

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Payne offered the following:

**Amendment (with title amendment)**

Between lines 706 and 707, insert:

Section 6. Subsection (20) is added to section 373.414, Florida Statutes, to read:

373.414 Additional criteria for activities in surface waters and wetlands.—

(20) If land located within sections 2 through 5, 8 through 11, 14 through 17, and 21 through 28 of Township 26 South, Range 32 East, in Osceola County, contiguous with Lake Conlin or within the Cat Island Swamp, is used for mitigation of adverse impacts within drainage basin 18, St. Johns River

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14 (Canaveral Marshes to Wekiva), or within drainage basin 19,  
15 Econlockhatchee River nested in basin 18, as depicted in figure  
16 10.2.8-2 of the "Environmental Resource Permit Applicant's  
17 Handbook, Volume I (General and Environmental)" as incorporated  
18 by reference in rule 62-330.010, Florida Administrative Code,  
19 and if the mitigation offsets the adverse impacts within the  
20 drainage basin, the department and the St. Johns River Water  
21 Management District shall consider the activity regulated under  
22 part IV of chapter 373 in order to meet the cumulative impact  
23 requirements of paragraph (8) (a).

24 Section 7. Paragraph (b) of subsection (1) of section  
25 373.4135, Florida Statutes, is amended to read:

26 373.4135 Mitigation banks and offsite regional mitigation.—

27 (1) The Legislature finds that the adverse impacts of  
28 activities regulated under this part may be offset by the  
29 creation, maintenance, and use of mitigation banks and offsite  
30 regional mitigation. Mitigation banks and offsite regional  
31 mitigation can enhance the certainty of mitigation and provide  
32 ecological value due to the improved likelihood of environmental  
33 success associated with their proper construction, maintenance,  
34 and management. Therefore, the department and the water  
35 management districts are directed to participate in and  
36 encourage the establishment of private and public mitigation  
37 banks and offsite regional mitigation. Mitigation banks and  
38 offsite regional mitigation should emphasize the restoration and

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39 enhancement of degraded ecosystems and the preservation of  
40 uplands and wetlands as intact ecosystems rather than alteration  
41 of landscapes to create wetlands. This is best accomplished  
42 through restoration of ecological communities that were  
43 historically present.

44 (b) Notwithstanding the provisions of this section, a  
45 governmental entity may not create or provide mitigation for a  
46 project other than its own unless the governmental entity uses  
47 land that was not previously purchased for conservation and  
48 unless the governmental entity provides the same financial  
49 assurances as required for mitigation banks permitted under s.  
50 373.4136. This paragraph does not apply to:

51 1. Mitigation banks permitted before December 31, 2011,  
52 under s. 373.4136;

53 2. Mitigation areas created by a local government which  
54 were awarded mitigation credits under a permit issued before  
55 December 31, 2011, when such mitigation credits were awarded  
56 pursuant to the uniform mitigation assessment method as provided  
57 in chapter 62-345, Florida Administrative Code, and when credits  
58 are not available at:

59 a. A mitigation bank permitted under s. 373.4136; or

60 b. An offsite regional mitigation area ~~areas~~ established  
61 before December 31, 2011, under subsection (6);

62 3. Mitigation for transportation projects under ss.  
63 373.4137 and 373.4139;

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64 4. Mitigation for impacts from mining activities under s.  
65 373.41492;

66 5. Mitigation provided for single-family lots or  
67 homeowners under subsection (7);

68 6. Entities authorized in chapter 98-492, Laws of Florida;

69 7. Mitigation provided for electric utility impacts  
70 certified under part II of chapter 403; or

71 8. Mitigation provided on sovereign submerged lands under  
72 subsection (6).

73 Section 8. Paragraph (d) of subsection (9) of section  
74 373.4598, Florida Statutes, is amended and paragraph (f) is  
75 added to that subsection to read:

76 373.4598 Water storage reservoirs.—

77 (9) C-51 RESERVOIR PROJECT.—

78 (d) If state funds are appropriated for Phase I or Phase  
79 II of the C-51 reservoir project:

80 1. The district, to the extent practicable, must ~~shall~~  
81 operate either Phase I or Phase II of the reservoir project to  
82 maximize the reduction of high-volume Lake Okeechobee regulatory  
83 releases to the St. Lucie or Caloosahatchee estuaries, in  
84 addition to maximizing the reduction of harmful discharges  
85 ~~providing relief~~ to the Lake Worth Lagoon. However, the  
86 operation of Phase I of the C-51 reservoir project must be in  
87 accordance with any operation and maintenance agreement adopted  
88 by the district;

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89           2. Water made available by Phase I or Phase II of the  
90 reservoir must ~~shall~~ be used for natural systems in addition to  
91 any permitted ~~allocated~~ amounts for water supply; and

92           3. ~~Any~~ Water received from Lake Okeechobee may only ~~not~~ be  
93 available to support consumptive use permits if such use is in  
94 accordance with district rules.

