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LEGISLATIVE ACTION

Senate

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House

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Floor: WD

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03/09/2018 10:35 AM

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Senator Perry moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (5) of section 373.250, Florida
Statutes, is amended to read:

373.250 Reuse of reclaimed water.—

(5) (a) ~~No later than October 1, 2012, the department shall
initiate rulemaking to adopt revisions to~~ The water resource
implementation rule, as defined in s. 373.019(25), must ~~which~~
~~shall~~ include:



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12 1. Criteria for the use of a proposed impact offset derived
13 from the use of reclaimed water when a water management district
14 evaluates an application for a consumptive use permit. As used
15 in this subparagraph, the term "impact offset" means the use of
16 reclaimed water to reduce or eliminate a harmful impact that has
17 occurred or would otherwise occur as a result of other surface
18 water or groundwater withdrawals. Examples of reclaimed water
19 use that may create an impact offset include, but are not
20 limited to, the use of reclaimed water to:

- 21 a. Prevent or stop further saltwater intrusion;
- 22 b. Raise aquifer levels;
- 23 c. Improve the water quality of an aquifer; or
- 24 d. Augment surface water to increase the quantity of water
25 available for water supply.

26 2. Criteria for the use of substitution credits where a
27 water management district has adopted rules establishing
28 withdrawal limits from a specified water resource within a
29 defined geographic area. As used in this subparagraph, the term
30 "substitution credit" means the use of reclaimed water to
31 replace all or a portion of an existing permitted use of
32 resource-limited surface water or groundwater, allowing a
33 different user or use to initiate a withdrawal or increase its
34 withdrawal from the same resource-limited surface water or
35 groundwater source provided that the withdrawal creates no net
36 adverse impact on the limited water resource or creates a net
37 positive impact if required by water management district rule as
38 part of a strategy to protect or recover a water resource.

39 3. Criteria by which an impact offset or substitution
40 credit may be applied to the issuance, renewal, or extension of



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41 the utility's or another user's consumptive use permit or may be
42 used to address additional water resource constraints imposed
43 through the adoption of a recovery or prevention strategy under
44 s. 373.0421.

45 (b) Within 60 days after the final adoption by the
46 department of the revisions to the water resource implementation
47 rule required under paragraph (a), each water management
48 district must ~~shall~~ initiate rulemaking to incorporate those
49 revisions by reference into the rules of the district.

50 Section 2. Subsection (1) of section 403.064, Florida
51 Statutes, is amended, and subsection (17) is added to that
52 section, to read:

53 403.064 Reuse of reclaimed water.—

54 (1) The encouragement and promotion of water conservation,
55 and reuse of reclaimed water, as defined by the department, are
56 state objectives and are considered to be in the public
57 interest. The Legislature finds that the reuse of reclaimed
58 water is a critical component of meeting the state's existing
59 and future water supply needs while sustaining natural systems.
60 The Legislature further finds that for those wastewater
61 treatment plants permitted and operated under an approved reuse
62 program by the department, the reclaimed water shall be
63 considered environmentally acceptable and not a threat to public
64 health and safety. The Legislature encourages the development of
65 aquifer recharge and incentive-based programs for reuse
66 implementation.

67 (17) The department and the water management districts
68 shall develop and enter into a memorandum of agreement providing
69 for a coordinated review of any reclaimed water project



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70 requiring a reclaimed water facility permit, an underground
71 injection control permit, and a consumptive use permit. The
72 memorandum of agreement must provide that the coordinated review
73 is performed only if the applicant for such permits requests a
74 coordinated review. The goal of the coordinated review is to
75 share information, avoid requesting the applicant to submit
76 redundant information, and ensure, to the extent feasible, a
77 harmonized review of the reclaimed water project under these
78 various permitting programs, including the use of a proposed
79 impact offset or substitution credit in accordance with s.
80 373.250(5). The department and the water management districts
81 must develop and execute such memorandum of agreement no later
82 than December 1, 2018.

83 Section 3. Present subsection (22) of section 403.706,
84 Florida Statutes, is renumbered as subsection (23), and a new
85 subsection (22) is added to that section, to read:

86 403.706 Local government solid waste responsibilities.—

87 (22) Counties and municipalities must address the
88 contamination of recyclable material in contracts for the
89 collection, transportation, and processing of residential
90 recyclable material based upon the following:

91 (a) A residential recycling collector may not be required
92 to collect or transport contaminated recyclable material, except
93 pursuant to a contract consistent with paragraph (c). As used in
94 this subsection, the term "residential recycling collector"
95 means a for-profit business entity that collects and transports
96 residential recyclable material on behalf of a county or
97 municipality.

98 (b) A recovered materials processing facility may not be



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99 required to process contaminated recyclable material, except
100 pursuant to a contract consistent with paragraph (d).

101 (c) Each contract between a residential recycling collector
102 and a county or municipality for the collection or transport of
103 residential recyclable material, and each request for proposal
104 or other solicitation for residential recyclable material, must
105 define the term "contaminated recyclable material." The term
106 should be defined in a manner that is appropriate for the local
107 community, taking into consideration available markets for
108 recyclable material, available waste composition studies, and
109 other relevant factors. The contract and request for proposal or
110 other solicitation must include:

111 1. The respective strategies and obligations of the county
112 or municipality and the residential recycling collector to
113 reduce the amount of contaminated recyclable material being
114 collected;

115 2. The procedures for identifying, documenting, managing,
116 and rejecting residential recycling containers, carts, or bins
117 that contain contaminated recyclable material;

118 3. The remedies authorized to be used if a container, cart,
119 or bin contains contaminated recyclable material; and

120 4. The education and enforcement measures that will be used
121 to reduce the amount of contaminated recyclable material.

