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LEGISLATIVE ACTION

Senate

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House

The Committee on Environmental Preservation and Conservation
(Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 403.1839, Florida Statutes, is created
to read:

403.1839 Blue star collection system assessment and
maintenance program.—

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

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



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11 367.021.

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

14 (c) "Program" means the blue star collection system
15 assessment and maintenance program created pursuant to this
16 section.

17 (d) "Sanitary sewer overflow" means the unauthorized
18 overflow, spill, release, discharge or diversion of untreated or
19 partially treated domestic wastewater.

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

21 (a) The implementation of domestic wastewater collection
22 system assessment and maintenance practices has been shown to
23 effectively limit sanitary sewer overflows and the unauthorized
24 discharge of pathogens.

25 (b) The voluntary implementation of domestic wastewater
26 collection system assessment and maintenance practices beyond
27 those required by law has the potential to further limit
28 sanitary sewer overflows.

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

34 (3) ESTABLISHMENT AND PURPOSE.—There is established in the
35 department a blue star collection system assessment and
36 maintenance program. The purpose of this voluntary incentive
37 program is to assist public and private utilities in limiting
38 sanitary sewer overflows and the unauthorized discharge of
39 pathogens.



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40 (4) APPROVAL AND STANDARDS.-

41 (a) The department shall adopt rules to administer the
42 program, including program certification standards, and shall
43 review and, if appropriate, approve public and private domestic
44 wastewater utilities that apply for certification under the
45 program or that demonstrate continued compliance with program
46 certification requirements pursuant to subsection (4) (c).

47 (b) In order to be certified under the program, a utility
48 must provide reasonable documentation that demonstrates that it
49 meets the following certification standards:

50 1. Implementation of periodic collection system and pump
51 station structural condition assessments and the performance of
52 as-needed maintenance and replacement.

53 2. Adequate reinvestment by the utility in its collection
54 system and pump station structural condition assessment and
55 maintenance and replacement program to reasonably maintain the
56 working integrity of the system and station.

57 3. Implementation of a program designed to limit the
58 presence of fats, roots, oils, and grease in the collection
59 system.

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

63 a. Cracks, holes, missing parts, or similar defects; and
64 b. Direct stormwater connections that allow the direct
65 inflow of stormwater into the private system and the public
66 domestic wastewater collection system.

67 5. Adoption of a power outage contingency plan that
68 addresses mitigation of the impacts of power outages on the



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69 utility's collection system and pump stations.

70 (c) Program certifications expire after 5 years. During the
71 5-year certification period, a utility must annually provide
72 documentation to the department on the status of its
73 implementation of the program and must demonstrate that it meets
74 all program criteria in order to maintain its program
75 certification.

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

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

84 (7) REDUCED PENALTIES.—In the calculation of penalties for
85 a sanitary sewer overflow pursuant to s. 403.161, the department
86 may reduce the penalty based on a utility's status as a
87 certified blue star utility in accordance with this section. The
88 department may also reduce a penalty based on a certified blue
89 star utility's investment in assessment and maintenance
90 activities to identify and address conditions that may cause
91 sanitary sewer overflows or interruption of service to customers
92 due to a physical condition or defect in the system.

93 Section 2. Paragraph (c) of subsection (7) of section
94 403.067, Florida Statutes, is amended to read:

95 403.067 Establishment and implementation of total maximum
96 daily loads.—

97 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND



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98 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

99 (c) *Best management practices.*—

100 1. The department, in cooperation with the water management
101 districts and other interested parties, as appropriate, may
102 develop suitable interim measures, best management practices, or
103 other measures necessary to achieve the level of pollution
104 reduction established by the department for nonagricultural
105 nonpoint pollutant sources in allocations developed pursuant to
106 subsection (6) and this subsection. These practices and measures
107 may be adopted by rule by the department and the water
108 management districts and, where adopted by rule, must ~~shall~~ be
109 implemented by those parties responsible for nonagricultural
110 nonpoint source pollution.

111 2. The Department of Agriculture and Consumer Services may
112 develop and adopt by rule pursuant to ss. 120.536(1) and 120.54
113 suitable interim measures, best management practices, or other
114 measures necessary to achieve the level of pollution reduction
115 established by the department for agricultural pollutant sources
116 in allocations developed pursuant to subsection (6) and this
117 subsection or for programs implemented pursuant to paragraph
118 (12) (b). These practices and measures may be implemented by
119 those parties responsible for agricultural pollutant sources and
120 the department, the water management districts, and the
121 Department of Agriculture and Consumer Services shall assist
122 with implementation. In the process of developing and adopting
123 rules for interim measures, best management practices, or other
124 measures, the Department of Agriculture and Consumer Services
125 must ~~shall~~ consult with the department, the Department of
126 Health, the water management districts, representatives from



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127 affected farming groups, and environmental group
128 representatives. Such rules must also incorporate provisions for
129 a notice of intent to implement the practices and a system to
130 assure the implementation of the practices, including site
131 inspection and recordkeeping requirements.

