

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Raschein offered the following:

Amendment (with title amendment)

Between lines 2028 and 2029, insert:

Section 27. Effective July 1, 2019, 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.

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

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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.

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39 (4) APPROVAL, STANDARDS, AND VIOLATIONS.-

40 (a) The department shall adopt rules to administer the
41 program, including, at a minimum, the certification standards
42 for the program as provided in paragraph (b) and the violation
43 provisions as provided in paragraph (d), and shall review and
44 approve public and private domestic wastewater utilities that
45 apply for certification or renewal under the program and that
46 demonstrate maintenance of program certification pursuant to
47 paragraph (c) based upon the certification standards.

48 (b) A utility must provide, at a minimum, reasonable
49 documentation of the following certification standards in order
50 to be certified under 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 to fully implement its collection system and pump
56 station structural condition assessment and maintenance and
57 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:

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

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 6. An infiltration and inflow reduction plan to minimize
72 infiltration and inflow throughout the utility's collection
73 system.

74 (c)1. Program certifications shall expire after 5 years. A
75 utility shall document its implementation of the program on an
76 annual basis with the department and must demonstrate that the
77 utility meets all program standards or the department shall
78 revoke the utility's program certification.

79 2. The approval of an application for renewal
80 certification must be based on the utility demonstrating
81 maintenance of program standards. A utility applying for renewal
82 certification must demonstrate maintenance of program standards
83 and progress in implementing the program or the department may
84 not approve the application.

85 3. The department may determine that a utility is not
86 meeting or maintaining program standards and may revoke the
87 utility's program certification if the utility experiences
88 sanitary sewer overflows due to factors under the control of the

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89 utility or if the utility violates any permit condition or any
90 applicable department rule or law.

91 (d) A utility that submits information or documentation to
92 the department pursuant to this section is subject to s.
93 403.161(1)(c). The department shall revoke the program
94 certification of a utility that knowingly submits false or
95 inaccurate information or documentation in an application for
96 certification under the program.

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

100 (6) FEDERAL PROGRAM PARTICIPATION.—The department shall
101 allow public and nonprofit utilities to participate in the Clean
102 Water State Revolving Fund Program for any purpose of the
103 program that is consistent with federal requirements for
104 participating in the Clean Water State Revolving Fund Program.

105 (7) REDUCED PENALTIES.—In the calculation of penalties
106 pursuant to s. 403.161 for a sanitary sewer overflow, the
107 department may reduce the penalty based on a utility's status as
108 a certified blue star utility in accordance with this section.
109 The department may also reduce a penalty based on a certified
110 blue star utility's investment in assessment and maintenance
111 activities to identify and address conditions that may cause
112 sanitary sewer overflows or interruption of service to customers
113 due to a physical condition or defect in the system.

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114 Section 28. Effective July 1, 2019, paragraph (c) of
115 subsection (7) of section 403.067, Florida Statutes, is amended
116 to read:

117 403.067 Establishment and implementation of total maximum
118 daily loads.—

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

121 (c) *Best management practices.*—

122 1. The department, in cooperation with the water
123 management districts and other interested parties, as
124 appropriate, may develop suitable interim measures, best
125 management practices, or other measures necessary to achieve the
126 level of pollution reduction established by the department for
127 nonagricultural nonpoint pollutant sources in allocations
128 developed pursuant to subsection (6) and this subsection. These
129 practices and measures may be adopted by rule by the department
130 and the water management districts and, where adopted by rule,
131 shall be implemented by those parties responsible for
132 nonagricultural nonpoint source pollution.

133 2. The Department of Agriculture and Consumer Services may
134 develop and adopt by rule pursuant to ss. 120.536(1) and 120.54
135 suitable interim measures, best management practices, or other
136 measures necessary to achieve the level of pollution reduction
137 established by the department for agricultural pollutant sources
138 in allocations developed pursuant to subsection (6) and this

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139 subsection or for programs implemented pursuant to paragraph
140 (12) (b). These practices and measures may be implemented by
141 those parties responsible for agricultural pollutant sources and
142 the department, the water management districts, and the
143 Department of Agriculture and Consumer Services shall assist
144 with implementation. In the process of developing and adopting
145 rules for interim measures, best management practices, or other
146 measures, the Department of Agriculture and Consumer Services
147 shall consult with the department, the Department of Health, the
148 water management districts, representatives from affected
149 farming groups, and environmental group representatives. Such
150 rules must also incorporate provisions for a notice of intent to
151 implement the practices and a system to assure the
152 implementation of the practices, including site inspection and
153 recordkeeping requirements.