122 (d) Each contract between a recovered materials processing
123 facility and a county or municipality for processing residential
124 recyclable material, and each request for proposal or other
125 solicitation for processing residential recyclable material,
126 must define the term "contaminated recyclable material." The
127 term should be defined in a manner that is appropriate for the



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128 local community, taking into consideration available markets for
129 recyclable material, available waste composition studies, and
130 other relevant factors. The contract and request for proposal
131 must include:

132 1. The respective strategies and obligations of the county
133 or municipality and the facility to reduce the amount of
134 contaminated recyclable material being collected and processed;

135 2. The procedures for identifying, documenting, managing,
136 and rejecting residential recycling containers, carts, or bins
137 that contain contaminated recyclable material; and

138 3. The remedies authorized to be used if a container or
139 load contains contaminated recyclable material.

140 (e) This subsection applies to each contract between a
141 municipality or county and a residential recycling collector or
142 recovered materials processing facility executed or renewed
143 after July 1, 2018.

144 Section 4. Subsection (1) of section 403.813, Florida
145 Statutes, is amended to read:

146 403.813 Permits issued at district centers; exceptions.—

147 (1) A permit is not required under this chapter, chapter
148 373, chapter 61-691, Laws of Florida, or chapter 25214 or
149 chapter 25270, 1949, Laws of Florida, and a local government may
150 not require an individual claiming this exemption to provide
151 further department verification, for activities associated with
152 the following types of projects; however, except as otherwise
153 provided in this subsection, this subsection does not relieve an
154 applicant from any requirement to obtain permission to use or
155 occupy lands owned by the Board of Trustees of the Internal
156 Improvement Trust Fund or a water management district in its



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157 governmental or proprietary capacity or from complying with
158 applicable local pollution control programs authorized under
159 this chapter or other requirements of county and municipal
160 governments:

161 (a) The installation of overhead transmission lines, having
162 ~~with~~ support structures that ~~which~~ are not constructed in waters
163 of the state and which do not create a navigational hazard.

164 (b) The installation and repair of mooring pilings and
165 dolphins associated with private docking facilities or piers and
166 the installation of private docks, piers, and recreational
167 docking facilities, or piers and recreational docking facilities
168 of local governmental entities when the local governmental
169 entity's activities will not take place in any manatee habitat,
170 any of which docks:

171 1. Has 500 square feet or less of over-water surface area
172 for a dock ~~which is~~ located in an area designated as Outstanding
173 Florida Waters or 1,000 square feet or less of over-water
174 surface area for a dock ~~which is~~ located in an area that ~~which~~
175 is not designated as Outstanding Florida Waters;

176 2. Is constructed on or held in place by pilings or is a
177 floating dock ~~which is~~ constructed so as not to involve filling
178 or dredging other than that necessary to install the pilings;

179 3. May ~~shall~~ not substantially impede the flow of water or
180 create a navigational hazard;

181 4. Is used for recreational, noncommercial activities
182 associated with the mooring or storage of boats and boat
183 paraphernalia; and

184 5. Is the sole dock constructed pursuant to this exemption
185 as measured along the shoreline for a distance of 65 feet,



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186 unless the parcel of land or individual lot as platted is less
187 than 65 feet in length along the shoreline, in which case there
188 may be one exempt dock allowed per parcel or lot.

189

190 ~~Nothing in~~ This paragraph does not shall prohibit the department
191 from taking appropriate enforcement action pursuant to this
192 chapter to abate or prohibit any activity otherwise exempt from
193 permitting pursuant to this paragraph if the department can
194 demonstrate that the exempted activity has caused water
195 pollution in violation of this chapter.

196 (c) The installation and maintenance to design
197 specifications of boat ramps on artificial bodies of water where
198 navigational access to the proposed ramp exists or the
199 installation of boat ramps open to the public in any waters of
200 the state where navigational access to the proposed ramp exists
201 and where the construction of the proposed ramp will be less
202 than 30 feet wide and will involve the removal of less than 25
203 cubic yards of material from the waters of the state, and the
204 maintenance to design specifications of such ramps; however, the
205 material to be removed shall be placed upon a self-contained
206 upland site so as to prevent the escape of the spoil material
207 into the waters of the state.

208 (d) The replacement or repair of existing docks and piers,
209 except that fill material may not be used and the replacement or
210 repaired dock or pier must be within 5 feet of the same location
211 and no larger in size than the existing dock or pier, and
212 additional aquatic resources may not be adversely and
213 permanently impacted by such replacement or repair in the same
214 location and of the same configuration and dimensions as the



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215 ~~dock or pier being replaced or repaired.~~ This does not preclude
216 the use of different construction materials or minor deviations
217 to allow upgrades to current structural and design standards.

218 (e) The restoration of seawalls at their previous locations
219 or upland of, or within 18 inches waterward of, their previous
220 locations. However, this may ~~shall~~ not affect the permitting
221 requirements of chapter 161, and department rules shall clearly
222 indicate that this exception does not constitute an exception
223 from the permitting requirements of chapter 161.

