

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.; providing definitions; 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 utilities 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 sanitary sewer overflows at certified  
19          utilities and for investments in certain assessment  
20          and maintenance activities; 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 issue extended operating permits to  
25          certified utilities under certain conditions; amending

26 s. 403.161, F.S.; authorizing the department to reduce  
 27 penalties based on certain system investments for  
 28 permitted facilities; amending s. 403.1838, F.S.;  
 29 authorizing additional recipients and uses of Small  
 30 Community Sewer Construction Assistance 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) DEFINITIONS.—As used in this section, the term:

40 (a) "Domestic wastewater" has the same meaning as in s.  
 41 367.021.

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

44 (c) "Program" means the Blue Star Collection System  
 45 Assessment and Maintenance Program.

46 (d) "Sanitary sewer overflow" means the unauthorized  
 47 overflow, spill, release, discharge, or diversion of untreated  
 48 or partially treated domestic wastewater.

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

50 (a) The implementation of domestic wastewater collection

51 system assessment and maintenance practices has been shown to  
52 effectively limit sanitary sewer overflows and the unauthorized  
53 discharge of pathogens.

54 (b) The voluntary implementation of domestic wastewater  
55 collection system assessment and maintenance practices beyond  
56 those required by law has the potential to further limit  
57 sanitary sewer overflows.

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

63 (3) ESTABLISHMENT AND PURPOSE.—There is established in the  
64 department a Blue Star Collection System Assessment and  
65 Maintenance Program. The purpose of this voluntary incentive  
66 program is to assist public and private utilities in limiting  
67 sanitary sewer overflows and the unauthorized discharge of  
68 pathogens.

69 (4) APPROVAL AND STANDARDS.—

70 (a) The department shall adopt rules to administer the  
71 program, including the certification standards for the program  
72 in paragraph (b), and shall review and approve public and  
73 private domestic wastewater utilities that apply for  
74 certification or renewal under the program and that demonstrate  
75 maintenance of program certification pursuant to paragraph (c)

76 based upon the certification standards.

77 (b) A utility must provide reasonable documentation of the  
78 following certification standards in order to be certified under  
79 the program:

80 1. The implementation of periodic collection system and  
81 pump station structural condition assessments and the  
82 performance of as-needed maintenance and replacements.

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

86 3. The implementation of a program designed to limit the  
87 presence of fats, roots, oils, and grease in the collection  
88 system.

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

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

93 b. Direct stormwater connections that allow the direct  
94 inflow of stormwater into the private system and the public  
95 domestic wastewater collection system.

96 5. A power outage contingency plan that addresses  
97 mitigation of the impacts of power outages on the utility's  
98 collection system and pump stations.

99 (c) Program certifications shall expire after 5 years. A  
100 utility shall document its implementation of the program on an

101 annual basis with the department and must demonstrate that the  
102 utility meets all program standards in order to maintain its  
103 program certification. The approval of an application for  
104 renewal certification must be based on the utility demonstrating  
105 maintenance of program standards. A utility applying for renewal  
106 certification must demonstrate maintenance of program standards  
107 and progress in implementing the program.

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

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

116 (7) REDUCED PENALTIES.—In the calculation of penalties  
117 pursuant to s. 403.161 for a sanitary sewer overflow, the  
118 department may reduce the penalty based on a utility's status as  
119 a certified blue star utility in accordance with this section.  
120 The department may also reduce a penalty based on a certified  
121 blue star utility's investment in assessment and maintenance  
122 activities to identify and address conditions that may cause  
123 sanitary sewer overflows or interruption of service to customers  
124 due to a physical condition or defect in the system.

125 Section 2. Paragraph (c) of subsection (7) of section

126 | 403.067, Florida Statutes, is amended to read:

127 |       403.067 Establishment and implementation of total maximum  
128 | daily loads.—

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

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

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

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

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

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

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



201 the cost-share responsibilities of the parties, and a schedule  
202 that details the beginning and ending dates of the project.