132 3. Where interim measures, best management practices, or
133 other measures are adopted by rule, the effectiveness of such
134 practices in achieving the levels of pollution reduction
135 established in allocations developed by the department pursuant
136 to subsection (6) and this subsection or in programs implemented
137 pursuant to paragraph (12)(b) must be verified at representative
138 sites by the department. The department shall use best
139 professional judgment in making the initial verification that
140 the best management practices are reasonably expected to be
141 effective and, where applicable, must notify the appropriate
142 water management district or the Department of Agriculture and
143 Consumer Services of its initial verification before the
144 adoption of a rule proposed pursuant to this paragraph.
145 Implementation, in accordance with rules adopted under this
146 paragraph, of practices that have been initially verified to be
147 effective, or verified to be effective by monitoring at
148 representative sites, by the department, shall provide a
149 presumption of compliance with state water quality standards and
150 release from the provisions of s. 376.307(5) for those
151 pollutants addressed by the practices, and the department is not
152 authorized to institute proceedings against the owner of the
153 source of pollution to recover costs or damages associated with
154 the contamination of surface water or groundwater caused by
155 those pollutants. Research projects funded by the department, a



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156 water management district, or the Department of Agriculture and
157 Consumer Services to develop or demonstrate interim measures or
158 best management practices shall be granted a presumption of
159 compliance with state water quality standards and a release from
160 the provisions of s. 376.307(5). The presumption of compliance
161 and release is limited to the research site and only for those
162 pollutants addressed by the interim measures or best management
163 practices. Eligibility for the presumption of compliance and
164 release is limited to research projects on sites where the owner
165 or operator of the research site and the department, a water
166 management district, or the Department of Agriculture and
167 Consumer Services have entered into a contract or other
168 agreement that, at a minimum, specifies the research objectives,
169 the cost-share responsibilities of the parties, and a schedule
170 that details the beginning and ending dates of the project.

171 4. Where water quality problems are demonstrated, despite
172 the appropriate implementation, operation, and maintenance of
173 best management practices and other measures required by rules
174 adopted under this paragraph, the department, a water management
175 district, or the Department of Agriculture and Consumer
176 Services, in consultation with the department, shall institute a
177 reevaluation of the best management practice or other measure.
178 Should the reevaluation determine that the best management
179 practice or other measure requires modification, the department,
180 a water management district, or the Department of Agriculture
181 and Consumer Services, as appropriate, must ~~shall~~ revise the
182 rule to require implementation of the modified practice within a
183 reasonable time period as specified in the rule.

184 5. Agricultural records relating to processes or methods of



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185 production, costs of production, profits, or other financial
186 information held by the Department of Agriculture and Consumer
187 Services pursuant to subparagraphs 3. and 4. or pursuant to any
188 rule adopted pursuant to subparagraph 2. are confidential and
189 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
190 Constitution. Upon request, records made confidential and exempt
191 pursuant to this subparagraph shall be released to the
192 department or any water management district provided that the
193 confidentiality specified by this subparagraph for such records
194 is maintained.

195 6. The provisions of subparagraphs 1. and 2. do not
196 preclude the department or water management district from
197 requiring compliance with water quality standards or with
198 current best management practice requirements set forth in any
199 applicable regulatory program authorized by law for the purpose
200 of protecting water quality. Additionally, subparagraphs 1. and
201 2. are applicable only to the extent that they do not conflict
202 with any rules adopted by the department that are necessary to
203 maintain a federally delegated or approved program.

204 7. The department must provide a domestic wastewater
205 utility that implements and maintains a program as a certified
206 blue star utility in accordance with s. 403.1839 with a
207 presumption of compliance with state water quality standards for
208 pathogens when the utility demonstrates a history of compliance
209 with wastewater disinfection requirements incorporated in the
210 utility's operating permit for any discharge into the impaired
211 surface water.