224 (f) The performance of maintenance dredging of existing
225 manmade canals, channels, intake and discharge structures, and
226 previously dredged portions of natural water bodies within
227 drainage rights-of-way or drainage easements which have been
228 recorded in the public records of the county, where the spoil
229 material is to be removed and deposited on a self-contained,
230 upland spoil site which will prevent the escape of the spoil
231 material into the waters of the state, provided that no more
232 dredging is to be performed than is necessary to restore the
233 canals, channels, and intake and discharge structures, and
234 previously dredged portions of natural water bodies, to original
235 design specifications or configurations, provided that the work
236 is conducted in compliance with s. 379.2431(2)(d), provided that
237 no significant impacts occur to previously undisturbed natural
238 areas, and provided that control devices for return flow and
239 best management practices for erosion and sediment control are
240 utilized to prevent bank erosion and scouring and to prevent
241 turbidity, dredged material, and toxic or deleterious substances
242 from discharging into adjacent waters during maintenance
243 dredging. Further, for maintenance dredging of previously



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244 dredged portions of natural water bodies within recorded
245 drainage rights-of-way or drainage easements, an entity that
246 seeks an exemption must notify the department or water
247 management district, as applicable, at least 30 days before
248 ~~prior to~~ dredging and provide documentation of original design
249 specifications or configurations where such exist. This
250 exemption applies to all canals and previously dredged portions
251 of natural water bodies within recorded drainage rights-of-way
252 or drainage easements constructed before ~~prior to~~ April 3, 1970,
253 and to those canals and previously dredged portions of natural
254 water bodies constructed on or after April 3, 1970, pursuant to
255 all necessary state permits. This exemption does not apply to
256 the removal of a natural or manmade barrier separating a canal
257 or canal system from adjacent waters. When no previous permit
258 has been issued by the Board of Trustees of the Internal
259 Improvement Trust Fund or the United States Army Corps of
260 Engineers for construction or maintenance dredging of the
261 existing manmade canal or intake or discharge structure, such
262 maintenance dredging shall be limited to a depth of no more than
263 5 feet below mean low water. The Board of Trustees of the
264 Internal Improvement Trust Fund may fix and recover from the
265 permittee an amount equal to the difference between the fair
266 market value and the actual cost of the maintenance dredging for
267 material removed during such maintenance dredging. However, no
268 charge shall be exacted by the state for material removed during
269 such maintenance dredging by a public port authority. The
270 removing party may subsequently sell such material; however,
271 proceeds from such sale that exceed the costs of maintenance
272 dredging shall be remitted to the state and deposited in the



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273 Internal Improvement Trust Fund.

274 (g) The maintenance of existing insect control structures,
275 dikes, and irrigation and drainage ditches, provided that spoil
276 material is deposited on a self-contained, upland spoil site
277 which will prevent the escape of the spoil material into waters
278 of the state. In the case of insect control structures, if the
279 cost of using a self-contained upland spoil site is so
280 excessive, as determined by the Department of Health, pursuant
281 to s. 403.088(1), that it will inhibit proposed insect control,
282 then-existing spoil sites or dikes may be used, upon
283 notification to the department. In the case of insect control
284 where upland spoil sites are not used pursuant to this
285 exemption, turbidity control devices shall be used to confine
286 the spoil material discharge to that area previously disturbed
287 when the receiving body of water is used as a potable water
288 supply, is designated as shellfish harvesting waters, or
289 functions as a habitat for commercially or recreationally
290 important shellfish or finfish. In all cases, no more dredging
291 is to be performed than is necessary to restore the dike or
292 irrigation or drainage ditch to its original design
293 specifications.

294 (h) The repair or replacement of existing functional pipes
295 or culverts the purpose of which is the discharge or conveyance
296 of stormwater. In all cases, the invert elevation, the diameter,
297 and the length of the culvert may ~~shall~~ not be changed. However,
298 the material used for the culvert may be different from the
299 original.

300 (i) The construction of private docks of 1,000 square feet
301 or less of over-water surface area and seawalls in artificially



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302 created waterways where such construction will not violate
303 existing water quality standards, impede navigation, or affect
304 flood control. This exemption does not apply to the construction
305 of vertical seawalls in estuaries or lagoons unless the proposed
306 construction is within an existing manmade canal where the
307 shoreline is currently occupied in whole or part by vertical
308 seawalls.

309 (j) The construction and maintenance of swales.

310 (k) The installation of aids to navigation and buoys
311 associated with such aids, provided the devices are marked
312 pursuant to s. 327.40.

313 (l) The replacement or repair of existing open-trestle foot
314 bridges and vehicular bridges that are 100 feet or less in
315 length and two lanes or less in width, provided that no more
316 dredging or filling of submerged lands is performed other than
317 that which is necessary to replace or repair pilings and that
318 the structure to be replaced or repaired is the same length, the
319 same configuration, and in the same location as the original
320 bridge. No debris from the original bridge shall be allowed to
321 remain in the waters of the state.

322 (m) The installation of subaqueous transmission and
323 distribution lines laid on, or embedded in, the bottoms of
324 waters in the state, except in Class I and Class II waters and
325 aquatic preserves, provided no dredging or filling is necessary.

326 (n) The replacement or repair of subaqueous transmission
327 and distribution lines laid on, or embedded in, the bottoms of
328 waters of the state.

329 (o) The construction of private seawalls in wetlands or
330 other surface waters where such construction is between and



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331 adjoins at both ends existing seawalls; follows a continuous and
332 uniform seawall construction line with the existing seawalls; is
333 no more than 150 feet in length; and does not violate existing
334 water quality standards, impede navigation, or affect flood
335 control. However, in estuaries and lagoons the construction of
336 vertical seawalls is limited to the circumstances and purposes
337 stated in s. 373.414(5)(b)1.-4. This paragraph does not affect
338 the permitting requirements of chapter 161, and department rules
339 must clearly indicate that this exception does not constitute an
340 exception from the permitting requirements of chapter 161.

341 (p) The restoration of existing insect control impoundment
342 dikes which are less than 100 feet in length. Such impoundments
343 shall be connected to tidally influenced waters for 6 months
344 each year beginning September 1 and ending February 28 if
345 feasible or operated in accordance with an impoundment
346 management plan approved by the department. A dike restoration
347 may involve no more dredging than is necessary to restore the
348 dike to its original design specifications. For the purposes of
349 this paragraph, restoration does not include maintenance of
350 impoundment dikes of operating insect control impoundments.

