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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/05/2018	.	
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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.



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.

282

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:

287 A bill to be entitled  
288 An act relating to domestic wastewater collection  
289 system assessment and maintenance; creating s.  
290 403.1839, F.S.; defining terms; providing legislative  
291 findings; establishing the blue star collection system  
292 assessment and maintenance program; specifying the  
293 purpose of the program; requiring the Department of  
294 Environmental Protection to adopt rules and review  
295 and, if appropriate, approve applications for  
296 certification under the program; requiring utilities  
297 applying for certification to provide reasonable  
298 documentation demonstrating that it meets specified  
299 certification standards; providing that certifications  
300 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.