ~~Such~~ Rules adopted pursuant
 120 to this part may require submission of proof of financial
 121 responsibility which may include the posting of a bond or other
 122 form of surety prior to the commencement of construction to
 123 provide reasonable assurance that any activity permitted
 124 pursuant to this section, including any mitigation for such
 125 permitted activity, will be completed in accordance with the
 126 terms and conditions of the permit once the construction is
 127 commenced. Until rules adopted pursuant to this subsection
 128 become effective, existing rules adopted under this part and
 129 rules adopted pursuant to the authority of ss. 403.91-403.929
 130 shall be deemed authorized under this part and shall remain in
 131 full force and effect. Neither the department nor the governing
 132 boards are limited or prohibited from amending any such rules.

133 Section 5. Section 373.2234, Florida Statutes, is amended
 134 to read:

135 373.2234 Preferred water supply sources.--The governing
 136 board of a water management district is authorized to adopt
 137 rules that identify preferred water supply sources for
 138 consumptive uses for which there is sufficient data to establish
 139 that a preferred source will provide a substantial new water
 140 supply to meet the existing and projected reasonable-beneficial

141 uses of a water supply planning region identified pursuant to s.
142 373.0361(1), while sustaining existing water resources and
143 natural systems. At a minimum, such rules must contain a
144 description of the preferred water supply source and an
145 assessment of the water the preferred source is projected to
146 produce. If an applicant proposes to use a preferred water
147 supply source, that applicant's proposed water use is subject to
148 s. 373.223(1), except that the proposed use of a preferred water
149 supply source must be considered by a water management district
150 when determining whether a permit applicant's proposed use of
151 water is consistent with the public interest pursuant to s.
152 373.223(1)(c). A consumptive use permit issued for the use of a
153 preferred water supply source must be granted, when requested by
154 the applicant, for at least a 20-year period and may be subject
155 to the compliance reporting provisions of s. 373.236(4)~~(3)~~.
156 Nothing in this section shall be construed to exempt the use of
157 preferred water supply sources from the provisions of ss.
158 373.016(4) and 373.223(2) and (3), or be construed to provide
159 that permits issued for the use of a nonpreferred water supply
160 source must be issued for a duration of less than 20 years or
161 that the use of a nonpreferred water supply source is not
162 consistent with the public interest. Additionally, nothing in
163 this section shall be interpreted to require the use of a
164 preferred water supply source or to restrict or prohibit the use
165 of a nonpreferred water supply source. Rules adopted by the
166 governing board of a water management district to implement this
167 section shall specify that the use of a preferred water supply
168 source is not required and that the use of a nonpreferred water

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169 | supply source is not restricted or prohibited.

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