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LEGISLATIVE ACTION

Senate

House

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Floor: WD/2R

05/02/2011 03:42 PM

Senator Siplin moved the following:

Senate Amendment (with title amendment)

Delete lines 52 - 67

and insert:

Section 1. Subsection (2) of section 373.406, Florida Statutes, is amended, and subsection (12) is added to that section, to read:

373.406 Exemptions.—The following exemptions shall apply:

(2) Notwithstanding s. 403.927, nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any person engaged in the occupation of agriculture, silviculture, floriculture, or horticulture to alter the topography of any tract of land,



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14 including, but not limited to, activities that may impede or
15 divert the flow of surface waters or adversely impact wetlands,
16 for purposes consistent with the normal and customary practice
17 of such occupation in the area. However, such alteration or
18 activity may not be for the sole or predominant purpose of
19 impeding ~~impounding~~ or diverting the flow of ~~obstructing~~ surface
20 waters or adversely impacting wetlands. This exemption applies
21 retroactively to July 1, 1984. This exemption applies to lands
22 classified as agricultural pursuant to s. 193.461 and to
23 activities requiring an environmental resource permit pursuant
24 to this part. However, this exemption does not apply to any
25 activities previously authorized by an environmental resource
26 permit, a permit for the management and storage of surface
27 waters issued pursuant to this part, or a dredge and fill permit
28 issued pursuant to chapter 403.

29 (12) An overwater pier, dock, or a similar structure
30 located in a deepwater port listed in s. 311.09 is not
31 considered to be part of a stormwater management system for
32 which this chapter or chapter 403 requires stormwater from
33 impervious surfaces to be treated if:

34 (a) The port has a stormwater pollution prevention plan for
35 industrial activities pursuant to the National Pollutant
36 Discharge Elimination System Program; and

37 (b) The stormwater pollution prevention plan also provides
38 similar pollution prevention measures for other activities that
39 are not subject to the National Pollutant Discharge Elimination
40 System Program and that occur on the port's overwater piers,
41 docks, and similar structures.

42 Section 2. Section 373.407, Florida Statutes, is amended to



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43 read:

44 373.407 Determination of qualification Memorandum of
45 agreement for an agricultural-related exemption.~~In the event of~~
46 a dispute as to the applicability of an exemption, No later than
47 July 1, 2007, the Department of Agriculture and Consumer
48 Services and each water management district shall enter into a
49 memorandum of agreement under which the Department of
50 Agriculture and Consumer Services shall assist in a
51 determination by a water management district or landowner may as
52 to whether an existing or proposed activity qualifies for the
53 exemption in s. 373.406(2). The memorandum of agreement shall
54 provide a process by which, upon the request of a water
55 management district, the Department of Agriculture and Consumer
56 Services to make a binding determination shall conduct a
57 nonbinding review as to whether an existing or proposed activity
58 qualifies for an agricultural-related exemption under in s.
59 373.406(2). The Department of Agriculture and Consumer Services
60 and each water management district shall enter into a memorandum
61 of agreement or amend an existing memorandum of agreement which
62 sets forth shall provide processes and procedures by which the
63 Department of Agriculture and Consumer Services shall undertake
64 its this review, make a determination effectively and
65 efficiently, and provide notice of its determination to the
66 applicable water management district or landowner. The
67 Department of Agriculture and Consumer Services has exclusive
68 authority to make the determination under this section and may
69 adopt rules to implement this section and s. 373.406(2) issue a
70 recommendation.

71 Section 3. Subsection (3) and paragraph (a) of subsection



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72 (4) of section 403.927, Florida Statutes, are amended to read:

73 403.927 Use of water in farming and forestry activities.—

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

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

84 (a) "Agricultural activities" includes all necessary
85 farming and forestry operations which are normal and customary
86 for the area, such as site preparation, clearing, fencing,
87 contouring to prevent soil erosion, soil preparation, plowing,
88 planting, cultivating, harvesting, fallowing, leveling,
89 construction of access roads, and placement of bridges and
90 culverts, and implementation of best management practices
91 adopted by the Department of Agriculture and Consumer Services
92 or practice standards adopted by the United States Department of
93 Agriculture's Natural Resources Conservation Service, provided
94 such operations are not for the sole or predominant purpose of
95 impeding ~~do not impede~~ or diverting ~~divert~~ the flow of surface
96 waters or adversely impacting wetlands.

97
98 ===== T I T L E A M E N D M E N T =====

99 And the title is amended as follows:

100 Delete lines 2 - 5



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101 and insert:

102 An act relating to water management requirements;
103 amending s. 373.406, F.S.; revising an exemption for
104 agricultural-related activities to include certain
105 impacts to surface waters and wetlands; providing for
106 retroactive application of the exemption; providing
107 that the exemption applies to certain agricultural
108 lands and certain activities requiring an
109 environmental resource permit and does not apply to
110 specified permitted activities; exempting overwater
111 piers, docks, and structures located in deepwater
112 ports from stormwater management system requirements
113 under specified conditions; amending s. 373.407, F.S.;
114 providing exclusive authority to the Department of
115 Agriculture and Consumer Services to determine whether
116 certain activities qualify for an agricultural-related
117 exemption under specified conditions; requiring a
118 specified memorandum of agreement between the
119 department and each water management district;
120 authorizing the department to adopt rules; amending s.
121 403.927, F.S.; providing an exemption from mitigation
122 requirements for converted agricultural lands under
123 certain conditions; revising the definition of the
124 term "agricultural activities" to include cultivating,
125 fallowing, and leveling and to provide for certain
126 impacts to surface waters and wetlands;