

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

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1 Committee/Subcommittee hearing bill: Agriculture & Natural  
2 Resources Subcommittee

3 Representative Jacobs 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 to  
8 read:

9 403.1839 Blue Star Collection System Assessment and  
10 Maintenance Program.-

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

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

14 (b) "Domestic wastewater collection system" has the same  
15 meaning as 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  
20 or 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 the certification standards for the program  
44 in paragraph (b), and shall review and approve public and  
45 private domestic wastewater utilities that apply for  
46 certification or renewal under the program and that demonstrate  
47 maintenance of program certification pursuant to paragraph (c)  
48 based upon the certification standards.

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

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

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

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

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

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

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65 b. Direct stormwater connections that allow the direct  
66 inflow of stormwater into the private system and the public  
67 domestic wastewater collection system.

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

71 (c) Program certifications shall expire after 5 years. A  
72 utility shall document its implementation of the program on an  
73 annual basis with the department and must demonstrate that the  
74 utility meets all program standards in order to maintain its  
75 program certification. The approval of an application for  
76 renewal certification must be based on the utility demonstrating  
77 maintenance of program standards. A utility applying for renewal  
78 certification must demonstrate maintenance of program standards  
79 and progress in implementing the program.

80 (5) PUBLICATION.—The department shall annually publish on  
81 its website a list of certified blue star utilities beginning on  
82 January 1, 2021.

83 (6) FEDERAL PROGRAM PARTICIPATION.—The department shall  
84 allow public and nonprofit utilities to participate in the Clean  
85 Water State Revolving Fund Program for any purpose of the  
86 program that is consistent with federal requirements for  
87 participating in the Clean Water State Revolving Fund Program.

88 (7) REDUCED PENALTIES.—In the calculation of penalties  
89 pursuant to s. 403.161 for a sanitary sewer overflow, the

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90 department may reduce the penalty based on a utility's status as  
91 a certified blue star utility in accordance with this section.  
92 The department may also reduce a penalty based on a certified  
93 blue star utility's investment in assessment and maintenance  
94 activities to identify and address conditions that may cause  
95 sanitary sewer overflows or interruption of service to customers  
96 due to a physical condition or defect in the system.

97 Section 2. Paragraph (c) of subsection (7) of section  
98 403.067, Florida Statutes, is amended to read:

99 403.067 Establishment and implementation of total maximum  
100 daily loads.—

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

103 (c) *Best management practices.*—

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

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115           2. The Department of Agriculture and Consumer Services may  
116 develop and adopt by rule pursuant to ss. 120.536(1) and 120.54  
117 suitable interim measures, best management practices, or other  
118 measures necessary to achieve the level of pollution reduction  
119 established by the department for agricultural pollutant sources  
120 in allocations developed pursuant to subsection (6) and this  
121 subsection or for programs implemented pursuant to paragraph  
122 (12) (b). These practices and measures may be implemented by  
123 those parties responsible for agricultural pollutant sources and  
124 the department, the water management districts, and the  
125 Department of Agriculture and Consumer Services shall assist  
126 with implementation. In the process of developing and adopting  
127 rules for interim measures, best management practices, or other  
128 measures, the Department of Agriculture and Consumer Services  
129 shall consult with the department, the Department of Health, the  
130 water management districts, representatives from affected  
131 farming groups, and environmental group representatives. Such  
132 rules must also incorporate provisions for a notice of intent to  
133 implement the practices and a system to assure the  
134 implementation of the practices, including site inspection and  
135 recordkeeping requirements.

136           3. Where interim measures, best management practices, or  
137 other measures are adopted by rule, the effectiveness of such  
138 practices in achieving the levels of pollution reduction  
139 established in allocations developed by the department pursuant

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140 to subsection (6) and this subsection or in programs implemented  
141 pursuant to paragraph (12)(b) must be verified at representative  
142 Consumer Services of its initial verification before the  
143 adoption of a rule proposed pursuant to this paragraph.  
144 Implementation, in accordance with rules adopted under this  
145 paragraph, of practices that have been initially verified to be  
146 effective, or verified to be effective by monitoring at  
147 representative sites, by the department, shall provide a  
148 presumption of compliance with state water quality standards and  
149 release from the provisions of s. 376.307(5) for those  
150 pollutants addressed by the practices, and the department is not  
151 authorized to institute proceedings against the owner of the  
152 source of pollution to recover costs or damages associated with  
153 the contamination of surface water or groundwater caused by  
154 those pollutants. Research projects funded by the department, a  
155 water management district, or the Department of Agriculture and  
156 Consumer Services to develop or demonstrate interim measures or  
157 best management practices shall be granted a presumption of  
158 compliance with state water quality standards and a release from  
159 the provisions of s. 376.307(5). The presumption of compliance  
160 and release is limited to the research site and only for those  
161 pollutants addressed by the interim measures or best management  
162 practices. Eligibility for the presumption of compliance and  
163 release is limited to research projects on sites where the owner  
164 or operator of the research site and the department, a water

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165 management district, or the Department of Agriculture and  
166 Consumer Services have entered into a contract or other  
167 agreement that, at a minimum, specifies the research objectives,  
168 the cost-share responsibilities of the parties, and a schedule  
169 that details the beginning and ending dates of the project.

