

1 A bill to be entitled
 2 An act relating to agricultural practices; providing
 3 legislative findings and intent; amending s. 373.4595,
 4 F.S.; revising the definition of the term "best
 5 management practice"; amending s. 403.067, F.S.;
 6 requiring, rather than authorizing, the Department of
 7 Agriculture and Consumer Services to develop and adopt
 8 rules for interim measures, best management practices,
 9 or other measures to achieve certain levels of
 10 pollution reduction statewide; requiring the
 11 department to develop and adopt rules for guidelines
 12 for providing financial assistance to parties
 13 implementing such measures and practices; providing
 14 that such financial assistance is exempt from certain
 15 provisions; requiring the department to update the
 16 rules within a specified timeframe; requiring
 17 department rules to provide specified administrative
 18 fines for failing to implement or comply with the
 19 measures or practices; providing an effective date.

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

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 23 Section 1. The Legislature finds that interim measures,
 24 best management practices, and other measures implemented
 25 pursuant to ss. 373.4595 and 403.067, Florida Statutes, have

26 multifaceted benefits, including improvements in water quality,
 27 water conservation, and climate resiliency. It is the intent of
 28 the Legislature to recognize the benefits provided by these
 29 practices and measures and to incentivize their implementation
 30 through prioritization from the technical and financial
 31 assistance provided by the Department of Agriculture and
 32 Consumer Services, Department of Environmental Protection, and
 33 water management districts.

34 Section 2. Paragraph (a) of subsection (2) of section
 35 373.4595, Florida Statutes, is amended to read:

36 373.4595 Northern Everglades and Estuaries Protection
 37 Program.—

38 (2) DEFINITIONS.—As used in this section, the term:

39 (a) "Best management practice" means a practice or
 40 combination of practices determined by the coordinating
 41 agencies, based on research, field-testing, and expert review,
 42 to be the most effective and practicable on-location means,
 43 including economic and technological considerations, for
 44 improving water quality and conservation in agricultural and
 45 urban discharges. Best management practices for agricultural
 46 discharges must ~~shall~~ reflect a balance between water quality
 47 improvements and agricultural productivity and must incentivize
 48 increased climate resiliency in agricultural production.

49 Section 3. Paragraphs (c) and (d) of subsection (7) of
 50 section 403.067, Florida Statutes, are amended to read:

51 403.067 Establishment and implementation of total maximum
 52 daily loads.—

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

55 (c) *Best management practices*.—

56 1. The department, in cooperation with the water
 57 management districts and other interested parties, as
 58 appropriate, may develop suitable interim measures, best
 59 management practices, or other measures necessary to achieve the
 60 level of pollution reduction established by the department for
 61 nonagricultural nonpoint pollutant sources in allocations
 62 developed pursuant to subsection (6) and this subsection. These
 63 practices and measures may be adopted by rule by the department
 64 and the water management districts and, where adopted by rule,
 65 shall be implemented by those parties responsible for
 66 nonagricultural nonpoint source pollution.

67 2. The Department of Agriculture and Consumer Services
 68 shall ~~may~~ develop and adopt by rule pursuant to ss. 120.536(1)
 69 and 120.54 suitable interim measures, best management practices,
 70 or other measures necessary to achieve the level of pollution
 71 reduction established by the department for agricultural
 72 pollutant sources in allocations developed pursuant to
 73 subsection (6) and this subsection or for programs implemented
 74 pursuant to paragraph (12)(b). These practices and measures must
 75 ~~may~~ be implemented by those parties responsible for agricultural

76 pollutant sources statewide, and the department, the water
77 management districts, and the Department of Agriculture and
78 Consumer Services shall assist with implementation. In the
79 process of developing and adopting rules for interim measures,
80 best management practices, or other measures, the Department of
81 Agriculture and Consumer Services shall consult with the
82 department, the Department of Health, the water management
83 districts, representatives from affected farming groups, and
84 environmental group representatives. Such rules must also
85 incorporate provisions for a notice of intent to implement the
86 practices and a system to assure the implementation of the
87 practices, including site inspection and recordkeeping
88 requirements. The Department of Agriculture and Consumer
89 Services shall also develop and adopt rules to establish
90 guidelines for providing financial assistance to parties for
91 implementing interim measures, best management practices, or
92 other measures and shall consider economic feasibility in
93 developing the rules. Any financial assistance procured pursuant
94 to such rules is exempt from s. 287.057. The Department of
95 Agriculture and Consumer Services shall update rules adopted
96 pursuant to this subparagraph at least every 5 years or within a
97 year after the completion of the scientific and technical
98 research conducted pursuant to paragraph (f), including updates
99 to nutrient application rates for all agricultural soil
100 amendments.

101 3. When interim measures, best management practices, or
102 other measures are adopted by rule, the effectiveness of such
103 practices in achieving the levels of pollution reduction
104 established in allocations developed by the department pursuant
105 to subsection (6) and this subsection or in programs implemented
106 pursuant to paragraph (12)(b) must be verified at representative
107 sites by the department. The department shall use best
108 professional judgment in making the initial verification that
109 the best management practices are reasonably expected to be
110 effective and, when applicable, shall notify the appropriate
111 water management district or the Department of Agriculture and
112 Consumer Services of its initial verification before the
113 adoption of a rule proposed pursuant to this paragraph.
114 Implementation, in accordance with rules adopted under this
115 paragraph, of practices that have been initially verified to be
116 effective, or verified to be effective by monitoring at
117 representative sites, by the department, shall provide a
118 presumption of compliance with state water quality standards and
119 release from s. 376.307(5) for those pollutants addressed by the
120 practices, and the department is not authorized to institute
121 proceedings against the owner of the source of pollution to
122 recover costs or damages associated with the contamination of
123 surface water or groundwater caused by those pollutants.
124 Research projects funded by the department, a water management
125 district, or the Department of Agriculture and Consumer Services

