

By Senator Evers

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1 A bill to be entitled
2 An act relating to management and storage of surface
3 waters; amending s. 373.406, F.S.; expanding an
4 exemption to include activities that require a permit
5 issued by a local government which is similar to an
6 environmental resource permit; amending s. 373.407,
7 F.S.; authorizing a local government to request the
8 Department of Agriculture and Consumer Services to
9 make a binding determination as to whether an existing
10 or proposed activity qualifies for an agricultural-
11 related exemption; requiring a local government to
12 comply with the memorandum of agreement between the
13 department and the water management district having
14 jurisdiction; requiring a local government to provide
15 certain information to the department; providing an
16 effective date.

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

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20 Section 1. Subsection (2) of section 373.406, Florida
21 Statutes, is amended to read:

22 373.406 Exemptions.—The following exemptions shall apply:
23 (2) Notwithstanding s. 403.927, nothing herein, or in any
24 rule, regulation, or order adopted pursuant hereto, shall be
25 construed to affect the right of any person engaged in the
26 occupation of agriculture, silviculture, floriculture, or
27 horticulture to alter the topography of any tract of land,
28 including, but not limited to, activities that may impede or
29 divert the flow of surface waters or adversely impact wetlands,

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30 for purposes consistent with the normal and customary practice
31 of such occupation in the area. However, such alteration or
32 activity may not be for the sole or predominant purpose of
33 impeding or diverting the flow of surface waters or adversely
34 impacting wetlands. This exemption applies to lands classified
35 as agricultural pursuant to s. 193.461 and to activities
36 requiring an environmental resource permit pursuant to this part
37 or any similar permit issued by a local government. This
38 exemption does not apply to any activities previously authorized
39 by an environmental resource permit or a management and storage
40 of surface water permit issued pursuant to this part or a dredge
41 and fill permit issued pursuant to chapter 403. This exemption
42 has retroactive application to July 1, 1984.

43 Section 2. Section 373.407, Florida Statutes, is amended to
44 read:

45 373.407 Determination of qualification for an agricultural-
46 related exemption.—In the event of a dispute as to the
47 applicability of an exemption, a water management district,
48 local government, or landowner may request the Department of
49 Agriculture and Consumer Services to make a binding
50 determination as to whether an existing or proposed activity
51 qualifies for an agricultural-related exemption under s.
52 373.406(2). The Department of Agriculture and Consumer Services
53 and each water management district shall enter into a memorandum
54 of agreement or amend an existing memorandum of agreement which
55 sets forth processes and procedures by which the Department of
56 Agriculture and Consumer Services shall undertake its review,
57 make a determination effectively and efficiently, and provide
58 notice of its determination to the applicable water management

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59 district, local government, or landowner. A local government
60 must comply with the memorandum of agreement entered into by the
61 water management district having jurisdiction and, upon
62 receiving notice of a determination from the Department of
63 Agriculture and Consumer Services, must provide to the
64 department the contact information of all affected persons to
65 whom notice must also be given. The Department of Agriculture
66 and Consumer Services has exclusive authority to make the
67 determination under this section and may adopt rules to
68 implement this section and s. 373.406(2).

69 Section 3. This act shall take effect July 1, 2013.