95           (f) The district may enter into a capacity allocation  
96 agreement with a water supply entity for a pro rata share of  
97 unreserved capacity in the water storage facility and may  
98 request the department to waive repayment of all or a portion of  
99 the loan issued pursuant to s. 373.475. The department may  
100 authorize such waiver if the department determines it has  
101 received reasonable value for such waiver. The district is not  
102 responsible for repaying any portion of a loan issued pursuant  
103 to s. 373.475 which is waived pursuant to this paragraph.

104           Section 9. Section 403.1839, Florida Statutes, is created  
105 to read:

106           403.1839 Blue star collection system assessment and  
107 maintenance program.-

108           (1) DEFINITIONS.-As used in this section, the term:

109           (a) "Domestic wastewater" has the same meaning as provided  
110 in s. 367.021.

111           (b) "Domestic wastewater collection system" has the same  
112 meaning as provided in s. 403.866.

113           (c) "Program" means the blue star collection system

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114 assessment and maintenance program.

115 (d) "Sanitary sewer overflow" means the unauthorized  
116 overflow, spill, release, discharge or diversion of untreated or  
117 partially treated domestic wastewater.

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

119 (a) The implementation of domestic wastewater collection  
120 system assessment and maintenance practices has been shown to  
121 effectively limit sanitary sewer overflows and the unauthorized  
122 discharge of pathogens.

123 (b) The voluntary implementation of domestic wastewater  
124 collection system assessment and maintenance practices beyond  
125 those required by law has the potential to further limit  
126 sanitary sewer overflows.

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

132 (3) ESTABLISHMENT AND PURPOSE.—There is established in the  
133 department a blue star collection system assessment and  
134 maintenance program. The purpose of this voluntary incentive  
135 program is to assist public and private utilities in limiting  
136 sanitary sewer overflows and the unauthorized discharge of  
137 pathogens.

138 (4) APPROVAL AND STANDARDS.—

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139        (a) The department shall adopt rules to administer the  
140 program, including the certification standards for the program  
141 in paragraph (b), and shall review and approve public and  
142 private domestic wastewater utilities that apply for  
143 certification or renewal under the program and that demonstrate  
144 maintenance of program certification pursuant to paragraph (c)  
145 based upon the certification standards.

146        (b) A utility must provide reasonable documentation of the  
147 following certification standards in order to be certified under  
148 the program:

149            1. The implementation of periodic collection system and  
150 pump station structural condition assessments and the  
151 performance of as-needed maintenance and replacements.

152            2. The rate of reinvestment determined necessary by the  
153 utility for its collection system and pump station structural  
154 condition assessment and maintenance and replacement program.

155            3. The implementation of a program designed to limit the  
156 presence of fats, roots, oils, and grease in the collection  
157 system.

158            4. If the applicant is a public utility, a local law or  
159 building code requiring the private pump stations and lateral  
160 lines connecting to the public system to be free of:

161            a. Cracks, holes, missing parts, or similar defects; and

162            b. Direct stormwater connections that allow the direct  
163 inflow of stormwater into the private system and the public

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164 domestic wastewater collection system.

165 5. A power outage contingency plan that addresses  
166 mitigation of the impacts of power outages on the utility's  
167 collection system and pump stations.

168 (c) Program certifications shall expire after 5 years. A  
169 utility shall document its implementation of the program on an  
170 annual basis with the department and must demonstrate that the  
171 utility meets all program standards in order to maintain its  
172 program certification. The approval of an application for  
173 renewal certification must be based on the utility demonstrating  
174 maintenance of program standards. A utility applying for renewal  
175 certification must demonstrate maintenance of program standards  
176 and progress in implementing the program.

177 (5) PUBLICATION.—The department shall annually publish on  
178 its website a list of certified blue star utilities beginning on  
179 January 1, 2020.

180 (6) FEDERAL PROGRAM PARTICIPATION.—The department shall  
181 allow public and private, nonprofit utilities to participate in  
182 the Clean Water State Revolving Fund Program for any purpose of  
183 the program that is consistent with federal requirements for  
184 participating in the Clean Water State Revolving Fund Program.

