



217872

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2019	.	
	.	
	.	
	.	

The Committee on Environment and Natural Resources (Albritton) 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 term:

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



217872

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.

16 (d) "Sanitary sewer overflow" means the unauthorized
17 overflow, spill, release, discharge, or diversion of untreated
18 or partially treated domestic wastewater.

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

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

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

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

33 (3) ESTABLISHMENT AND PURPOSE.—There is established in the
34 department a Blue Star Collection System Assessment and
35 Maintenance Program. The purpose of this voluntary incentive
36 program is to assist public and private utilities in limiting
37 sanitary sewer overflows and the unauthorized discharge of
38 pathogens.

39 (4) APPROVAL AND STANDARDS.—

40 (a) The department shall adopt rules to administer the



217872

41 program, including the certification standards for the program
42 in paragraph (b), and shall review and approve public and
43 private domestic wastewater utilities that apply for
44 certification or renewal under the program and that demonstrate
45 maintenance of program certification pursuant to paragraph (c)
46 based upon the certification standards.

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

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

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

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

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

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

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

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

69 (c) Program certifications shall expire after 5 years. A



217872

70 utility shall document its implementation of the program on an
71 annual basis with the department and must demonstrate that the
72 utility meets all program standards in order to maintain its
73 program certification. The approval of an application for
74 renewal certification must be based on the utility demonstrating
75 maintenance of program standards. A utility applying for renewal
76 certification must demonstrate maintenance of program standards
77 and progress in implementing the program.

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

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

86 (7) REDUCED PENALTIES.—In the calculation of penalties
87 pursuant to s. 403.161 for a sanitary sewer overflow, the
88 department may reduce the penalty based on a utility's status as
89 a certified blue star utility in accordance with this section.
90 The department may also reduce a penalty based on a certified
91 blue star utility's investment in assessment and maintenance
92 activities to identify and address conditions that may cause
93 sanitary sewer overflows or interruption of service to customers
94 due to a physical condition or defect in the system.

95 Section 2. Paragraph (c) of subsection (7) of section
96 403.067, Florida Statutes, is amended to read:

97 403.067 Establishment and implementation of total maximum
98 daily loads.—



217872

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

101 (c) *Best management practices.*—

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

113 2. The Department of Agriculture and Consumer Services may
114 develop and adopt by rule pursuant to ss. 120.536(1) and 120.54
115 suitable interim measures, best management practices, or other
116 measures necessary to achieve the level of pollution reduction
117 established by the department for agricultural pollutant sources
118 in allocations developed pursuant to subsection (6) and this
119 subsection or for programs implemented pursuant to paragraph
120 (12)(b). These practices and measures may be implemented by
121 those parties responsible for agricultural pollutant sources and
122 the department, the water management districts, and the
123 Department of Agriculture and Consumer Services shall assist
124 with implementation. In the process of developing and adopting
125 rules for interim measures, best management practices, or other
126 measures, the Department of Agriculture and Consumer Services
127 shall consult with the department, the Department of Health, the



128 water management districts, representatives from affected
129 farming groups, and environmental group representatives. Such
130 rules must also incorporate provisions for a notice of intent to
131 implement the practices and a system to assure the
132 implementation of the practices, including site inspection and
133 recordkeeping requirements.

134 3. When ~~where~~ interim measures, best management practices,
135 or other measures are adopted by rule, the effectiveness of such
136 practices in achieving the levels of pollution reduction
137 established in allocations developed by the department pursuant
138 to subsection (6) and this subsection or in programs implemented
139 pursuant to paragraph (12)(b) must be verified at representative
140 sites by the department. The department shall use best
141 professional judgment in making the initial verification that
142 the best management practices are reasonably expected to be
143 effective and, where applicable, must notify the appropriate
144 water management district or the Department of Agriculture and
145 Consumer Services of its initial verification before the
146 adoption of a rule proposed pursuant to this paragraph.
147 Implementation, in accordance with rules adopted under this
148 paragraph, of practices that have been initially verified to be
149 effective, or verified to be effective by monitoring at
150 representative sites, by the department, shall provide a
151 presumption of compliance with state water quality standards and
152 release from the provisions of s. 376.307(5) for those
153 pollutants addressed by the practices, and the department is not
154 authorized to institute proceedings against the owner of the
155 source of pollution to recover costs or damages associated with
156 the contamination of surface water or groundwater caused by



217872

157 those pollutants. Research projects funded by the department, a
158 water management district, or the Department of Agriculture and
159 Consumer Services to develop or demonstrate interim measures or
160 best management practices shall be granted a presumption of
161 compliance with state water quality standards and a release from
162 the provisions of s. 376.307(5). The presumption of compliance
163 and release is limited to the research site and only for those
164 pollutants addressed by the interim measures or best management
165 practices. Eligibility for the presumption of compliance and
166 release is limited to research projects on sites where the owner
167 or operator of the research site and the department, a water
168 management district, or the Department of Agriculture and
169 Consumer Services have entered into a contract or other
170 agreement that, at a minimum, specifies the research objectives,
171 the cost-share responsibilities of the parties, and a schedule
172 that details the beginning and ending dates of the project.

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



217872

186 rule.