351 (q) The construction, operation, or maintenance of
352 stormwater management facilities which are designed to serve
353 single-family residential projects, including duplexes,
354 triplexes, and quadruplexes, if they are less than 10 acres
355 total land and have less than 2 acres of impervious surface and
356 if the facilities:

- 357 1. Comply with all regulations or ordinances applicable to
358 stormwater management and adopted by a city or county;
359 2. Are not part of a larger common plan of development or



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360 sale; and

361 3. Discharge into a stormwater discharge facility exempted
362 or permitted by the department under this chapter which has
363 sufficient capacity and treatment capability as specified in
364 this chapter and is owned, maintained, or operated by a city,
365 county, special district with drainage responsibility, or water
366 management district; however, this exemption does not authorize
367 discharge to a facility without the facility owner's prior
368 written consent.

369 (r) The removal of aquatic plants, the removal of tussocks,
370 the associated replanting of indigenous aquatic plants, and the
371 associated removal from lakes of organic detrital material when
372 such planting or removal is performed and authorized by permit
373 or exemption granted under s. 369.20 or s. 369.25, provided
374 that:

375 1. Organic detrital material that exists on the surface of
376 natural mineral substrate shall be allowed to be removed to a
377 depth of 3 feet or to the natural mineral substrate, whichever
378 is less;

379 2. All material removed pursuant to this paragraph shall be
380 deposited in an upland site in a manner that will prevent the
381 reintroduction of the material into waters in the state except
382 when spoil material is permitted to be used to create wildlife
383 islands in freshwater bodies of the state when a governmental
384 entity is permitted pursuant to s. 369.20 to create such islands
385 as a part of a restoration or enhancement project;

386 3. All activities are performed in a manner consistent with
387 state water quality standards; and

388 4. No activities under this exemption are conducted in



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389 wetland areas, as defined in s. 373.019(27), which are supported
390 by a natural soil as shown in applicable United States
391 Department of Agriculture county soil surveys, except when a
392 governmental entity is permitted pursuant to s. 369.20 to
393 conduct such activities as a part of a restoration or
394 enhancement project.

395

396 The department may not adopt implementing rules for this
397 paragraph, notwithstanding any other provision of law.

398 (s) The construction, installation, operation, or
399 maintenance of floating vessel platforms or floating boat lifts,
400 provided that such structures:

401 1. Float at all times in the water for the sole purpose of
402 supporting a vessel so that the vessel is out of the water when
403 not in use;

404 2. Are wholly contained within a boat slip previously
405 permitted under ss. 403.91-403.929, 1984 Supplement to the
406 Florida Statutes 1983, as amended, or part IV of chapter 373, or
407 do not exceed a combined total of 500 square feet, or 200 square
408 feet in an Outstanding Florida Water, when associated with a
409 dock that is exempt under this subsection or associated with a
410 permitted dock with no defined boat slip or attached to a
411 bulkhead on a parcel of land where there is no other docking
412 structure;

413 3. Are not used for any commercial purpose or for mooring
414 vessels that remain in the water when not in use, and do not
415 substantially impede the flow of water, create a navigational
416 hazard, or unreasonably infringe upon the riparian rights of
417 adjacent property owners, as defined in s. 253.141;



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418 4. Are constructed and used so as to minimize adverse
419 impacts to submerged lands, wetlands, shellfish areas, aquatic
420 plant and animal species, and other biological communities,
421 including locating such structures in areas where seagrasses are
422 least dense adjacent to the dock or bulkhead; and

423 5. Are not constructed in areas specifically prohibited for
424 boat mooring under conditions of a permit issued in accordance
425 with ss. 403.91-403.929, 1984 Supplement to the Florida Statutes
426 1983, as amended, or part IV of chapter 373, or other form of
427 authorization issued by a local government.

428
429 Structures that qualify for this exemption are relieved from any
430 requirement to obtain permission to use or occupy lands owned by
431 the Board of Trustees of the Internal Improvement Trust Fund
432 and, with the exception of those structures attached to a
433 bulkhead on a parcel of land where there is no docking
434 structure, may ~~shall~~ not be subject to any more stringent
435 permitting requirements, registration requirements, or other
436 regulation by any local government. Local governments may
437 require either permitting or one-time registration of floating
438 vessel platforms to be attached to a bulkhead on a parcel of
439 land where there is no other docking structure as necessary to
440 ensure compliance with local ordinances, codes, or regulations.
441 Local governments may require either permitting or one-time
442 registration of all other floating vessel platforms as necessary
443 to ensure compliance with the exemption criteria in this
444 section; to ensure compliance with local ordinances, codes, or
445 regulations relating to building or zoning, which are no more
446 stringent than the exemption criteria in this section or address



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447 subjects other than subjects addressed by the exemption criteria
448 in this section; and to ensure proper installation, maintenance,
449 and precautionary or evacuation action following a tropical
450 storm or hurricane watch of a floating vessel platform or
451 floating boat lift that is proposed to be attached to a bulkhead
452 or parcel of land where there is no other docking structure. The
453 exemption provided in this paragraph shall be in addition to the
454 exemption provided in paragraph (b). The department shall adopt
455 a general permit by rule for the construction, installation,
456 operation, or maintenance of those floating vessel platforms or
457 floating boat lifts that do not qualify for the exemption
458 provided in this paragraph but do not cause significant adverse
459 impacts to occur individually or cumulatively. The issuance of
460 such general permit shall also constitute permission to use or
461 occupy lands owned by the Board of Trustees of the Internal
462 Improvement Trust Fund. No local government shall impose a more
463 stringent regulation, permitting requirement, registration
464 requirement, or other regulation covered by such general permit.
465 Local governments may require either permitting or one-time
466 registration of floating vessel platforms as necessary to ensure
467 compliance with the general permit in this section; to ensure
468 compliance with local ordinances, codes, or regulations relating
469 to building or zoning that are no more stringent than the
470 general permit in this section; and to ensure proper
471 installation and maintenance of a floating vessel platform or
472 floating boat lift that is proposed to be attached to a bulkhead
473 or parcel of land where there is no other docking structure.

