

575-162-06

1 A bill to be entitled
2 An act relating to a review under the Open
3 Government Sunset Review Act; amending s.
4 403.067, F.S., relating to an exemption from
5 public-records requirements provided for
6 individual agricultural records of processes,
7 methods of production, and costs which are not
8 otherwise public records and which are reported
9 to the Department of Agriculture and Consumer
10 Services; saving the exemption from repeal
11 under the Open Government Sunset Review Act;
12 deleting provisions providing for the repeal of
13 the exemption; providing an effective date.

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

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17 Section 1. Paragraph (c) of subsection (7) of section
18 403.067, Florida Statutes, is amended to read:

19 403.067 Establishment and implementation of total
20 maximum daily loads.--

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

23 (c) Best management practices.--

24 1. The department, in cooperation with the water
25 management districts and other interested parties, as
26 appropriate, may develop suitable interim measures, best
27 management practices, or other measures necessary to achieve
28 the level of pollution reduction established by the department
29 for nonagricultural nonpoint pollutant sources in allocations
30 developed pursuant to subsection (6) and this subsection.

31 These practices and measures may be adopted by rule by the

1 department and the water management districts pursuant to ss.
2 120.536(1) and 120.54, and, where adopted by rule, shall be
3 implemented by those parties responsible for nonagricultural
4 nonpoint source pollution.

5 2. The Department of Agriculture and Consumer Services
6 may develop and adopt by rule pursuant to ss. 120.536(1) and
7 120.54 suitable interim measures, best management practices,
8 or other measures necessary to achieve the level of pollution
9 reduction established by the department for agricultural
10 pollutant sources in allocations developed pursuant to
11 subsection (6) and this subsection. These practices and
12 measures may be implemented by those parties responsible for
13 agricultural pollutant sources and the department, the water
14 management districts, and the Department of Agriculture and
15 Consumer Services shall assist with implementation. In the
16 process of developing and adopting rules for interim measures,
17 best management practices, or other measures, the Department
18 of Agriculture and Consumer Services shall consult with the
19 department, the Department of Health, the water management
20 districts, representatives from affected farming groups, and
21 environmental group representatives. Such rules shall also
22 incorporate provisions for a notice of intent to implement the
23 practices and a system to assure the implementation of the
24 practices, including recordkeeping requirements.

25 3. Where interim measures, best management practices,
26 or other measures are adopted by rule, the effectiveness of
27 such practices in achieving the levels of pollution reduction
28 established in allocations developed by the department
29 pursuant to subsection (6) and this subsection shall be
30 verified at representative sites by the department. The
31 department shall use best professional judgment in making the

1 initial verification that the best management practices are
2 effective and, where applicable, shall notify the appropriate
3 water management district and the Department of Agriculture
4 and Consumer Services of its initial verification prior to the
5 adoption of a rule proposed pursuant to this paragraph.
6 Implementation, in accordance with rules adopted under this
7 paragraph, of practices that have been initially verified to
8 be effective, or verified to be effective by monitoring at
9 representative sites, by the department, shall provide a
10 presumption of compliance with state water quality standards
11 and release from the provisions of s. 376.307(5) for those
12 pollutants addressed by the practices, and the department is
13 not authorized to institute proceedings against the owner of
14 the source of pollution to recover costs or damages associated
15 with the contamination of surface water or groundwater caused
16 by those pollutants.

17 4. Where water quality problems are demonstrated,
18 despite the appropriate implementation, operation, and
19 maintenance of best management practices and other measures
20 according to rules adopted under this paragraph, the
21 department, a water management district, or the Department of
22 Agriculture and Consumer Services, in consultation with the
23 department, shall institute a reevaluation of the best
24 management practice or other measure. Should the reevaluation
25 determine that the best management practice or other measure
26 requires modification, the department, a water management
27 district, or the Department of Agriculture and Consumer
28 Services, as appropriate, shall revise the rule to require
29 implementation of the modified practice within a reasonable
30 time period as specified in the rule.

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1 5. 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 subparagraphs 3. and 4. or pursuant to any rule adopted
7 pursuant to subparagraph 2. shall be confidential and exempt
8 from s. 119.07(1) and s. 24(a), Art. I of the State
9 Constitution. Upon request of the department or any water
10 management district, the Department of Agriculture and
11 Consumer Services shall make such individual agricultural
12 records available to that agency, provided that the
13 confidentiality specified by this subparagraph for such
14 records is maintained. ~~This subparagraph is subject to the~~
15 ~~Open Government Sunset Review Act of 1995 in accordance with~~
16 ~~s. 119.15, and shall stand repealed on October 2, 2006, unless~~
17 ~~reviewed and saved from repeal through reenactment by the~~
18 ~~Legislature.~~

19 6. The provisions of subparagraphs 1. and 2. shall not
20 preclude the department or water management district from
21 requiring compliance with water quality standards or with
22 current best management practice requirements set forth in any
23 applicable regulatory program authorized by law for the
24 purpose of protecting water quality. Additionally,
25 subparagraphs 1. and 2. are applicable only to the extent that
26 they do not conflict with any rules adopted by the department
27 that are necessary to maintain a federally delegated or
28 approved program.

29 Section 2. This act shall take effect October 1, 2006.
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