185 (7) REDUCED PENALTIES.—In the calculation of penalties  
186 pursuant to s. 403.161 for a sanitary sewer overflow, the  
187 department may reduce the penalty based on a utility's status as  
188 a certified blue star utility in accordance with this section.

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189 The department may also reduce a penalty based on a certified  
190 blue star utility's investment in assessment and maintenance  
191 activities to identify and address conditions that may cause  
192 sanitary sewer overflows or interruption of service to customers  
193 due to a physical condition or defect in the system.

194 Section 10. Paragraph (c) of subsection (7) of section  
195 403.067, Florida Statutes, is amended to read:

196 403.067 Establishment and implementation of total maximum  
197 daily loads.—

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

200 (c) *Best management practices.*—

201 1. The department, in cooperation with the water  
202 management districts and other interested parties, as  
203 appropriate, may develop suitable interim measures, best  
204 management practices, or other measures necessary to achieve the  
205 level of pollution reduction established by the department for  
206 nonagricultural nonpoint pollutant sources in allocations  
207 developed pursuant to subsection (6) and this subsection. These  
208 practices and measures may be adopted by rule by the department  
209 and the water management districts and, where adopted by rule,  
210 shall be implemented by those parties responsible for  
211 nonagricultural nonpoint source pollution.

212 2. The Department of Agriculture and Consumer Services may  
213 develop and adopt by rule pursuant to ss. 120.536(1) and 120.54

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214 suitable interim measures, best management practices, or other  
215 measures necessary to achieve the level of pollution reduction  
216 established by the department for agricultural pollutant sources  
217 in allocations developed pursuant to subsection (6) and this  
218 subsection or for programs implemented pursuant to paragraph  
219 (12) (b). These practices and measures may be implemented by  
220 those parties responsible for agricultural pollutant sources and  
221 the department, the water management districts, and the  
222 Department of Agriculture and Consumer Services shall assist  
223 with implementation. In the process of developing and adopting  
224 rules for interim measures, best management practices, or other  
225 measures, the Department of Agriculture and Consumer Services  
226 shall consult with the department, the Department of Health, the  
227 water management districts, representatives from affected  
228 farming groups, and environmental group representatives. Such  
229 rules must also incorporate provisions for a notice of intent to  
230 implement the practices and a system to assure the  
231 implementation of the practices, including site inspection and  
232 recordkeeping requirements.

233 3. Where interim measures, best management practices, or  
234 other measures are adopted by rule, the effectiveness of such  
235 practices in achieving the levels of pollution reduction  
236 established in allocations developed by the department pursuant  
237 to subsection (6) and this subsection or in programs implemented  
238 pursuant to paragraph (12) (b) must be verified at representative

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239 sites by the department. The department shall use best  
240 professional judgment in making the initial verification that  
241 the best management practices are reasonably expected to be  
242 effective and, where applicable, must notify the appropriate  
243 water management district or the Department of Agriculture and  
244 Consumer Services of its initial verification before the  
245 adoption of a rule proposed pursuant to this paragraph.  
246 Implementation, in accordance with rules adopted under this  
247 paragraph, of practices that have been initially verified to be  
248 effective, or verified to be effective by monitoring at  
249 representative sites, by the department, shall provide a  
250 presumption of compliance with state water quality standards and  
251 release from the provisions of s. 376.307(5) for those  
252 pollutants addressed by the practices, and the department is not  
253 authorized to institute proceedings against the owner of the  
254 source of pollution to recover costs or damages associated with  
255 the contamination of surface water or groundwater caused by  
256 those pollutants. Research projects funded by the department, a  
257 water management district, or the Department of Agriculture and  
258 Consumer Services to develop or demonstrate interim measures or  
259 best management practices shall be granted a presumption of  
260 compliance with state water quality standards and a release from  
261 the provisions of s. 376.307(5). The presumption of compliance  
262 and release is limited to the research site and only for those  
263 pollutants addressed by the interim measures or best management

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264 practices. Eligibility for the presumption of compliance and  
265 release is limited to research projects on sites where the owner  
266 or operator of the research site and the department, a water  
267 management district, or the Department of Agriculture and  
268 Consumer Services have entered into a contract or other  
269 agreement that, at a minimum, specifies the research objectives,  
270 the cost-share responsibilities of the parties, and a schedule  
271 that details the beginning and ending dates of the project.