474 (t) The repair, stabilization, or paving of existing county
475 maintained roads and the repair or replacement of bridges that



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476 are part of the roadway, within the Northwest Florida Water
477 Management District and the Suwannee River Water Management
478 District, provided:

479 1. The road and associated bridge were in existence and in
480 use as a public road or bridge, and were maintained by the
481 county as a public road or bridge on or before January 1, 2002;

482 2. The construction activity does not realign the road or
483 expand the number of existing traffic lanes of the existing
484 road; however, the work may include the provision of safety
485 shoulders, clearance of vegetation, and other work reasonably
486 necessary to repair, stabilize, pave, or repave the road,
487 provided that the work is constructed by generally accepted
488 engineering standards;

489 3. The construction activity does not expand the existing
490 width of an existing vehicular bridge in excess of that
491 reasonably necessary to properly connect the bridge with the
492 road being repaired, stabilized, paved, or repaved to safely
493 accommodate the traffic expected on the road, which may include
494 expanding the width of the bridge to match the existing
495 connected road. However, no debris from the original bridge
496 shall be allowed to remain in waters of the state, including
497 wetlands;

498 4. Best management practices for erosion control shall be
499 employed as necessary to prevent water quality violations;

500 5. Roadside swales or other effective means of stormwater
501 treatment must be incorporated as part of the project;

502 6. No more dredging or filling of wetlands or water of the
503 state is performed than that which is reasonably necessary to
504 repair, stabilize, pave, or repave the road or to repair or



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505 replace the bridge, in accordance with generally accepted
506 engineering standards; and

507 7. Notice of intent to use the exemption is provided to the
508 department, if the work is to be performed within the Northwest
509 Florida Water Management District, or to the Suwannee River
510 Water Management District, if the work is to be performed within
511 the Suwannee River Water Management District, 30 days before
512 ~~prior to~~ performing any work under the exemption.

513
514 Within 30 days after this act becomes a law, the department
515 shall initiate rulemaking to adopt a no fee general permit for
516 the repair, stabilization, or paving of existing roads that are
517 maintained by the county and the repair or replacement of
518 bridges that are part of the roadway where such activities do
519 not cause significant adverse impacts to occur individually or
520 cumulatively. The general permit shall apply statewide and, with
521 no additional rulemaking required, apply to qualified projects
522 reviewed by the Suwannee River Water Management District, the
523 St. Johns River Water Management District, the Southwest Florida
524 Water Management District, and the South Florida Water
525 Management District under the division of responsibilities
526 contained in the operating agreements applicable to part IV of
527 chapter 373. Upon adoption, this general permit shall, pursuant
528 to ~~the provisions of~~ subsection (2), supersede and replace the
529 exemption in this paragraph.

530 (u) Notwithstanding any provision to the contrary in this
531 subsection, a permit or other authorization under chapter 253,
532 chapter 369, chapter 373, or this chapter is not required for an
533 individual residential property owner for the removal of organic



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534 detrital material from freshwater rivers or lakes that have a
535 natural sand or rocky substrate and that are not Aquatic
536 Preserves or for the associated removal and replanting of
537 aquatic vegetation for the purpose of environmental enhancement,
538 providing that:

539 1. No activities under this exemption are conducted in
540 wetland areas, as defined in s. 373.019(27), which are supported
541 by a natural soil as shown in applicable United States
542 Department of Agriculture county soil surveys.

543 2. No filling or peat mining is allowed.

544 3. No removal of native wetland trees, including, but not
545 limited to, ash, bay, cypress, gum, maple, or tupelo, occurs.

546 4. When removing organic detrital material, no portion of
547 the underlying natural mineral substrate or rocky substrate is
548 removed.

549 5. Organic detrital material and plant material removed is
550 deposited in an upland site in a manner that will not cause
551 water quality violations.

552 6. All activities are conducted in such a manner, and with
553 appropriate turbidity controls, so as to prevent any water
554 quality violations outside the immediate work area.

555 7. Replanting with a variety of aquatic plants native to
556 the state shall occur in a minimum of 25 percent of the
557 preexisting vegetated areas where organic detrital material is
558 removed, except for areas where the material is removed to bare
559 rocky substrate; however, an area may be maintained clear of
560 vegetation as an access corridor. The access corridor width may
561 not exceed 50 percent of the property owner's frontage or 50
562 feet, whichever is less, and may be a sufficient length



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563 waterward to create a corridor to allow access for a boat or
564 swimmer to reach open water. Replanting must be at a minimum
565 density of 2 feet on center and be completed within 90 days
566 after removal of existing aquatic vegetation, except that under
567 dewatered conditions replanting must be completed within 90 days
568 after reflooding. The area to be replanted must extend waterward
569 from the ordinary high water line to a point where normal water
570 depth would be 3 feet or the preexisting vegetation line,
571 whichever is less. Individuals are required to make a reasonable
572 effort to maintain planting density for a period of 6 months
573 after replanting is complete, and the plants, including
574 naturally recruited native aquatic plants, must be allowed to
575 expand and fill in the revegetation area. Native aquatic plants
576 to be used for revegetation must be salvaged from the
577 enhancement project site or obtained from an aquatic plant
578 nursery regulated by the Department of Agriculture and Consumer
579 Services. Plants that are not native to the state may not be
580 used for replanting.

581 8. No activity occurs any farther than 100 feet waterward
582 of the ordinary high water line, and all activities must be
583 designed and conducted in a manner that will not unreasonably
584 restrict or infringe upon the riparian rights of adjacent upland
585 riparian owners.

