

Bill No. CS for SB 1388

Barcode 835622

CHAMBER ACTION

Senate

House

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The Committee on Commerce and Consumer Services (Aronberg)
recommended the following amendment:

Senate Amendment (with title amendment)

On page 12, line 30, through
page 13, line 2, delete those lines

and insert:

Section 11. Paragraph (c) of subsection (7) and
subsection (11) of section 403.067, Florida Statutes, are
amended to read:

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

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.--

(c) Best management practices.--

1. The department, in cooperation with the water
management districts and other interested parties, as
appropriate, may develop suitable interim measures, best
management practices, or other measures necessary to achieve
the level of pollution reduction established by the department

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1 for nonagricultural nonpoint pollutant sources in allocations
 2 developed pursuant to subsection (6) and this subsection.
 3 These practices and measures may be adopted by rule by the
 4 department and the water management districts pursuant to ss.
 5 120.536(1) and 120.54, and, where adopted by rule, shall be
 6 implemented by those parties responsible for nonagricultural
 7 nonpoint source pollution.

8 2. The Department of Agriculture and Consumer Services
 9 may develop and adopt by rule pursuant to ss. 120.536(1) and
 10 120.54 suitable interim measures, best management practices,
 11 or other measures necessary to achieve the level of pollution
 12 reduction established by the department for agricultural
 13 pollutant sources in allocations developed pursuant to
 14 subsection (6) and this subsection or for programs implemented
 15 pursuant to paragraph (11)(b). These practices and measures
 16 may be implemented by those parties responsible for
 17 agricultural pollutant sources and the department, the water
 18 management districts, and the Department of Agriculture and
 19 Consumer Services shall assist with implementation. In the
 20 process of developing and adopting rules for interim measures,
 21 best management practices, or other measures, the Department
 22 of Agriculture and Consumer Services shall consult with the
 23 department, the Department of Health, the water management
 24 districts, representatives from affected farming groups, and
 25 environmental group representatives. Such rules shall also
 26 incorporate provisions for a notice of intent to implement the
 27 practices and a system to assure the implementation of the
 28 practices, including recordkeeping requirements.

29 3. Where interim measures, best management practices,
 30 or other measures are adopted by rule, the effectiveness of
 31 such practices in achieving the levels of pollution reduction

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1 established in allocations developed by the department
 2 pursuant to subsection (6) and this subsection or in programs
 3 implemented pursuant to paragraph (11)(b) shall be verified at
 4 representative sites by the department. The department shall
 5 use best professional judgment in making the initial
 6 verification that the best management practices are reasonably
 7 expected to be effective and, where applicable, shall notify
 8 the appropriate water management district or ~~and~~ the
 9 Department of Agriculture and Consumer Services of its initial
 10 verification prior to the adoption of a rule proposed pursuant
 11 to this paragraph. Implementation, in accordance with rules
 12 adopted under this paragraph, of practices that have been
 13 initially verified to be effective, or verified to be
 14 effective by monitoring at representative sites, by the
 15 department, or implementation of research approved by the
 16 department for the purpose of developing or demonstrating such
 17 practices, shall provide a presumption of compliance with
 18 state water quality standards and release from the provisions
 19 of s. 376.307(5) for those pollutants addressed by the
 20 practices, and the department is not authorized to institute
 21 proceedings against the owner of the source of pollution to
 22 recover costs or damages associated with the contamination of
 23 surface water or groundwater caused by those pollutants.

24 4. Where water quality problems are demonstrated,
 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, a water management district, or the Department of
 29 Agriculture and Consumer Services, in consultation with the
 30 department, shall institute a reevaluation of the best
 31 management practice or other measure. Should the reevaluation

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1 determine that the best management practice or other measure
 2 requires modification, the department, a water management
 3 district, or the Department of Agriculture and Consumer
 4 Services, as appropriate, shall revise the rule to require
 5 implementation of the modified practice within a reasonable
 6 time period as specified in the rule.

7 5. Individual agricultural records relating to
 8 processes or methods of production, or relating to costs of
 9 production, profits, or other financial information which are
 10 otherwise not public records, which are reported to the
 11 Department of Agriculture and Consumer Services pursuant to
 12 subparagraphs 3. and 4. or pursuant to any rule adopted
 13 pursuant to subparagraph 2. shall be confidential and exempt
 14 from s. 119.07(1) and s. 24(a), Art. I of the State
 15 Constitution. Upon request of the department or any water
 16 management district, the Department of Agriculture and
 17 Consumer Services shall make such individual agricultural
 18 records available to that agency, provided that the
 19 confidentiality specified by this subparagraph for such
 20 records is maintained. This subparagraph is subject to the
 21 Open Government Sunset Review Act of 1995 in accordance with
 22 s. 119.15, and shall stand repealed on October 2, 2006, unless
 23 reviewed and saved from repeal through reenactment by the
 24 Legislature.

25 6. The provisions of subparagraphs 1. and 2. shall not
 26 preclude the department or water management district from
 27 requiring compliance with water quality standards or with
 28 current best management practice requirements set forth in any
 29 applicable regulatory program authorized by law for the
 30 purpose of protecting water quality. Additionally,
 31 subparagraphs 1. and 2. are applicable only to the extent that

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1 they do not conflict with any rules adopted by the department
 2 that are necessary to maintain a federally delegated or
 3 approved program.

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6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 On page 2, line 15, after the semicolon,

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10 insert:

11 clarifying rules adopted by the department
 12 relating to best-management practices;

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