272 4. Where water quality problems are demonstrated, despite  
273 the appropriate implementation, operation, and maintenance of  
274 best management practices and other measures required by rules  
275 adopted under this paragraph, the department, a water management  
276 district, or the Department of Agriculture and Consumer  
277 Services, in consultation with the department, shall institute a  
278 reevaluation of the best management practice or other measure.  
279 Should the reevaluation determine that the best management  
280 practice or other measure requires modification, the department,  
281 a water management district, or the Department of Agriculture  
282 and Consumer Services, as appropriate, shall revise the rule to  
283 require implementation of the modified practice within a  
284 reasonable time period as specified in the rule.

285 5. Agricultural records relating to processes or methods  
286 of production, costs of production, profits, or other financial  
287 information held by the Department of Agriculture and Consumer  
288 Services pursuant to subparagraphs 3. and 4. or pursuant to any

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289 rule adopted pursuant to subparagraph 2. are confidential and  
290 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
291 Constitution. Upon request, records made confidential and exempt  
292 pursuant to this subparagraph shall be released to the  
293 department or any water management district provided that the  
294 confidentiality specified by this subparagraph for such records  
295 is maintained.

296 6. The provisions of subparagraphs 1. and 2. do not  
297 preclude the department or water management district from  
298 requiring compliance with water quality standards or with  
299 current best management practice requirements set forth in any  
300 applicable regulatory program authorized by law for the purpose  
301 of protecting water quality. Additionally, subparagraphs 1. and  
302 2. are applicable only to the extent that they do not conflict  
303 with any rules adopted by the department that are necessary to  
304 maintain a federally delegated or approved program.

305 7. The department must provide a domestic wastewater  
306 utility with a presumption of compliance with state water  
307 quality standards for pathogens when the utility demonstrates a  
308 history of compliance with wastewater disinfection requirements  
309 incorporated in the utility's operating permit for any discharge  
310 into the impaired surface water, and the utility implements and  
311 maintains a program as a certified blue star utility in  
312 accordance with s. 403.1839.

313 Section 11. Subsection (11) is added to section 403.087,

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314 Florida Statutes, to read:

315 403.087 Permits; general issuance; denial; revocation;  
316 prohibition; penalty.—

317 (11) Subject to the permit duration limits for a utility  
318 permitted pursuant to s. 403.0885, a blue star utility certified  
319 pursuant to s. 403.1839 shall be issued a 10-year permit for the  
320 same fee and under the same conditions as a 5-year permit upon  
321 approval of its application for permit renewal by the department  
322 if the certified blue star utility demonstrates that it:

323 (a) Is in compliance with any consent order or an  
324 accompanying administrative order to its permit;

325 (b) Does not have any pending enforcement action against  
326 it by the United States Environmental Protection Agency, the  
327 department, or a local program; and

328 (c) If applicable, has submitted annual program  
329 implementation reports demonstrating progress in the  
330 implementation of the program.

331 Section 12. Subsection (6) of section 403.161, Florida  
332 Statutes, is renumbered as subsection (7), and a new subsection  
333 (6) is added to that section, to read:

334 403.161 Prohibitions, violation, penalty, intent.—

335 (6) Notwithstanding any other law, the department may  
336 reduce the amount of a penalty based on the person's investment  
337 in the assessment, maintenance, rehabilitation, or expansion of  
338 the permitted facility.

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339 Section 13. Subsection (2) and paragraphs (a) and (b) of  
340 subsection (3) of section 403.1838, Florida Statutes, are  
341 amended to read:

342 403.1838 Small Community Sewer Construction Assistance  
343 Act.—

344 (2) The department shall use funds specifically  
345 appropriated to award grants under this section to assist  
346 financially disadvantaged small communities with their needs for  
347 adequate sewer facilities. The department may use funds  
348 specifically appropriated to award grants under this section to  
349 assist private, nonprofit utilities providing wastewater  
350 services to financially disadvantaged small communities. For  
351 purposes of this section, the term "financially disadvantaged  
352 small community" means a county, municipality, or special  
353 district that has a population of 10,000 or fewer, according to  
354 the latest decennial census, and a per capita annual income less  
355 than the state per capita annual income as determined by the  
356 United States Department of Commerce. For purposes of this  
357 subsection, the term "special district" has the same meaning as  
358 provided in s. 189.012 and includes only those special districts  
359 whose public purpose includes water and sewer services, utility  
360 systems and services, or wastewater systems and services. The  
361 department may waive the population requirement for an  
362 independent special district that serves fewer than 10,000  
363 wastewater customers, is located within a watershed with an

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364 adopted total maximum daily load or basin management action plan  
365 for pollutants associated with domestic wastewater pursuant to  
366 s. 403.067, and is wholly located within a rural area of  
367 opportunity as defined in s. 288.0656.

