

1 A bill to be entitled
2 An act relating to domestic wastewater collection
3 system assessment and maintenance; creating s.
4 403.1839, F.S.; defining the term "program"; providing
5 legislative findings; establishing the blue star
6 collection system assessment and maintenance program
7 and providing its purpose; requiring the Department of
8 Environmental Protection to adopt rules and review and
9 approve program applications for certification;
10 specifying the documentation a utility must submit to
11 qualify for certification; providing for certification
12 expiration and renewal; requiring the department to
13 publish an annual list of certified blue star
14 utilities; requiring the department to allow public
15 and private, nonprofit utilities to participate in the
16 Clean Water State Revolving Fund Program under certain
17 conditions; authorizing the department to reduce
18 penalties for a certified utility and allow the
19 utility to apply the amount of a penalty toward
20 certain system investments; amending s. 403.067, F.S.;
21 creating a presumption of compliance for certain total
22 maximum daily load requirements for certified
23 utilities; amending s. 403.087, F.S.; requiring the
24 department to provide extended operating permits when
25 a certified utility applies for permit renewal;

26 | amending s. 403.161, F.S.; authorizing the department
 27 | to allow any utility to apply the amount of a penalty
 28 | toward certain system investments; amending s.
 29 | 403.1838, F.S.; allowing for additional recipients and
 30 | uses of Small Community Sewer Construction grants;
 31 | providing an effective date.

32 |

33 | Be It Enacted by the Legislature of the State of Florida:

34 |

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

37 | 403.1839 Blue star collection system assessment and
 38 | maintenance program.-

39 | (1) DEFINITION.-As used in this section, the term
 40 | "program" means the blue star collection system assessment and
 41 | maintenance program.

42 | (2) LEGISLATIVE FINDINGS.-The Legislature finds that:

43 | (a) The implementation of sewer collection system
 44 | assessment and maintenance practices has been shown to
 45 | effectively limit the unauthorized releases or spills of treated
 46 | or untreated domestic wastewater, generally referred to as
 47 | sanitary sewer overflows, and the unauthorized discharge of
 48 | pathogens.

49 | (b) The voluntary implementation of advanced sewer
 50 | collection system assessment and maintenance practices beyond

51 those required by law has the potential to further limit
52 sanitary sewer overflows.

53 (c) The unique geography, community, growth, and size and
54 age of sewer collection systems across the state require diverse
55 responses, using the best professional judgment of local utility
56 operators, to ensure that programs designed to limit sanitary
57 sewer overflows are effective.

58 (3) ESTABLISHMENT AND PURPOSE.—There is established in the
59 department a blue star collection system assessment and
60 maintenance program. The purpose of this voluntary incentive
61 program is to assist public and private utilities in limiting
62 sanitary sewer overflows and the unauthorized discharge of
63 pathogens.

64 (4) APPROVAL AND STANDARDS.—

65 (a) The department shall adopt rules to administer the
66 program, including certification standards for the program, and
67 shall review and approve public and private sewer utilities
68 applying for certification under the program based upon the
69 certification standards.

70 (b) A utility must provide reasonable documentation of the
71 following in order to be certified under the program:

72 1. The rate of reinvestment determined necessary by the
73 utility for its collection system and pump station structural
74 condition assessment and maintenance and replacement program.

75 2. The implementation of periodic collection system and

76 | pump station structural condition assessments and the
77 | performance of as-needed maintenance and replacements.

78 | 3. The implementation of a program designed to limit the
79 | presence of fats, roots, oils, and grease in the collection
80 | system.

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

84 | a. Cracks, holes, missing parts, or similar defects; and
85 | b. Direct stormwater connections that allow the direct
86 | inflow of stormwater into the private system and the public
87 | domestic wastewater collection system.

88 | 5. A power outage contingency plan that addresses
89 | mitigation of the impacts of power outages on the utility's
90 | collection system and pump stations.

91 | (5) EXPIRATION AND RENEWAL.—Program certifications shall
92 | expire after 5 years. A utility shall document its
93 | implementation of the program on an annual basis with the
94 | department and must meet all program criteria existing at the
95 | time of its application for renewal in order to maintain its
96 | program certification.

97 | (6) PUBLICATION.—The department shall annually publish on
98 | its website a list of certified blue star utilities beginning on
99 | January 1, 2020.