154 3. When ~~where~~ interim measures, best management practices,
155 or other measures are adopted by rule, the effectiveness of such
156 practices in achieving the levels of pollution reduction
157 established in allocations developed by the department pursuant
158 to subsection (6) and this subsection or in programs implemented
159 pursuant to paragraph (12) (b) must be verified at representative
160 sites by the department. The department shall use best
161 professional judgment in making the initial verification that
162 the best management practices are reasonably expected to be
163 effective and, where applicable, must notify the appropriate

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164 water management district or the Department of Agriculture and
165 Consumer Services of its initial verification before the
166 adoption of a rule proposed pursuant to this paragraph.
167 Implementation, in accordance with rules adopted under this
168 paragraph, of practices that have been initially verified to be
169 effective, or verified to be effective by monitoring at
170 representative sites, by the department, shall provide a
171 presumption of compliance with state water quality standards and
172 release from the provisions of s. 376.307(5) for those
173 pollutants addressed by the practices, and the department is not
174 authorized to institute proceedings against the owner of the
175 source of pollution to recover costs or damages associated with
176 the contamination of surface water or groundwater caused by
177 those pollutants. Research projects funded by the department, a
178 water management district, or the Department of Agriculture and
179 Consumer Services to develop or demonstrate interim measures or
180 best management practices shall be granted a presumption of
181 compliance with state water quality standards and a release from
182 the provisions of s. 376.307(5). The presumption of compliance
183 and release is limited to the research site and only for those
184 pollutants addressed by the interim measures or best management
185 practices. Eligibility for the presumption of compliance and
186 release is limited to research projects on sites where the owner
187 or operator of the research site and the department, a water
188 management district, or the Department of Agriculture and

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189 Consumer Services have entered into a contract or other
190 agreement that, at a minimum, specifies the research objectives,
191 the cost-share responsibilities of the parties, and a schedule
192 that details the beginning and ending dates of the project.

193 4. When ~~where~~ water quality problems are demonstrated,
194 despite the appropriate implementation, operation, and
195 maintenance of best management practices and other measures
196 required by rules adopted under this paragraph, the department,
197 a water management district, or the Department of Agriculture
198 and Consumer Services, in consultation with the department,
199 shall institute a reevaluation of the best management practice
200 or other measure. Should the reevaluation determine that the
201 best management practice or other measure requires modification,
202 the department, a water management district, or the Department
203 of Agriculture and Consumer Services, as appropriate, shall
204 revise the rule to require implementation of the modified
205 practice within a reasonable time period as specified in the
206 rule.

207 5. Agricultural records relating to processes or methods
208 of production, costs of production, profits, or other financial
209 information held by the Department of Agriculture and Consumer
210 Services pursuant to subparagraphs 3. and 4. or pursuant to any
211 rule adopted pursuant to subparagraph 2. are confidential and
212 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
213 Constitution. Upon request, records made confidential and exempt

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214 pursuant to this subparagraph shall be released to the
215 department or any water management district provided that the
216 confidentiality specified by this subparagraph for such records
217 is maintained.

218 6. ~~The provisions of~~ Subparagraphs 1. and 2. do not
219 preclude the department or water management district from
220 requiring compliance with water quality standards or with
221 current best management practice requirements set forth in any
222 applicable regulatory program authorized by law for the purpose
223 of protecting water quality. Additionally, subparagraphs 1. and
224 2. are applicable only to the extent that they do not conflict
225 with any rules adopted by the department that are necessary to
226 maintain a federally delegated or approved program.

227 7. For the sole purpose of establishing a total maximum
228 daily load for pathogens in a surface water, the department must
229 provide a domestic wastewater utility with a defensible
230 expectation of compliance with state water quality standards for
231 fecal indicator bacteria when the utility implements and
232 maintains a program as a certified blue star utility in
233 accordance with s. 403.1839 and demonstrates a history of
234 compliance with wastewater disinfection requirements
235 incorporated in the utility's operating permit for any discharge
236 into the impaired surface water.

237 Section 29. Effective July 1, 2019, subsection (11) is
238 added to section 403.087, Florida Statutes, to read:

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239 403.087 Permits; general issuance; denial; revocation;
240 prohibition; penalty.—

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

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

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

252 (c) If applicable, has submitted annual program
253 implementation reports demonstrating progress in the
254 implementation of the program.

255 Section 30. Effective July 1, 2019, present subsection (6)
256 of section 403.161, Florida Statutes, is redesignated as
257 subsection (7), and a new subsection (6) is added to that
258 section, to read:

259 403.161 Prohibitions, violation, penalty, intent.—

260 (6) Notwithstanding any other law, the department may
261 reduce the amount of a penalty based on the person's investment
262 in the assessment, maintenance, rehabilitation, or expansion of
263 the permitted facility.