368 (3) (a) In accordance with rules adopted by the  
369 Environmental Regulation Commission under this section, the  
370 department may provide grants, from funds specifically  
371 appropriated for this purpose, to financially disadvantaged  
372 small communities and to private, nonprofit utilities serving  
373 financially disadvantaged small communities for up to 100  
374 percent of the costs of planning, assessing, designing,  
375 constructing, upgrading, or replacing wastewater collection,  
376 transmission, treatment, disposal, and reuse facilities,  
377 including necessary legal and administrative expenses. Grants  
378 issued pursuant to this section may also be used for planning  
379 and implementing domestic wastewater collection system  
380 assessment programs to identify conditions that may cause  
381 sanitary sewer overflows or interruption of service to customers  
382 due to a physical condition or defect in the system.

383 (b) The rules of the Environmental Regulation Commission  
384 must:

385 1. Require that projects to plan, assess, design,  
386 construct, upgrade, or replace wastewater collection,  
387 transmission, treatment, disposal, and reuse facilities be cost-  
388 effective, environmentally sound, permittable, and

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389 implementable.

390       2. Require appropriate user charges, connection fees, and  
391 other charges sufficient to ensure the long-term operation,  
392 maintenance, and replacement of the facilities constructed under  
393 each grant.

394       3. Require grant applications to be submitted on  
395 appropriate forms with appropriate supporting documentation, and  
396 require records to be maintained.

397       4. Establish a system to determine eligibility of grant  
398 applications.

399       5. Establish a system to determine the relative priority  
400 of grant applications. The system must consider public health  
401 protection and water pollution abatement.

402       6. Establish requirements for competitive procurement of  
403 engineering and construction services, materials, and equipment.

404       7. Provide for termination of grants when program  
405 requirements are not met.

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**T I T L E   A M E N D M E N T**

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Remove line 40 and insert:

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requirements; amending s. 373.414, F.S.; requiring

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that the Department of Environmental Protection and

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the St. Johns River Water Management District consider

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414 mitigation on specified land as meeting cumulative  
415 impact requirements under certain conditions; amending  
416 s. 373.4135, F.S.; providing an exemption from certain  
417 requirements for mitigation areas created by a local  
418 government under a permit issued before a specified  
419 date and for certain mitigation banks; amending s.  
420 373.4598, F.S.; revising requirements related to the  
421 operation of water storage and use for Phase I and  
422 Phase II of the C-51 reservoir project if state funds  
423 are appropriated for such phases; authorizing the  
424 South Florida Water Management District to enter into  
425 certain capacity allocation agreements and to request  
426 a waiver for repayment of certain loans; authorizing  
427 the Department of Environmental Protection to waive  
428 such loan repayment under certain conditions;  
429 providing that the district is not responsible for  
430 repayment of such loans; creating s. 403.1839, F.S.;  
431 providing definitions; providing legislative findings;  
432 establishing the blue star collection system  
433 assessment and maintenance program and providing its  
434 purpose; requiring the Department of Environmental  
435 Protection to adopt rules and review and approve  
436 program applications for certification; specifying the  
437 documentation utilities must submit to qualify for  
438 certification; providing for certification expiration

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439 and renewal; requiring the department to publish an  
440 annual list of certified blue star utilities;  
441 requiring the department to allow public and private,  
442 nonprofit utilities to participate in the Clean Water  
443 State Revolving Fund Program under certain conditions;  
444 authorizing the department to reduce penalties for  
445 sanitary sewer overflows at certified utilities and  
446 for investments in certain assessment and maintenance  
447 activities; amending s. 403.067, F.S.; creating a  
448 presumption of compliance for certain total maximum  
449 daily load requirements for certified utilities;  
450 amending s. 403.087, F.S.; requiring the department to  
451 issue extended operating permits to certified  
452 utilities under certain conditions; amending s.  
453 403.161, F.S.; authorizing the department to reduce  
454 penalties based on certain system investments for  
455 permitted facilities; amending s. 403.1838, F.S.;  
456 authorizing additional recipients and uses of Small  
457 Community Sewer Construction grants; providing an  
458 effective date.

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