

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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SENATE SUMMARY

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