

By Senator Siplin

19-00664-11

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1 A bill to be entitled
2 An act relating to agricultural-related exemptions to
3 water management requirements; amending s. 373.406,
4 F.S.; revising an exemption for agricultural-related
5 activities to include certain impacts to surface
6 waters and wetlands; providing for retroactive
7 application of the exemption; amending s. 373.407,
8 F.S.; providing exclusive authority to the Department
9 of Agriculture and Consumer Services to determine
10 whether certain activities qualify for an
11 agricultural-related exemption under specified
12 conditions; requiring a specified memorandum of
13 agreement between the department and each water
14 management district; authorizing the department to
15 adopt rules; amending s. 403.927, F.S.; providing an
16 exemption from mitigation requirements for converted
17 agricultural lands under certain conditions; revising
18 the definition of the term "agricultural activities"
19 to include cultivating, fallowing, and leveling and to
20 provide for certain impacts to surface waters and
21 wetlands; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsection (2) of section 373.406, Florida
26 Statutes, is amended to read:

27 373.406 Exemptions.—The following exemptions shall apply:
28 (2) Notwithstanding s. 403.927, nothing herein, or in any
29 rule, regulation, or order adopted pursuant hereto, shall be

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30 construed to affect the right of any person engaged in the
31 occupation of agriculture, silviculture, floriculture, or
32 horticulture to alter the topography of any tract of land,
33 including, but not limited to, activities that may impede or
34 divert the flow of surface waters or adversely impact wetlands,
35 for purposes consistent with the practice of such occupation.
36 However, such alteration or activity may not be for the sole or
37 predominant purpose of impeding impounding or diverting the flow
38 of obstructing surface waters or adversely impacting wetlands.
39 This exemption has retroactive application to July 1, 1984.

40 Section 2. Section 373.407, Florida Statutes, is amended to
41 read:

42 373.407 Determination of qualification ~~Memorandum of~~
43 ~~agreement~~ for an agricultural-related exemption. In the event of
44 a dispute as to the applicability of an exemption, No later than
45 July 1, 2007, the Department of Agriculture and Consumer
46 Services and each water management district shall enter into a
47 memorandum of agreement under which the Department of
48 Agriculture and Consumer Services shall assist in a
49 determination by a water management district or landowner may as
50 to whether an existing or proposed activity qualifies for the
51 exemption in s. 373.406(2). The memorandum of agreement shall
52 provide a process by which, upon the request of a water
53 management district, the Department of Agriculture and Consumer
54 Services to make a binding determination shall conduct a
55 nonbinding review as to whether an existing or proposed activity
56 qualifies for an agricultural-related exemption under ~~in~~ s.
57 373.406(2). The Department of Agriculture and Consumer Services
58 and each water management district shall enter into a memorandum

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59 of agreement or amend an existing memorandum of agreement which
60 sets forth shall provide processes and procedures by which the
61 Department of Agriculture and Consumer Services shall undertake
62 its this review, make a determination effectively and
63 efficiently, and provide notice of its determination to the
64 applicable water management district or landowner. The
65 Department of Agriculture and Consumer Services has exclusive
66 authority to make the determination under this section and may
67 adopt rules to implement this section and s. 373.406(2) issue a
68 recommendation.

69 Section 3. Subsection (3) and paragraph (a) of subsection
70 (4) of section 403.927, Florida Statutes, are amended to read:

71 403.927 Use of water in farming and forestry activities.—

72 (3) If land served by a water management system is
73 converted to a use other than an agricultural use, the water
74 management system, or the portion of the system which serves
75 that land, will be subject to the provisions of this chapter.
76 However, mitigation under chapter 373 or this chapter to offset
77 any adverse effects caused by agricultural activities that
78 occurred before the conversion of the land is not required if
79 the activities occurred on the land in at least 4 of the last 7
80 years preceding the conversion.

81 (4) As used in this section, the term:

82 (a) "Agricultural activities" includes all necessary
83 farming and forestry operations which are normal and customary
84 for the area, such as site preparation, clearing, fencing,
85 contouring to prevent soil erosion, soil preparation, plowing,
86 planting, cultivating, harvesting, fallowing, leveling,
87 construction of access roads, and placement of bridges and

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88 culverts, provided such operations are not for the sole or
89 predominant purpose of impeding ~~do not impede~~ or diverting
90 ~~divert~~ the flow of surface waters or adversely impacting
91 wetlands.

92 Section 4. This act shall take effect July 1, 2011.