

Council Substitute for
Committee Substitute for House Bill No. 721

An act relating to public records; amending s. 403.067, F.S.; providing an exemption from public records requirements for certain individual agricultural records reported to the Department of Agriculture and Consumer Services in connection with its duties relating to pollution reduction under the total maximum daily load program for water bodies; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

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

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

403.067 Establishment and implementation of total maximum daily loads.—

(7) IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

(d)1. The Department of Agriculture and Consumer Services may develop and adopt by rule pursuant to ss. 120.536(1) and 120.54 suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for agricultural pollutant sources in allocations developed pursuant to paragraph (6)(b). These practices and measures may be implemented by those parties responsible for agricultural pollutant sources and the department, the water management districts, and the Department of Agriculture and Consumer Services shall assist with implementation. Where interim measures, best management practices, or other measures are adopted by rule, the effectiveness of such practices in achieving the levels of pollution reduction established in allocations developed by the department pursuant to paragraph (6)(b) shall be verified by the department. Implementation, in accordance with applicable rules, of practices that have been verified by the department to be effective at representative sites shall provide a presumption of compliance with state water quality standards and release from the provisions of s. 376.307(5) for those pollutants addressed by the practices, and the department is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface or ground water caused by those pollutants. In the process of developing and adopting rules for interim measures, best management practices, or other measures, the Department of Agriculture and Consumer Services shall consult with the department, the Department of Health, the water management districts, representatives from affected farming groups, and environmental group representatives. Such rules shall also incorporate provisions for a notice of intent to implement the practices and a system to assure the implementation of the practices, including recordkeeping requirements. Where water quality problems are detected despite the appropriate implementation, operation, and maintenance of best

management practices and other measures according to rules adopted under this paragraph, the Department of Agriculture and Consumer Services shall institute a reevaluation of the best management practice or other measure.

2. Individual agricultural records relating to processes or methods of production, or relating to costs of production, profits, or other financial information which are otherwise not public records, which are reported to the Department of Agriculture and Consumer Services pursuant to this paragraph or pursuant to any rule adopted pursuant to this paragraph shall be confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Upon request of the department or any water management district, the Department of Agriculture and Consumer Services shall make such individual agricultural records available to that agency, provided that the confidentiality specified by this subparagraph for such records is maintained. This subparagraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that individual agricultural records as specified in s. 403.067(7)(d)2., Florida Statutes, be kept confidential and exempt when held by the Department of Agriculture and Consumer Services pursuant to the authority granted under said section. Individual agricultural records relating to processes or methods of production and to costs of production, profits, or other financial information submitted to the Department of Agriculture and Consumer Services contain sensitive business and financial information. Disclosure of such records would negatively impact the business interests of those providing the department with such records and individuals disclosing such records would hesitate to cooperate with that agency, which would impair the effective and efficient administration of governmental functions. Individual agricultural records relating to processes or methods of production and to costs of production, profits, or other financial information are sensitive, proprietary business information, the release of which would give competitors an unfair economic advantage. Thus, the public and private harm in releasing such information substantially outweighs the minimal public benefit derived therefrom.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor May 29, 2001.

Filed in Office Secretary of State May 29, 2001.