100 | (7) FEDERAL PROGRAM PARTICIPATION.—The department shall

101 allow public and private, nonprofit utilities to participate in
102 the Clean Water State Revolving Fund Program for any purpose
103 consistent with federal law, including to plan and implement
104 sanitary sewer assessment programs to identify conditions that
105 may cause unauthorized releases or spills of treated or
106 untreated domestic wastewater, pipe leakage, or interruption of
107 service to customers due to a physical condition or defect in
108 the system, as well as any assessment, maintenance, or
109 construction activities associated with becoming certified or
110 maintaining status as a certified blue star utility in
111 accordance with this section.

112 (8) REDUCED PENALTIES.—In the calculation of penalties
113 pursuant to s. 403.161 for a sanitary sewer overflow, the
114 department may reduce the penalty based on a utility's status as
115 a certified blue star utility in accordance with this section.
116 The department may allow any certified blue star utility to
117 apply the amount of a penalty toward investment in assessment
118 and maintenance activities to identify and address conditions
119 that may cause unauthorized releases or spills of treated or
120 untreated domestic wastewater, pipe leakage, or interruption of
121 service to customers due to a physical condition defect in the
122 system.

123 Section 2. Paragraph (c) of subsection (7) of section
124 403.067, Florida Statutes, is amended to read:

125 403.067 Establishment and implementation of total maximum

126 | daily loads.—

127 | (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
128 | IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

129 | (c) *Best management practices.*—

130 | 1. The department, in cooperation with the water
131 | management districts and other interested parties, as
132 | appropriate, may develop suitable interim measures, best
133 | management practices, or other measures necessary to achieve the
134 | level of pollution reduction established by the department for
135 | nonagricultural nonpoint pollutant sources in allocations
136 | developed pursuant to subsection (6) and this subsection. These
137 | practices and measures may be adopted by rule by the department
138 | and the water management districts and, where adopted by rule,
139 | shall be implemented by those parties responsible for
140 | nonagricultural nonpoint source pollution.

141 | 2. The Department of Agriculture and Consumer Services may
142 | develop and adopt by rule pursuant to ss. 120.536(1) and 120.54
143 | suitable interim measures, best management practices, or other
144 | measures necessary to achieve the level of pollution reduction
145 | established by the department for agricultural pollutant sources
146 | in allocations developed pursuant to subsection (6) and this
147 | subsection or for programs implemented pursuant to paragraph
148 | (12) (b). These practices and measures may be implemented by
149 | those parties responsible for agricultural pollutant sources and
150 | the department, the water management districts, and the

151 Department of Agriculture and Consumer Services shall assist
152 with implementation. In the process of developing and adopting
153 rules for interim measures, best management practices, or other
154 measures, the Department of Agriculture and Consumer Services
155 shall consult with the department, the Department of Health, the
156 water management districts, representatives from affected
157 farming groups, and environmental group representatives. Such
158 rules must also incorporate provisions for a notice of intent to
159 implement the practices and a system to assure the
160 implementation of the practices, including site inspection and
161 recordkeeping requirements.

162 3. Where interim measures, best management practices, or
163 other measures are adopted by rule, the effectiveness of such
164 practices in achieving the levels of pollution reduction
165 established in allocations developed by the department pursuant
166 to subsection (6) and this subsection or in programs implemented
167 pursuant to paragraph (12) (b) must be verified at representative
168 sites by the department. The department shall use best
169 professional judgment in making the initial verification that
170 the best management practices are reasonably expected to be
171 effective and, where applicable, must notify the appropriate
172 water management district or the Department of Agriculture and
173 Consumer Services of its initial verification before the
174 adoption of a rule proposed pursuant to this paragraph.
175 Implementation, in accordance with rules adopted under this

176 paragraph, of practices that have been initially verified to be
177 effective, or verified to be effective by monitoring at
178 representative sites, by the department, shall provide a
179 presumption of compliance with state water quality standards and
180 release from the provisions of s. 376.307(5) for those
181 pollutants addressed by the practices, and the department is not
182 authorized to institute proceedings against the owner of the
183 source of pollution to recover costs or damages associated with
184 the contamination of surface water or groundwater caused by
185 those pollutants. Research projects funded by the department, a
186 water management district, or the Department of Agriculture and
187 Consumer Services to develop or demonstrate interim measures or
188 best management practices shall be granted a presumption of
189 compliance with state water quality standards and a release from
190 the provisions of s. 376.307(5). The presumption of compliance
191 and release is limited to the research site and only for those
192 pollutants addressed by the interim measures or best management
193 practices. Eligibility for the presumption of compliance and
194 release is limited to research projects on sites where the owner
195 or operator of the research site and the department, a water
196 management district, or the Department of Agriculture and
197 Consumer Services have entered into a contract or other
198 agreement that, at a minimum, specifies the research objectives,
199 the cost-share responsibilities of the parties, and a schedule
200 that details the beginning and ending dates of the project.