170 4. When ~~where~~ water quality problems are demonstrated,  
171 despite the appropriate implementation, operation, and  
172 maintenance of best management practices and other measures  
173 required by rules adopted under this paragraph, the department,  
174 a water management district, or the Department of Agriculture  
175 and Consumer Services, in consultation with the department,  
176 shall institute a reevaluation of the best management practice  
177 or other measure. Should the reevaluation determine that the  
178 best management practice or other measure requires modification,  
179 the department, a water management district, or the Department  
180 of Agriculture and Consumer Services, as appropriate, shall  
181 revise the rule to require implementation of the modified  
182 practice within a reasonable time period as specified in the  
183 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  
189 exempt from s. 119.07(1) and s. 24(a), Art. I of the State

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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. For the sole purpose of establishing a total maximum  
205 daily load for pathogens in a surface water, the department must  
206 provide a domestic wastewater utility with a defensible  
207 expectation of compliance with state water quality standards for  
208 fecal indicator bacteria when the utility implements and  
209 maintains a best management program as a certified blue star  
210 utility in accordance with s. 403.1839 and demonstrates a  
211 history of compliance with wastewater disinfection requirements  
212 incorporated in the utility's operating permit for any discharge  
213 into the impaired surface water.

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

216 403.087 Permits; general issuance; denial; revocation;  
217 prohibition; penalty.—

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

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

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

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

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

235 403.161 Prohibitions, violation, penalty, intent.—

236 (6) Notwithstanding any other law, the department may  
237 reduce the amount of a penalty based on the person's investment

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238 in the assessment, maintenance, rehabilitation, or expansion of  
239 the permitted facility.

240 Section 5. Subsection (2) and paragraphs (a) and (b) of  
241 subsection (3) of section 403.1838, Florida Statutes, are  
242 amended to read:

243 403.1838 Small Community Sewer Construction Assistance  
244 Act.—

245 (2) The department shall use funds specifically  
246 appropriated to award grants under this section to assist  
247 financially disadvantaged small communities with their needs for  
248 adequate sewer facilities. The department may use funds  
249 specifically appropriated to award grants under this section to  
250 assist nonprofit utilities providing wastewater services to  
251 financially disadvantaged small communities. For purposes of  
252 this section, the term "financially disadvantaged small  
253 community" means a county, municipality, or special district  
254 that has a population of 10,000 or fewer, according to the  
255 latest decennial census, and a per capita annual income less  
256 than the state per capita annual income as determined by the  
257 United States Department of Commerce. For purposes of this  
258 subsection, the term "special district" has the same meaning as  
259 provided in s. 189.012 and includes only those special districts  
260 whose public purpose includes water and sewer services, utility  
261 systems and services, or wastewater systems and services. The  
262 department may waive the population requirement for an

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263 independent special district that serves fewer than 10,000  
264 wastewater customers, is located within a watershed with an  
265 adopted total maximum daily load or basin management action plan  
266 for pollutants associated with domestic wastewater pursuant to  
267 s. 403.067, and is wholly located within a rural area of  
268 opportunity as defined in s. 288.0656.

269 (3) (a) In accordance with rules adopted by the department  
270 ~~Environmental Regulation Commission~~ under this section, the  
271 department may provide grants, from funds specifically  
272 appropriated for this purpose, to financially disadvantaged  
273 small communities and to nonprofit utilities serving financially  
274 disadvantaged small communities for up to 100 percent of the  
275 costs of planning, assessing, designing, constructing,  
276 upgrading, or replacing wastewater collection, transmission,  
277 treatment, disposal, and reuse facilities, including necessary  
278 legal and administrative expenses. Grants issued pursuant to  
279 this section may also be used for planning and implementing  
280 domestic wastewater collection system assessment and maintenance  
281 programs to identify conditions that may cause sanitary sewer  
282 overflows or interruption of service to customers due to a  
283 physical condition or defect in the system.

284 (b) The rules of the department ~~Environmental Regulation~~  
285 ~~Commission~~ must:

286 1. Require that projects to plan, assess, design,  
287 construct, upgrade, or replace wastewater collection,

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288 transmission, treatment, disposal, and reuse facilities be cost-  
289 effective, environmentally sound, permittable, and  
290 implementable.

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

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

298 4. Establish a system to determine eligibility of grant  
299 applications.

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

303 6. Establish requirements for competitive procurement of  
304 engineering and construction services, materials, and equipment.

305 7. Provide for termination of grants when program  
306 requirements are not met.

307 Section 6. This act shall take effect July 1, 2019.

308

309

310 **T I T L E A M E N D M E N T**

311 Remove everything before the enacting clause and insert:

312

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313  
314 An act relating to domestic wastewater collection system  
315 assessment and maintenance; creating s. 403.1839, F.S.;  
316 providing definitions; providing legislative findings;  
317 establishing the Blue Star Collection System Assessment and  
318 Maintenance Program and providing its purpose; requiring the  
319 Department of Environmental Protection to adopt rules and review  
320 and approve program applications for certification; specifying  
321 the documentation utilities must submit to qualify for  
322 certification; providing for certification expiration and  
323 renewal; requiring the department to publish an annual list of  
324 certified blue star utilities; requiring the department to allow  
325 public and nonprofit utilities to participate in the Clean Water  
326 State Revolving Fund Program under certain conditions;  
327 authorizing the department to reduce penalties for sanitary  
328 sewer overflows at certified utilities and for investments in  
329 certain assessment and maintenance activities; amending s.  
330 403.067, F.S.; creating a defensible expectation of compliance  
331 for certain water quality standards for certified utilities;  
332 amending s. 403.087, F.S.; requiring the department to issue  
333 extended operating permits to certified utilities under certain  
334 conditions; amending s. 403.161, F.S.; authorizing the  
335 department to reduce penalties based on certain system  
336 investments for permitted facilities; amending s. 403.1838,  
337 F.S.; authorizing additional recipients and uses of Small

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 105 (2019)

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338 | Community Sewer Construction Assistance Act grants; providing an  
339 | effective date.