586 9. The person seeking this exemption notifies the
587 applicable department district office in writing at least 30
588 days before commencing work and allows the department to conduct
589 a preconstruction site inspection. Notice must include an
590 organic-detrital-material removal and disposal plan and, if
591 applicable, a vegetation-removal and revegetation plan.



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592 10. The department is provided written certification of
593 compliance with the terms and conditions of this paragraph
594 within 30 days after completion of any activity occurring under
595 this exemption.

596 (v) Notwithstanding any other provision in this chapter,
597 chapter 373, or chapter 161, a permit or other authorization is
598 not required for the following exploratory activities associated
599 with beach restoration and nourishment projects and inlet
600 management activities:

601 1. The collection of geotechnical, geophysical, and
602 cultural resource data, including surveys, mapping, acoustic
603 soundings, benthic and other biologic sampling, and coring.

604 2. Oceanographic instrument deployment, including temporary
605 installation on the seabed of coastal and oceanographic data
606 collection equipment.

607 3. Incidental excavation associated with any of the
608 activities listed under subparagraph 1. or subparagraph 2.

609 Section 5. Effective January 1, 2019, section 403.1839,
610 Florida Statutes, is created to read:

611 403.1839 Blue star collection system assessment and
612 maintenance program.—

613 (1) DEFINITIONS.—As used in this section, the term:

614 (a) "Domestic wastewater" has the same meaning as in s.
615 367.021.

616 (b) "Domestic wastewater collection system" has the same
617 meaning as in s. 403.866.

618 (c) "Program" means the blue star collection system
619 assessment and maintenance program created pursuant to this
620 section.



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621 (d) "Sanitary sewer overflow" means the unauthorized
622 overflow, spill, release, discharge, or diversion of untreated
623 or partially treated domestic wastewater.

624 (2) LEGISLATIVE FINDINGS.—The Legislature finds that:

625 (a) The implementation of domestic wastewater collection
626 system assessment and maintenance practices has been shown to
627 effectively limit sanitary sewer overflows and the unauthorized
628 discharge of pathogens.

629 (b) The voluntary implementation of domestic wastewater
630 collection system assessment and maintenance practices beyond
631 those required by law has the potential to further limit
632 sanitary sewer overflows.

633 (c) The unique geography, community, growth, size, and age
634 of domestic wastewater collection systems across the state
635 require diverse responses, using the best professional judgment
636 of local utility operators, to ensure that programs designed to
637 limit sanitary sewer overflows are effective.

638 (3) ESTABLISHMENT AND PURPOSE.—There is established in the
639 department a blue star collection system assessment and
640 maintenance program. The purpose of this voluntary incentive
641 program is to assist public and private utilities in limiting
642 sanitary sewer overflows and the unauthorized discharge of
643 pathogens.

644 (4) APPROVAL AND STANDARDS.—

645 (a) The department shall adopt rules to administer the
646 program, including program certification standards, and shall
647 review and, if appropriate, approve public and private domestic
648 wastewater utilities that apply for certification under the
649 program or that demonstrate continued compliance with program



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650 certification requirements pursuant to paragraph (c).
651 (b) In order to be certified under the program, a utility
652 must provide reasonable documentation that demonstrates that it
653 meets the following certification standards:
654 1. Implementation of periodic collection system and pump
655 station structural condition assessments and the performance of
656 as-needed maintenance and replacement.
657 2. Adequate reinvestment by the utility in its collection
658 system and pump station structural condition assessment and
659 maintenance and replacement program to reasonably maintain the
660 working integrity of the system and station.
661 3. Implementation of a program designed to limit the
662 presence of fats, roots, oils, and grease in the collection
663 system.
664 4. If the applicant is a public utility, the existence of a
665 local law or building code requiring the private pump stations
666 and lateral lines connecting to the public system to be free of:
667 a. Cracks, holes, missing parts, or similar defects; and
668 b. Direct stormwater connections that allow the direct
669 inflow of stormwater into the private system and the public
670 domestic wastewater collection system.
671 5. Adoption of a power outage contingency plan that
672 addresses mitigation of the impacts of power outages on the
673 utility's collection system and pump stations.
674 (c) Program certifications expire after 5 years. During the
675 5-year certification period, a utility must annually provide
676 documentation to the department on the status of its
677 implementation of the program and must demonstrate that it meets
678 all program criteria in order to maintain its program



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679 certification.

680 (5) PUBLICATION.—Beginning on January 1, 2020, the
681 department shall annually publish on its website a list of
682 certified blue star utilities.

683 (6) FEDERAL PROGRAM PARTICIPATION.—The department shall
684 allow public and private, nonprofit utilities to participate in
685 the Clean Water State Revolving Fund Program for any purpose of
686 the program which is consistent with federal requirements for
687 participating in the Clean Water State Revolving Fund Program.

688 (7) REDUCED PENALTIES.—In the calculation of penalties for
689 a sanitary sewer overflow pursuant to s. 403.161, the department
690 may reduce the penalty based on a utility's status as a
691 certified blue star utility in accordance with this section. The
692 department may also reduce a penalty based on a certified blue
693 star utility's investment in assessment and maintenance
694 activities to identify and address conditions that may cause
695 sanitary sewer overflows or interruption of service to customers
696 due to a physical condition or defect in the system.

697 Section 6. Effective January 1, 2019, paragraph (c) of
698 subsection (7) of section 403.067, Florida Statutes, is amended
699 to read:

700 403.067 Establishment and implementation of total maximum
701 daily loads.—

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

704 (c) *Best management practices.*—

705 1. The department, in cooperation with the water management
706 districts and other interested parties, as appropriate, may
707 develop suitable interim measures, best management practices, or



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708 other measures necessary to achieve the level of pollution
709 reduction established by the department for nonagricultural
710 nonpoint pollutant sources in allocations developed pursuant to
711 subsection (6) and this subsection. These practices and measures
712 may be adopted by rule by the department and the water
713 management districts and, where adopted by rule, must ~~shall~~ be
714 implemented by those parties responsible for nonagricultural
715 nonpoint source pollution.