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264 Section 31. Effective July 1, 2019, subsection (2) and
265 paragraphs (a) and (b) of subsection (3) of section 403.1838,
266 Florida Statutes, are amended to read:

267 403.1838 Small Community Sewer Construction Assistance
268 Act.—

269 (2) The department shall use funds specifically
270 appropriated to award grants under this section to assist
271 financially disadvantaged small communities with their needs for
272 adequate sewer facilities. The department may use funds
273 specifically appropriated to award grants under this section to
274 assist nonprofit utilities providing wastewater services to
275 financially disadvantaged small communities. For purposes of
276 this section, the term "financially disadvantaged small
277 community" means a county, municipality, or special district
278 that has a population of 10,000 or fewer, according to the
279 latest decennial census, and a per capita annual income less
280 than the state per capita annual income as determined by the
281 United States Department of Commerce. For purposes of this
282 subsection, the term "special district" has the same meaning as
283 provided in s. 189.012 and includes only those special districts
284 whose public purpose includes water and sewer services, utility
285 systems and services, or wastewater systems and services. The
286 department may waive the population requirement for an
287 independent special district that serves fewer than 10,000
288 wastewater customers, is located within a watershed with an

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289 adopted total maximum daily load or basin management action plan
290 for pollutants associated with domestic wastewater pursuant to
291 s. 403.067, and is wholly located within a rural area of
292 opportunity as defined in s. 288.0656.

293 (3) (a) In accordance with rules adopted by the department
294 ~~Environmental Regulation Commission~~ under this section, the
295 department may provide grants, from funds specifically
296 appropriated for this purpose, to financially disadvantaged
297 small communities and to nonprofit utilities serving financially
298 disadvantaged small communities for up to 100 percent of the
299 costs of planning, assessing, designing, constructing,
300 upgrading, or replacing wastewater collection, transmission,
301 treatment, disposal, and reuse facilities, including necessary
302 legal and administrative expenses. Grants issued pursuant to
303 this section may also be used for planning and implementing
304 domestic wastewater collection system assessment and maintenance
305 programs to identify conditions that may cause sanitary sewer
306 overflows or interruption of service to customers due to a
307 physical condition or defect in the system.

308 (b) The rules of the department ~~Environmental Regulation~~
309 ~~Commission~~ must:

310 1. Require that projects to plan, assess, design,
311 construct, upgrade, or replace wastewater collection,
312 transmission, treatment, disposal, and reuse facilities be cost-
313 effective, environmentally sound, permissible, and

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314 implementable.

315 2. Require appropriate user charges, connection fees, and
316 other charges sufficient to ensure the long-term operation,
317 maintenance, and replacement of the facilities constructed under
318 each grant.

319 3. Require grant applications to be submitted on
320 appropriate forms with appropriate supporting documentation, and
321 require records to be maintained.

322 4. Establish a system to determine eligibility of grant
323 applications.

324 5. Establish a system to determine the relative priority
325 of grant applications. The system must consider public health
326 protection and water pollution abatement.

327 6. Establish requirements for competitive procurement of
328 engineering and construction services, materials, and equipment.

329 7. Provide for termination of grants when program
330 requirements are not met.

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332

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

334 Remove line 114 and insert:

335 by the act; providing legislative findings; creating
336 s. 403.1839, F.S.; providing definitions; providing
337 legislative findings; establishing the Blue Star
338 Collection System Assessment and Maintenance Program

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339 and providing its purpose; requiring the Department of
340 Environmental Protection to adopt rules and review and
341 approve program applications for certification;
342 specifying the documentation utilities must submit to
343 qualify for certification; providing for certification
344 expiration and renewal; requiring the department to
345 revoke a utility's program certification under certain
346 circumstances; providing for penalties for violations;
347 requiring the department to publish an annual list of
348 certified blue star utilities; requiring the
349 department to allow public and nonprofit utilities to
350 participate in the Clean Water State Revolving Fund
351 Program under certain conditions; authorizing the
352 department to reduce penalties for sanitary sewer
353 overflows at certified utilities and for investments
354 in certain assessment and maintenance activities;
355 amending s. 403.067, F.S.; creating a defensible
356 expectation of compliance with certain water quality
357 standards for certified utilities; amending s.
358 403.087, F.S.; requiring the department to issue
359 extended operating permits to certified utilities
360 under certain conditions; amending s. 403.161, F.S.;
361 authorizing the department to reduce penalties based
362 on certain system investments for permitted
363 facilities; amending s. 403.1838, F.S.; authorizing

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364 additional recipients and uses of Small Community
365 Sewer Construction Assistance Act grants; revising
366 provisions to authorize the department, rather than
367 the Environmental Regulation Commission, to implement
368 rules for such grants; providing

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