201 4. Where water quality problems are demonstrated, despite
202 the appropriate implementation, operation, and maintenance of
203 best management practices and other measures required by rules
204 adopted under this paragraph, the department, a water management
205 district, or the Department of Agriculture and Consumer
206 Services, in consultation with the department, shall institute a
207 reevaluation of the best management practice or other measure.
208 Should the reevaluation determine that the best management
209 practice or other measure requires modification, the department,
210 a water management district, or the Department of Agriculture
211 and Consumer Services, as appropriate, shall revise the rule to
212 require implementation of the modified practice within a
213 reasonable time period as specified in the rule.

214 5. Agricultural records relating to processes or methods
215 of production, costs of production, profits, or other financial
216 information held by the Department of Agriculture and Consumer
217 Services pursuant to subparagraphs 3. and 4. or pursuant to any
218 rule adopted pursuant to subparagraph 2. are confidential and
219 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
220 Constitution. Upon request, records made confidential and exempt
221 pursuant to this subparagraph shall be released to the
222 department or any water management district provided that the
223 confidentiality specified by this subparagraph for such records
224 is maintained.

225 6. The provisions of subparagraphs 1. and 2. do not

226 preclude the department or water management district from
227 requiring compliance with water quality standards or with
228 current best management practice requirements set forth in any
229 applicable regulatory program authorized by law for the purpose
230 of protecting water quality. Additionally, subparagraphs 1. and
231 2. are applicable only to the extent that they do not conflict
232 with any rules adopted by the department that are necessary to
233 maintain a federally delegated or approved program.

234 7. The department must provide a domestic wastewater
235 utility with a presumption of compliance with state water
236 quality standards for pathogens when the utility demonstrates a
237 history of compliance with wastewater disinfection requirements
238 incorporated in the utility's operating permit for any discharge
239 into the impaired surface water, and the utility implements a
240 blue star collection system assessment and maintenance program
241 as a certified blue star utility in accordance with s. 403.1839.

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

244 403.087 Permits; general issuance; denial; revocation;
245 prohibition; penalty.—

246 (11) Subject to the permit duration limits for a utility
247 permitted pursuant to s. 403.0885, a blue star utility certified
248 pursuant to s. 403.1839 shall be issued a 10-year permit upon
249 approval of its application for renewal by the department in
250 accordance with this section.

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

254 403.161 Prohibitions, violation, penalty, intent.—
255 (6) Notwithstanding any other law, the department may
256 allow any utility to apply the amount of a penalty toward
257 investment in assessment and maintenance activities to identify
258 and address conditions that may cause unauthorized releases or
259 spills of treated or untreated domestic wastewater, pipe
260 leakage, or interruption of service to customers due to a
261 physical condition defect in the system.

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

264 403.1838 Small Community Sewer Construction Assistance
265 Act.—

266 (3) (a) In accordance with rules adopted by the
267 Environmental Regulation Commission under this section, the
268 department may provide grants, from funds specifically
269 appropriated for this purpose, to financially disadvantaged
270 small communities and to private, nonprofit utilities serving
271 financially disadvantaged small communities for up to 100
272 percent of the costs of planning, assessing, designing,
273 constructing, upgrading, or replacing wastewater collection,
274 transmission, treatment, disposal, and reuse facilities,
275 including necessary legal and administrative expenses. Grants

276 issued pursuant to this section may also be used for planning
277 and implementing sanitary sewer assessment programs to identify
278 conditions that may cause unauthorized releases or spills of
279 treated or untreated domestic wastewater, pipe leakage, or
280 interruption of service to customers due to a physical condition
281 or defect in the system.

282 (b) The rules of the Environmental Regulation Commission
283 must:

284 1. Require that projects to plan, assess, design,
285 construct, upgrade, or replace wastewater collection,
286 transmission, treatment, disposal, and reuse facilities be cost-
287 effective, environmentally sound, permittable, and
288 implementable.

289 2. Require appropriate user charges, connection fees, and
290 other charges sufficient to ensure the long-term operation,
291 maintenance, and replacement of the facilities constructed under
292 each grant.

293 3. Require grant applications to be submitted on
294 appropriate forms with appropriate supporting documentation, and
295 require records to be maintained.

296 4. Establish a system to determine eligibility of grant
297 applications.

298 5. Establish a system to determine the relative priority
299 of grant applications. The system must consider public health
300 protection and water pollution abatement.

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301 6. Establish requirements for competitive procurement of
302 engineering and construction services, materials, and equipment.

303 7. Provide for termination of grants when program
304 requirements are not met.

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