716 2. The Department of Agriculture and Consumer Services may
717 develop and adopt by rule pursuant to ss. 120.536(1) and 120.54
718 suitable interim measures, best management practices, or other
719 measures necessary to achieve the level of pollution reduction
720 established by the department for agricultural pollutant sources
721 in allocations developed pursuant to subsection (6) and this
722 subsection or for programs implemented pursuant to paragraph
723 (12) (b). These practices and measures may be implemented by
724 those parties responsible for agricultural pollutant sources and
725 the department, the water management districts, and the
726 Department of Agriculture and Consumer Services shall assist
727 with implementation. In the process of developing and adopting
728 rules for interim measures, best management practices, or other
729 measures, the Department of Agriculture and Consumer Services
730 must ~~shall~~ consult with the department, the Department of
731 Health, the water management districts, representatives from
732 affected farming groups, and environmental group
733 representatives. Such rules must also incorporate provisions for
734 a notice of intent to implement the practices and a system to
735 assure the implementation of the practices, including site
736 inspection and recordkeeping requirements.



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737 3. Where interim measures, best management practices, or
738 other measures are adopted by rule, the effectiveness of such
739 practices in achieving the levels of pollution reduction
740 established in allocations developed by the department pursuant
741 to subsection (6) and this subsection or in programs implemented
742 pursuant to paragraph (12)(b) must be verified at representative
743 sites by the department. The department shall use best
744 professional judgment in making the initial verification that
745 the best management practices are reasonably expected to be
746 effective and, where applicable, must notify the appropriate
747 water management district or the Department of Agriculture and
748 Consumer Services of its initial verification before the
749 adoption of a rule proposed pursuant to this paragraph.
750 Implementation, in accordance with rules adopted under this
751 paragraph, of practices that have been initially verified to be
752 effective, or verified to be effective by monitoring at
753 representative sites, by the department, shall provide a
754 presumption of compliance with state water quality standards and
755 release from the provisions of s. 376.307(5) for those
756 pollutants addressed by the practices, and the department is not
757 authorized to institute proceedings against the owner of the
758 source of pollution to recover costs or damages associated with
759 the contamination of surface water or groundwater caused by
760 those pollutants. Research projects funded by the department, a
761 water management district, or the Department of Agriculture and
762 Consumer Services to develop or demonstrate interim measures or
763 best management practices shall be granted a presumption of
764 compliance with state water quality standards and a release from
765 the provisions of s. 376.307(5). The presumption of compliance



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766 and release is limited to the research site and only for those
767 pollutants addressed by the interim measures or best management
768 practices. Eligibility for the presumption of compliance and
769 release is limited to research projects on sites where the owner
770 or operator of the research site and the department, a water
771 management district, or the Department of Agriculture and
772 Consumer Services have entered into a contract or other
773 agreement that, at a minimum, specifies the research objectives,
774 the cost-share responsibilities of the parties, and a schedule
775 that details the beginning and ending dates of the project.

776 4. Where water quality problems are demonstrated, despite
777 the appropriate implementation, operation, and maintenance of
778 best management practices and other measures required by rules
779 adopted under this paragraph, the department, a water management
780 district, or the Department of Agriculture and Consumer
781 Services, in consultation with the department, shall institute a
782 reevaluation of the best management practice or other measure.
783 Should the reevaluation determine that the best management
784 practice or other measure requires modification, the department,
785 a water management district, or the Department of Agriculture
786 and Consumer Services, as appropriate, must ~~shall~~ revise the
787 rule to require implementation of the modified practice within a
788 reasonable time period as specified in the rule.

789 5. Agricultural records relating to processes or methods of
790 production, costs of production, profits, or other financial
791 information held by the Department of Agriculture and Consumer
792 Services pursuant to subparagraphs 3. and 4. or pursuant to any
793 rule adopted pursuant to subparagraph 2. are confidential and
794 exempt from s. 119.07(1) and s. 24(a), Art. I of the State



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795 Constitution. Upon request, records made confidential and exempt
796 pursuant to this subparagraph shall be released to the
797 department or any water management district provided that the
798 confidentiality specified by this subparagraph for such records
799 is maintained.

800 6. The provisions of subparagraphs 1. and 2. do not
801 preclude the department or water management district from
802 requiring compliance with water quality standards or with
803 current best management practice requirements set forth in any
804 applicable regulatory program authorized by law for the purpose
805 of protecting water quality. Additionally, subparagraphs 1. and
806 2. are applicable only to the extent that they do not conflict
807 with any rules adopted by the department that are necessary to
808 maintain a federally delegated or approved program.

809 7. The department must provide a domestic wastewater
810 utility that implements and maintains a program as a certified
811 blue star utility in accordance with s. 403.1839 with a
812 presumption of compliance with state water quality standards for
813 pathogens when the utility demonstrates a history of compliance
814 with wastewater disinfection requirements incorporated in the
815 utility's operating permit for any discharge into the impaired
816 surface water.

817 Section 7. Effective January 1, 2019, subsection (11) is
818 added to section 403.087, Florida Statutes, to read:

819 403.087 Permits; general issuance; denial; revocation;
820 prohibition; penalty.—

821 (11) Subject to the permit duration limits for a utility
822 permitted pursuant to s. 403.0885, the department must issue a
823 blue star utility certified pursuant to s. 403.1839 a 10-year



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824 permit, for the same fee and under the same conditions that
825 apply to a 5-year permit, upon approval of its application for
826 permit renewal, if the certified blue star utility demonstrates
827 that it:

828 (a) Is in compliance with any consent order or an
829 accompanying administrative order related to its permit;

830 (b) Does not have any pending enforcement action against it
831 by the Environmental Protection Agency, the department, or a
832 local program; and

833 (c) If applicable, has submitted annual program
834 implementation reports demonstrating progress in the
835 implementation of the program.