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

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

226 confidentiality specified by this subparagraph for such records  
227 is maintained.

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

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

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

247 403.087 Permits; general issuance; denial; revocation;  
248 prohibition; penalty.—

249 (11) Subject to the permit duration limits for a utility  
250 permitted pursuant to s. 403.0885, a blue star utility certified

251 pursuant to s. 403.1839 shall be issued a 10-year permit for the  
252 same fee and under the same conditions as a 5-year permit upon  
253 approval of its application for permit renewal by the department  
254 if the certified blue star utility demonstrates that it:

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

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

260 (c) If applicable, has submitted annual program  
261 implementation reports demonstrating progress in the  
262 implementation of the program.

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

266 403.161 Prohibitions, violation, penalty, intent.—

267 (6) Notwithstanding any other law, the department may  
268 reduce the amount of a penalty based on the person's investment  
269 in the assessment, maintenance, rehabilitation, or expansion of  
270 the permitted facility.

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

274 403.1838 Small Community Sewer Construction Assistance  
275 Act.—

276 (2) The department shall use funds specifically  
277 appropriated to award grants under this section to assist  
278 financially disadvantaged small communities with their needs for  
279 adequate sewer facilities. The department may use funds  
280 specifically appropriated to award grants under this section to  
281 assist private, nonprofit utilities providing wastewater  
282 services to financially disadvantaged small communities. For  
283 purposes of this section, the term "financially disadvantaged  
284 small community" means a county, municipality, or special  
285 district that has a population of 10,000 or fewer, according to  
286 the latest decennial census, and a per capita annual income less  
287 than the state per capita annual income as determined by the  
288 United States Department of Commerce. For purposes of this  
289 subsection, the term "special district" has the same meaning as  
290 provided in s. 189.012 and includes only those special districts  
291 whose public purpose includes water and sewer services, utility  
292 systems and services, or wastewater systems and services. The  
293 department may waive the population requirement for an  
294 independent special district that serves fewer than 10,000  
295 wastewater customers, is located within a watershed with an  
296 adopted total maximum daily load or basin management action plan  
297 for pollutants associated with domestic wastewater pursuant to  
298 s. 403.067, and is wholly located within a rural area of  
299 opportunity as defined in s. 288.0656.

300 (3) (a) In accordance with rules adopted by the

301 Environmental Regulation Commission under this section, the  
302 department may provide grants, from funds specifically  
303 appropriated for this purpose, to financially disadvantaged  
304 small communities and to private, nonprofit utilities serving  
305 financially disadvantaged small communities for up to 100  
306 percent of the costs of planning, assessing, designing,  
307 constructing, upgrading, or replacing wastewater collection,  
308 transmission, treatment, disposal, and reuse facilities,  
309 including necessary legal and administrative expenses. Grants  
310 issued pursuant to this section may also be used for planning  
311 and implementing domestic wastewater collection system  
312 assessment and maintenance programs to identify conditions that  
313 may cause sanitary sewer overflows or interruption of service to  
314 customers due to a physical condition or defect in the system.

315 (b) The rules of the Environmental Regulation Commission  
316 must:

317 1. Require that projects to plan, assess, design,  
318 construct, upgrade, or replace wastewater collection,  
319 transmission, treatment, disposal, and reuse facilities be cost-  
320 effective, environmentally sound, permittable, and  
321 implementable.

322 2. Require appropriate user charges, connection fees, and  
323 other charges sufficient to ensure the long-term operation,  
324 maintenance, and replacement of the facilities constructed under  
325 each grant.

326           3. Require grant applications to be submitted on  
327 appropriate forms with appropriate supporting documentation, and  
328 require records to be maintained.

329           4. Establish a system to determine eligibility of grant  
330 applications.

331           5. Establish a system to determine the relative priority  
332 of grant applications. The system must consider public health  
333 protection and water pollution abatement.

334           6. Establish requirements for competitive procurement of  
335 engineering and construction services, materials, and equipment.

336           7. Provide for termination of grants when program  
337 requirements are not met.

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