187 5. Agricultural records relating to processes or methods of
188 production, costs of production, profits, or other financial
189 information held by the Department of Agriculture and Consumer
190 Services pursuant to subparagraphs 3. and 4. or pursuant to any
191 rule adopted pursuant to subparagraph 2. are confidential and
192 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
193 Constitution. Upon request, records made confidential and exempt
194 pursuant to this subparagraph shall be released to the
195 department or any water management district provided that the
196 confidentiality specified by this subparagraph for such records
197 is maintained.

198 6. ~~The provisions of~~ Subparagraphs 1. and 2. do not
199 preclude the department or water management district from
200 requiring compliance with water quality standards or with
201 current best management practice requirements set forth in any
202 applicable regulatory program authorized by law for the purpose
203 of protecting water quality. Additionally, subparagraphs 1. and
204 2. are applicable only to the extent that they do not conflict
205 with any rules adopted by the department that are necessary to
206 maintain a federally delegated or approved program.

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



217872

215 incorporated in the utility's operating permit for any discharge
216 into the impaired surface water.

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

219 403.087 Permits; general issuance; denial; revocation;
220 prohibition; penalty.—

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

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

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

232 (c) If applicable, has submitted annual program
233 implementation reports demonstrating progress in the
234 implementation of the program.

235 Section 4. Present subsection (6) of section 403.161,
236 Florida Statutes, is redesignated as subsection (7), and a new
237 subsection (6) is added to that section, to read:

238 403.161 Prohibitions, violation, penalty, intent.—

239 (6) Notwithstanding any other law, the department may
240 reduce the amount of a penalty based on the person's investment
241 in the assessment, maintenance, rehabilitation, or expansion of
242 the permitted facility.

243 Section 5. Subsection (2) and paragraphs (a) and (b) of



217872

244 subsection (3) of section 403.1838, Florida Statutes, are
245 amended to read:

246 403.1838 Small Community Sewer Construction Assistance
247 Act.—

248 (2) The department shall use funds specifically
249 appropriated to award grants under this section to assist
250 financially disadvantaged small communities with their needs for
251 adequate sewer facilities. The department may use funds
252 specifically appropriated to award grants under this section to
253 assist nonprofit utilities providing wastewater services to
254 financially disadvantaged small communities. For purposes of
255 this section, the term "financially disadvantaged small
256 community" means a county, municipality, or special district
257 that has a population of 10,000 or fewer, according to the
258 latest decennial census, and a per capita annual income less
259 than the state per capita annual income as determined by the
260 United States Department of Commerce. For purposes of this
261 subsection, the term "special district" has the same meaning as
262 provided in s. 189.012 and includes only those special districts
263 whose public purpose includes water and sewer services, utility
264 systems and services, or wastewater systems and services. The
265 department may waive the population requirement for an
266 independent special district that serves fewer than 10,000
267 wastewater customers, is located within a watershed with an
268 adopted total maximum daily load or basin management action plan
269 for pollutants associated with domestic wastewater pursuant to
270 s. 403.067, and is wholly located within a rural area of
271 opportunity as defined in s. 288.0656.

272 (3) (a) In accordance with rules adopted by the department



217872

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

287 (b) The rules of the department ~~Environmental Regulation~~
288 ~~Commission~~ must:

289 1. Require that projects to plan, assess, design,
290 construct, upgrade, or replace wastewater collection,
291 transmission, treatment, disposal, and reuse facilities be cost-
292 effective, environmentally sound, permittable, and
293 implementable.

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

298 3. Require grant applications to be submitted on
299 appropriate forms with appropriate supporting documentation, and
300 require records to be maintained.

301 4. Establish a system to determine eligibility of grant



217872

302 applications.

303 5. Establish a system to determine the relative priority of
304 grant applications. The system must consider public health
305 protection and water pollution abatement.

306 6. Establish requirements for competitive procurement of
307 engineering and construction services, materials, and equipment.

308 7. Provide for termination of grants when program
309 requirements are not met.

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

311

312 ===== T I T L E A M E N D M E N T =====

313 And the title is amended as follows:

314 Delete everything before the enacting clause
315 and insert:

316 A bill to be entitled
317 An act relating to domestic wastewater collection
318 system assessment and maintenance; creating s.
319 403.1839, F.S.; providing definitions; providing
320 legislative findings; establishing the Blue Star
321 Collection System Assessment and Maintenance Program
322 and providing its purpose; requiring the Department of
323 Environmental Protection to adopt rules and review and
324 approve program applications for certification;
325 specifying the documentation utilities must submit to
326 qualify for certification; providing for certification
327 expiration and renewal; requiring the department to
328 publish an annual list of certified blue star
329 utilities; requiring the department to allow public
330 and nonprofit utilities to participate in the Clean



217872

331 Water State Revolving Fund Program under certain
332 conditions; authorizing the department to reduce
333 penalties for sanitary sewer overflows at certified
334 utilities and for investments in certain assessment
335 and maintenance activities; amending s. 403.067, F.S.;
336 creating a defensible expectation of compliance with
337 certain water quality standards for certified
338 utilities; amending s. 403.087, F.S.; requiring the
339 department to issue extended operating permits to
340 certified utilities under certain conditions; amending
341 s. 403.161, F.S.; authorizing the department to reduce
342 penalties based on certain system investments for
343 permitted facilities; amending s. 403.1838, F.S.;
344 authorizing additional recipients and uses of Small
345 Community Sewer Construction Assistance Act grants;
346 providing an effective date.