836 Section 8. Effective January 1, 2019, present subsection
837 (6) of section 403.161, Florida Statutes, is redesignated as
838 subsection (7), and a new subsection (6) is added to that
839 section, to read:

840 403.161 Prohibitions, violation, penalty, intent.—

841 (6) Notwithstanding any other law, the department may
842 reduce a penalty based on the person's investment in the
843 assessment, maintenance, rehabilitation, or expansion of the
844 permitted facility.

845 Section 9. Effective January 1, 2019, paragraphs (a) and
846 (b) of subsection (3) of section 403.1838, Florida Statutes, are
847 amended to read:

848 403.1838 Small Community Sewer Construction Assistance
849 Act.—

850 (3) (a) In accordance with rules adopted by the
851 Environmental Regulation Commission under this section, the
852 department may provide grants, from funds specifically



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853 appropriated for this purpose, to financially disadvantaged
854 small communities and to private, nonprofit utilities serving
855 financially disadvantaged small communities for up to 100
856 percent of the costs of planning, assessing, designing,
857 constructing, upgrading, or replacing wastewater collection,
858 transmission, treatment, disposal, and reuse facilities,
859 including necessary legal and administrative expenses. Grants
860 issued pursuant to this section may also be used for planning
861 and implementing domestic wastewater collection system
862 assessment programs to identify conditions that may cause
863 sanitary sewer overflows or interruption of service to customers
864 due to a physical condition or defect in the system.

865 (b) The rules of the Environmental Regulation Commission
866 must:

867 1. Require that projects to plan, assess, design,
868 construct, upgrade, or replace wastewater collection,
869 transmission, treatment, disposal, and reuse facilities be cost-
870 effective, environmentally sound, permittable, and
871 implementable.

872 2. Require appropriate user charges, connection fees, and
873 other charges sufficient to ensure the long-term operation,
874 maintenance, and replacement of the facilities constructed under
875 each grant.

876 3. Require grant applications to be submitted on
877 appropriate forms with appropriate supporting documentation, and
878 require records to be maintained.

879 4. Establish a system to determine eligibility of grant
880 applications.

881 5. Establish a system to determine the relative priority of



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882 grant applications. The system must consider public health
883 protection and water pollution abatement.

884 6. Establish requirements for competitive procurement of
885 engineering and construction services, materials, and equipment.

886 7. Provide for termination of grants when program
887 requirements are not met.

888 Section 10. Except as otherwise expressly provided in this
889 act, this act shall take effect upon becoming a law.

890
891 ===== T I T L E A M E N D M E N T =====

892 And the title is amended as follows:

893 Delete everything before the enacting clause
894 and insert:

895 A bill to be entitled
896 An act relating to environmental regulation; amending
897 s. 373.250, F.S.; deleting an obsolete provision;
898 providing examples of reclaimed water use that may
899 create an impact offset; revising the required
900 provisions of the water resource implementation rule;
901 amending s. 403.064, F.S.; encouraging the use of
902 aquifer recharge; requiring the Department of
903 Environmental Protection and the water management
904 districts to develop and enter into a memorandum of
905 agreement providing for a coordinated review of any
906 reclaimed water project requiring a reclaimed water
907 facility permit, an underground injection control
908 permit, and a consumptive use permit; specifying
909 required provisions for such memorandum; specifying
910 the date by which the memorandum must be developed and



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911 executed; amending s. 403.706, F.S.; requiring
912 counties and municipalities to address contamination
913 of recyclable material in specified contracts;
914 prohibiting counties and municipalities from requiring
915 the collection or transport of contaminated recyclable
916 material by residential recycling collectors except
917 under certain conditions; defining the term
918 "residential recycling collector"; prohibiting
919 counties and municipalities from requiring the
920 processing of contaminated recyclable material by
921 recovered materials processing facilities except under
922 certain conditions; specifying required contract
923 provisions in residential recycling collector and
924 recovered materials processing facility contracts with
925 counties and municipalities; providing applicability;
926 amending s. 403.813, F.S.; prohibiting a local
927 government from requiring an individual to provide
928 further department verification for certain projects;
929 revising the types of dock and pier replacements and
930 repairs that are exempt from such verification and
931 certain permitting requirements; creating s. 403.1839,
932 F.S.; defining terms; providing legislative findings;
933 establishing the blue star collection system
934 assessment and maintenance program; specifying the
935 purpose of the program; requiring the department to
936 adopt rules and review and, if appropriate, approve
937 applications for certification under the program;
938 requiring a utility applying for certification to
939 provide reasonable documentation demonstrating that it



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940 meets specified certification standards; providing
941 that certifications expire after a specified period of
942 time; specifying requirements to maintain program
943 certification; requiring the department to annually
944 publish a list of certified blue star utilities,
945 beginning on a specified date; requiring the
946 department to allow public and private, nonprofit
947 utilities to participate in the Clean Water State
948 Revolving Fund Program for certain purposes;
949 authorizing the department to reduce certain penalties
950 for a certified utility under specified conditions;
951 amending s. 403.067, F.S.; creating a presumption of
952 compliance with certain total maximum daily load
953 requirements for certified blue star utilities;
954 amending s. 403.087, F.S.; requiring the department to
955 provide extended operating permits when a certified
956 blue star utility applies for permit renewal under
957 certain conditions; amending s. 403.161, F.S.;
958 authorizing the department to reduce a penalty based
959 on certain system investments for permitted
960 facilities; amending s. 403.1838, F.S.; allowing for
961 additional recipients and uses of Small Community
962 Sewer Construction grants; providing effective dates.