

By Senator Stewart

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1                   A bill to be entitled  
2       An act relating to basin management; amending s.  
3       403.067, F.S.; requiring the Department of Agriculture  
4       and Consumer Services to compile and provide the  
5       Department of Environmental Protection with annual  
6       reports of nutrient applications within certain  
7       basins; authorizing the Department of Agriculture and  
8       Consumer Services to request nutrient management and  
9       application records from responsible parties within  
10      such basins; providing an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

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14       Section 1. Paragraph (c) of subsection (7) of section  
15       403.067, Florida Statutes, is amended to read:

16       403.067 Establishment and implementation of total maximum  
17       daily loads.—

18       (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND  
19       IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

20       (c) *Best management practices.*—

21       1. The department, in cooperation with the water management  
22       districts and other interested parties, as appropriate, may  
23       develop suitable interim measures, best management practices, or  
24       other measures necessary to achieve the level of pollution  
25       reduction established by the department for nonagricultural  
26       nonpoint pollutant sources in allocations developed pursuant to  
27       subsection (6) and this subsection. These practices and measures  
28       may be adopted by rule by the department and the water  
29       management districts and, where adopted by rule, shall be

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30 implemented by those parties responsible for nonagricultural  
31 nonpoint source pollution.

32 2. The Department of Agriculture and Consumer Services may  
33 develop and adopt by rule pursuant to ss. 120.536(1) and 120.54  
34 suitable interim measures, best management practices, or other  
35 measures necessary to achieve the level of pollution reduction  
36 established by the department for agricultural pollutant sources  
37 in allocations developed pursuant to subsection (6) and this  
38 subsection or for programs implemented pursuant to paragraph  
39 (12) (b). These practices and measures may be implemented by  
40 those parties responsible for agricultural pollutant sources and  
41 the department, the water management districts, and the  
42 Department of Agriculture and Consumer Services shall assist  
43 with implementation. In the process of developing and adopting  
44 rules for interim measures, best management practices, or other  
45 measures, the Department of Agriculture and Consumer Services  
46 shall consult with the department, the Department of Health, the  
47 water management districts, representatives from affected  
48 farming groups, and environmental group representatives. Such  
49 rules must also incorporate provisions for a notice of intent to  
50 implement the practices and a system to assure the  
51 implementation of the practices, including site inspection and  
52 recordkeeping requirements.

53 3. Where interim measures, best management practices, or  
54 other measures are adopted by rule, the effectiveness of such  
55 practices in achieving the levels of pollution reduction  
56 established in allocations developed by the department pursuant  
57 to subsection (6) and this subsection or in programs implemented  
58 pursuant to paragraph (12) (b) must be verified at representative

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59 sites by the department. The department shall use best  
60 professional judgment in making the initial verification that  
61 the best management practices are reasonably expected to be  
62 effective and, where applicable, must notify the appropriate  
63 water management district or the Department of Agriculture and  
64 Consumer Services of its initial verification before the  
65 adoption of a rule proposed pursuant to this paragraph.  
66 Implementation, in accordance with rules adopted under this  
67 paragraph, of practices that have been initially verified to be  
68 effective, or verified to be effective by monitoring at  
69 representative sites, by the department, shall provide a  
70 presumption of compliance with state water quality standards and  
71 release from the provisions of s. 376.307(5) for those  
72 pollutants addressed by the practices, and the department is not  
73 authorized to institute proceedings against the owner of the  
74 source of pollution to recover costs or damages associated with  
75 the contamination of surface water or groundwater caused by  
76 those pollutants. Research projects funded by the department, a  
77 water management district, or the Department of Agriculture and  
78 Consumer Services to develop or demonstrate interim measures or  
79 best management practices shall be granted a presumption of  
80 compliance with state water quality standards and a release from  
81 the provisions of s. 376.307(5). The presumption of compliance  
82 and release is limited to the research site and only for those  
83 pollutants addressed by the interim measures or best management  
84 practices. Eligibility for the presumption of compliance and  
85 release is limited to research projects on sites where the owner  
86 or operator of the research site and the department, a water  
87 management district, or the Department of Agriculture and

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88 Consumer Services have entered into a contract or other  
89 agreement that, at a minimum, specifies the research objectives,  
90 the cost-share responsibilities of the parties, and a schedule  
91 that details the beginning and ending dates of the project.

92 4. Where water quality problems are demonstrated, despite  
93 the appropriate implementation, operation, and maintenance of  
94 best management practices and other measures required by rules  
95 adopted under this paragraph, the department, a water management  
96 district, or the Department of Agriculture and Consumer  
97 Services, in consultation with the department, shall institute a  
98 reevaluation of the best management practice or other measure.  
99 Should the reevaluation determine that the best management  
100 practice or other measure requires modification, the department,  
101 a water management district, or the Department of Agriculture  
102 and Consumer Services, as appropriate, shall revise the rule to  
103 require implementation of the modified practice within a  
104 reasonable time period as specified in the rule.

105 5. Agricultural records relating to processes or methods of  
106 production, costs of production, profits, or other financial  
107 information held by the Department of Agriculture and Consumer  
108 Services pursuant to subparagraphs 3. and 4. or pursuant to any  
109 rule adopted pursuant to subparagraph 2. are confidential and  
110 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
111 Constitution. Upon request, records made confidential and exempt  
112 pursuant to this subparagraph shall be released to the  
113 department or any water management district provided that the  
114 confidentiality specified by this subparagraph for such records  
115 is maintained.

116 6. ~~The provisions of~~ Subparagraphs 1. and 2. do not

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117 preclude the department or water management district from  
118 requiring compliance with water quality standards or with  
119 current best management practice requirements set forth in any  
120 applicable regulatory program authorized by law for the purpose  
121 of protecting water quality. Additionally, subparagraphs 1. and  
122 2. are applicable only to the extent that they do not conflict  
123 with any rules adopted by the department that are necessary to  
124 maintain a federally delegated or approved program.

125 7. The Department of Agriculture and Consumer Services  
126 shall compile and provide to the department annual reports of  
127 nutrient applications within each basin where a basin management  
128 action plan is required to meet total maximum daily loads. The  
129 Department of Agriculture and Consumer Services may request the  
130 release of nutrient management and application records from  
131 landowners, dischargers, and other responsible parties within  
132 such a basin.

133 Section 2. This act shall take effect July 1, 2017.