126 to develop or demonstrate interim measures or best management
127 practices shall be granted a presumption of compliance with
128 state water quality standards and a release from s. 376.307(5).
129 The presumption of compliance and release is limited to the
130 research site and only for those pollutants addressed by the
131 interim measures or best management practices. Eligibility for
132 the presumption of compliance and release is limited to research
133 projects on sites where the owner or operator of the research
134 site and the department, a water management district, or the
135 Department of Agriculture and Consumer Services have entered
136 into a contract or other agreement that, at a minimum, specifies
137 the research objectives, the cost-share responsibilities of the
138 parties, and a schedule that details the beginning and ending
139 dates of the project.

140 4. When water quality problems are demonstrated, despite
141 the appropriate implementation, operation, and maintenance of
142 best management practices and other measures required by rules
143 adopted under this paragraph, the department, a water management
144 district, or the Department of Agriculture and Consumer
145 Services, in consultation with the department, shall institute a
146 reevaluation of the best management practice or other measure.
147 If the reevaluation determines that the best management practice
148 or other measure requires modification, the department, a water
149 management district, or the Department of Agriculture and
150 Consumer Services, as appropriate, shall revise the rule to

151 require implementation of the modified practice within a
152 reasonable time period as specified in the rule.

153 5. Subject to subparagraph 6., the Department of
154 Agriculture and Consumer Services shall provide to the
155 department information obtained pursuant to subparagraph (d) 6.
156 ~~(d) 3.~~

157 6. Agricultural records relating to processes or methods
158 of production, costs of production, profits, or other financial
159 information held by the Department of Agriculture and Consumer
160 Services pursuant to subparagraphs 3., 4., and 5. or pursuant to
161 any rule adopted pursuant to subparagraph 2. are confidential
162 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
163 Constitution. Upon request, records made confidential and exempt
164 pursuant to this subparagraph shall be released to the
165 department or any water management district provided that the
166 confidentiality specified by this subparagraph for such records
167 is maintained.

168 7. Subparagraphs 1. and 2. do not preclude the department
169 or water management district from requiring compliance with
170 water quality standards or with current best management practice
171 requirements in any applicable regulatory program authorized by
172 law for the purpose of protecting water quality. Additionally,
173 subparagraphs 1. and 2. are applicable only to the extent that
174 they do not conflict with any rules adopted by the department
175 that are necessary to maintain a federally delegated or approved

176 program.

177 (d) *Enforcement and verification of basin management*
 178 *action plans and management strategies.*—

179 1. Basin management action plans are enforceable pursuant
 180 to this section and ss. 403.121, 403.141, and 403.161.
 181 Management strategies, including best management practices and
 182 water quality monitoring, are enforceable under this chapter.

183 2. ~~No later than January 1, 2017:~~

184 ~~a.~~ The department, in consultation with the water
 185 management districts and the Department of Agriculture and
 186 Consumer Services, shall initiate rulemaking to adopt procedures
 187 to verify implementation of water quality monitoring required in
 188 lieu of implementation of best management practices or other
 189 measures pursuant to sub-subparagraph (b)2.g.†

190 ~~3.b.~~ The department, in consultation with the water
 191 management districts and the Department of Agriculture and
 192 Consumer Services, shall initiate rulemaking to adopt procedures
 193 to verify implementation of nonagricultural interim measures,
 194 best management practices, or other measures adopted by rule
 195 pursuant to subparagraph (c)1.†~~and~~

196 ~~4.e.~~ The Department of Agriculture and Consumer Services,
 197 in consultation with the water management districts and the
 198 department, shall initiate rulemaking to adopt procedures to
 199 verify the proper implementation of agricultural interim
 200 measures, best management practices, or other measures adopted

201 by rule pursuant to subparagraph (c)2.

202 5. The rules required under subparagraphs 2., 3., and 4.
203 must ~~this subparagraph shall~~ include enforcement procedures
204 applicable to the landowner, discharger, or other responsible
205 person required to implement applicable management strategies,
206 including best management practices or water quality monitoring
207 as a result of noncompliance. Rules adopted by the Department of
208 Agriculture and Consumer Services regarding the implementation
209 of agricultural interim measures, best management practices, or
210 other measures pursuant to subparagraph (c)2. must include,
211 after notice and hearing, the imposition of an administrative
212 fine in the Class II category pursuant to s. 570.971 for any
213 failure to implement such measures or practices; failure to
214 cooperate with the Department of Agriculture and Consumer
215 Services to complete the required verification of proper
216 implementation; or failure to properly provide records required
217 as part of such verification.

218 ~~6.3.~~ At least every 2 years, the Department of Agriculture
219 and Consumer Services shall perform onsite inspections of each
220 agricultural producer that enrolls in a best management practice
221 to ensure that such practice is being properly implemented. Such
222 verification must include a collection and review of the best
223 management practice documentation from the previous 2 years
224 required by rules adopted pursuant to subparagraph (c)2.,
225 including, but not limited to, nitrogen and phosphorus

HB 807

2022

226 fertilizer application records, which must be collected and
227 retained pursuant to subparagraphs (c)3., 4., and 6. The
228 Department of Agriculture and Consumer Services shall initially
229 prioritize the inspection of agricultural producers located in
230 the basin management action plans for Lake Okeechobee, the
231 Indian River Lagoon, the Caloosahatchee River and Estuary, and
232 Silver Springs.

233 Section 4. This act shall take effect July 1, 2022.