

By Senator Burton

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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.; providing an
4 exemption from surface water management and storage
5 regulations for the implementation of certain measures
6 and practices for environmental habitat creation,
7 restoration, and enhancement activities and water
8 quality improvements on specified agricultural lands
9 and government-owned lands; providing a condition and
10 requirements for the measures and practices; requiring
11 property owners or their designees to provide written
12 notifications that meet certain requirements to the
13 water management district or Department of
14 Environmental Protection before commencing work;
15 removing requirements for adverse impacts on water
16 resources, certain notification by the department and
17 water management districts, and commencement of
18 activities; providing an effective date.

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

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22 Section 1. Subsection (9) of section 373.406, Florida
23 Statutes, is amended to read:

24 373.406 Exemptions.—The following exemptions shall apply:
25 (9) Implementation of measures or practices for ~~having~~ the
26 primary purpose of environmental habitat creation, restoration,
27 or enhancement activities or water quality improvements
28 ~~improvement~~ on lands classified as agricultural pursuant to s.
29 193.461 or government-owned lands are exempt from regulation

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30 under this part ~~where these measures or practices are determined~~
31 ~~by the district or department, on a case-by-case basis, to have~~
32 ~~minimal or insignificant individual and cumulative adverse~~
33 ~~impact on the water resources of the state.~~

34 (a) The measures or practices may alter the topography of
35 the land, including activities and improvements that divert the
36 flow of surface waters or impact wetlands on the land, if the
37 activities or improvements result in a net increase in wetland
38 resource functions. The activities or improvements must be
39 planned, designed, and implemented to result in a wetland
40 habitat that resembles the characteristics of a functional
41 wetland habitat in the same region, such as a herbaceous or
42 forested wetland. The implementation of measures or practices
43 that result in a permanent net loss of wetland functions or a
44 violation of water quality standards do not qualify for an
45 exemption pursuant to this subsection.

46 (b) The owner of the property where the measures or
47 practices will be implemented, or their designee, the district
48 or department shall provide written notification to the water
49 management district or the department as to whether the proposed
50 activity qualifies for the exemption within 30 days before
51 commencing work pursuant to this subsection. If the measures or
52 practices under this subsection are performed to implement a
53 mitigation bank or an offsite regional mitigation area, before
54 commencing such activities, the property owner must confirm
55 compliance with ss. 373.4135 and 373.4136 and the rules adopted
56 pursuant to those sections by providing to the water management
57 district or department evidence of a permit issued pursuant to
58 those sections. This subsection does not authorize a property

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59 owner to use mitigation to offset impacts except through
60 compliance with ss. 373.4135 and 373.4136 and the rules adopted
61 pursuant to those sections ~~after receipt of a written notice~~
62 ~~requesting the exemption. No activity under this exemption shall~~
63 ~~commence until the district or department has provided written~~
64 ~~notice that the activity qualifies for the exemption.~~

65 Section 2. This act shall take effect July 1, 2023.