212 Section 3. Subsection (11) is added to section 403.087,
213 Florida Statutes, to read:



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214 403.087 Permits; general issuance; denial; revocation;
215 prohibition; penalty.—

216 (11) Subject to the permit duration limits for a utility
217 permitted pursuant to s. 403.0885, the department must issue a
218 blue star utility certified pursuant to s. 403.1839 a 10-year
219 permit, for the same fee and under the same conditions that
220 apply to a 5-year permit, upon approval of its application for
221 permit renewal, if the certified blue star utility demonstrates
222 that it:

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

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

228 (c) If applicable, has submitted annual program
229 implementation reports demonstrating progress in the
230 implementation of the program.

231 Section 4. Subsection (6) of section 403.161, Florida
232 Statutes, is renumbered as subsection (7), and a new subsection
233 (6) is added to that section, to read:

234 403.161 Prohibitions, violation, penalty, intent.—

235 (6) Notwithstanding any other law, the department may
236 reduce a penalty based on the person's investment in the
237 assessment, maintenance, rehabilitation, or expansion of the
238 permitted facility.

239 Section 5. Paragraphs (a) and (b) of subsection (3) of
240 section 403.1838, Florida Statutes, are amended to read:

241 403.1838 Small Community Sewer Construction Assistance
242 Act.—



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243 (3) (a) In accordance with rules adopted by the
244 Environmental Regulation Commission under this section, the
245 department may provide grants, from funds specifically
246 appropriated for this purpose, to financially disadvantaged
247 small communities and to private, nonprofit utilities serving
248 financially disadvantaged small communities for up to 100
249 percent of the costs of planning, assessing, designing,
250 constructing, upgrading, or replacing wastewater collection,
251 transmission, treatment, disposal, and reuse facilities,
252 including necessary legal and administrative expenses. Grants
253 issued pursuant to this section may also be used for planning
254 and implementing domestic wastewater collection system
255 assessment programs to identify conditions that may cause
256 sanitary sewer overflows or interruption of service to customers
257 due to a physical condition or defect in the system.

258 (b) The rules of the Environmental Regulation Commission
259 must:

260 1. Require that projects to plan, assess, design,
261 construct, upgrade, or replace wastewater collection,
262 transmission, treatment, disposal, and reuse facilities be cost-
263 effective, environmentally sound, permittable, and
264 implementable.

265 2. Require appropriate user charges, connection fees, and
266 other charges sufficient to ensure the long-term operation,
267 maintenance, and replacement of the facilities constructed under
268 each grant.

269 3. Require grant applications to be submitted on
270 appropriate forms with appropriate supporting documentation, and
271 require records to be maintained.



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272 4. Establish a system to determine eligibility of grant
273 applications.

274 5. Establish a system to determine the relative priority of
275 grant applications. The system must consider public health
276 protection and water pollution abatement.

277 6. Establish requirements for competitive procurement of
278 engineering and construction services, materials, and equipment.

279 7. Provide for termination of grants when program
280 requirements are not met.

281 Section 6. This act shall take effect July 1, 2018.

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283 ===== T I T L E A M E N D M E N T =====

284 And the title is amended as follows:

285 Delete everything before the enacting clause
286 and insert:

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A bill to be entitled

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An act relating to domestic wastewater collection
289 system assessment and maintenance; creating s.

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403.1839, F.S.; defining terms; providing legislative

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findings; establishing the blue star collection system

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assessment and maintenance program; specifying the

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purpose of the program; requiring the Department of

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Environmental Protection to adopt rules and review

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and, if appropriate, approve applications for

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certification under the program; requiring utilities

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applying for certification to provide reasonable

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documentation demonstrating that it meets specified

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certification standards; providing that certifications

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expire after a specified period of time; specifying



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301 requirements to maintain program certification;
302 requiring the department to annually publish a list of
303 certified blue star utilities, beginning on a
304 specified date; requiring the department to allow
305 public and private, nonprofit utilities to participate
306 in the Clean Water State Revolving Fund Program for
307 certain purposes; authorizing the department to reduce
308 certain penalties for a certified utility under
309 specified conditions; amending s. 403.067, F.S.;
310 creating a presumption of compliance with certain
311 total maximum daily load requirements for certified
312 blue star utilities; amending s. 403.087, F.S.;
313 requiring the department to provide extended operating
314 permits when a certified blue star utility applies for
315 permit renewal under certain conditions; amending s.
316 403.161, F.S.; authorizing the department to reduce a
317 penalty based on certain system investments for
318 permitted facilities; amending s. 403.1838, F.S.;
319 allowing for additional recipients and uses of Small
320 Community Sewer Construction grants; providing an
321 effective date.