

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Natural Resources & Public
2 Lands Subcommittee

3 Representative Edwards-Walpole offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

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

9 403.1839 Blue star collection system assessment and
10 maintenance program.-

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

12 (a) "domestic wastewater" has the same meaning as defined
13 in s. 367.021.

14 (b) "domestic wastewater collection system" has the same
15 meaning as defined in s. 403.866.

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16 (c) "program" means the blue star collection system
17 assessment and maintenance program.

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

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

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

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

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

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

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41 (4) APPROVAL AND STANDARDS.—

42 (a) The department shall adopt rules to administer the
43 program, including certification standards for the program, and
44 shall review and approve public and private domestic wastewater
45 utilities applying for certification under the program or
46 demonstrating maintenance of program certification pursuant to
47 subsection (4) (c) based upon the certification standards.

48 (b) A utility must provide reasonable documentation of the
49 following certification standards in order to be certified under
50 the program:

51 1. The implementation of periodic collection system and
52 pump station structural condition assessments and the
53 performance of as-needed maintenance and replacements.

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

57 3. The 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, a local law or
61 building code requiring the private pump stations and lateral
62 lines connecting to the public system to be free of:

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

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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. A power outage contingency plan that addresses
68 mitigation of the impacts of power outages on the utility's
69 collection system and pump stations.

70 (c) Program certifications shall expire after 5 years. A
71 utility shall document its implementation of the program on an
72 annual basis with the department and must demonstrate it meets
73 all program criteria in order to maintain its program
74 certification.

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

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

83 (7) REDUCED PENALTIES.—In the calculation of penalties
84 pursuant to s. 403.161 for a sanitary sewer overflow, the
85 department may reduce the penalty based on a utility's status as
86 a certified blue star utility in accordance with this section.
87 The department may also reduce a penalty based on a certified
88 blue star utility's investment in assessment and maintenance

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89 activities to identify and address conditions that may cause
90 sanitary sewer overflows or interruption of service to customers
91 due to a physical condition or defect in the system.

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

94 403.067 Establishment and implementation of total maximum
95 daily loads.—

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

98 (c) *Best management practices.*—

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

110 2. The Department of Agriculture and Consumer Services
111 may develop and adopt by rule pursuant to ss. 120.536(1) and
112 120.54 suitable interim measures, best management practices, or
113 other measures necessary to achieve the level of pollution

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114 reduction established by the department for agricultural
115 pollutant sources in allocations developed pursuant to
116 subsection (6) and this subsection or for programs implemented
117 pursuant to paragraph (12) (b). These practices and measures may
118 be implemented by those parties responsible for agricultural
119 pollutant sources and the department, the water management
120 districts, and the Department of Agriculture and Consumer
121 Services shall assist with implementation. In the process of
122 developing and adopting rules for interim measures, best
123 management practices, or other measures, the Department of
124 Agriculture and Consumer Services shall consult with the
125 department, the Department of Health, the water management
126 districts, representatives from affected farming groups, and
127 environmental group representatives. Such rules must also
128 incorporate provisions for a notice of intent to implement the
129 practices and a system to assure the implementation of the
130 practices, including site inspection and recordkeeping
131 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

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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
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

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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, shall revise the rule to
182 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
185 of 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

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

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, a blue star utility certified
218 pursuant to s. 403.1839 shall be issued a 10-year permit, for
219 the same fee and under the same conditions as a 5-year permit,
220 upon approval of its application for permit renewal by the
221 department, if the certified blue star utility demonstrates that
222 it:

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

225 (b) Does not have any pending enforcement action against
226 it 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.

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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.—

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-

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263 effective, environmentally sound, permissible, 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
275 of 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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T I T L E A M E N D M E N T

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Remove everything before the enacting clause and insert:

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287 An act relating to domestic wastewater collection system
288 assessment and maintenance; creating s. 403.1839, F.S.; defining
289 the terms; providing legislative findings; establishing the blue
290 star collection system assessment and maintenance program and
291 providing its purpose; requiring the Department of Environmental
292 Protection to adopt rules and review and approve program
293 applications for certification; specifying the documentation a
294 utility must submit to qualify for certification; providing for
295 certification expiration and renewal; requiring the department
296 to publish an annual list of certified blue star utilities;
297 requiring the department to allow public and private, nonprofit
298 utilities to participate in the Clean Water State Revolving Fund
299 Program under certain conditions; authorizing the department to
300 reduce penalties for a sanitary sewer overflow at a certified
301 utility and for investment in certain assessment and maintenance
302 activities; amending s. 403.067, F.S.; creating a presumption of
303 compliance for certain total maximum daily load requirements for
304 certified utilities; amending s. 403.087, F.S.; requiring the
305 department to provide extended operating permits when a
306 certified utility applies for permit renewal under certain
307 conditions; amending s. 403.161, F.S.; authorizing the
308 department to reduce a penalty based on certain system
309 investments for permitted facilities; amending s. 403.1838,
310 F.S.; allowing for additional recipients and uses of Small

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 837 (2018)

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311 | Community Sewer Construction grants; providing an effective
312 | date.