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Proposed Committee Substitute by the Committee on Appropriations  
(Appropriations Subcommittee on Agriculture, Environment, and  
General Government)

A bill to be entitled

An act relating to domestic wastewater collection  
system assessment and maintenance; creating s.  
403.1839, F.S.; providing definitions; providing  
legislative findings; establishing the Blue Star  
Collection System Assessment and Maintenance Program  
and providing its purpose; requiring the Department of  
Environmental Protection to adopt rules and review and  
approve program applications for certification;  
specifying the documentation utilities must submit to  
qualify for certification; providing for certification  
expiration and renewal; requiring the department to  
revoke a utility's program certification under certain  
circumstances; providing for penalties for violations;  
requiring the department to publish an annual list of  
certified blue star utilities; requiring the  
department to allow public and nonprofit utilities to  
participate in the Clean Water State Revolving Fund  
Program under certain conditions; authorizing the  
department to reduce penalties for sanitary sewer  
overflows at certified utilities and for investments  
in certain assessment and maintenance activities;  
amending s. 403.067, F.S.; creating a defensible  
expectation of compliance with certain water quality  
standards for certified utilities; amending s.  
403.087, F.S.; requiring the department to issue



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27 extended operating permits to certified utilities  
28 under certain conditions; amending s. 403.161, F.S.;  
29 authorizing the department to reduce penalties based  
30 on certain system investments for permitted  
31 facilities; amending s. 403.1838, F.S.; authorizing  
32 additional recipients and uses of Small Community  
33 Sewer Construction Assistance Act grants; revising  
34 provisions to authorize the department, rather than  
35 the Environmental Regulation Commission, to implement  
36 rules for such grants; providing an effective date.  
37

38 Be It Enacted by the Legislature of the State of Florida:  
39

40 Section 1. Section 403.1839, Florida Statutes, is created  
41 to read:

42 403.1839 Blue Star Collection System Assessment and  
43 Maintenance Program.—

44 (1) DEFINITIONS.—As used in this section, the term:

45 (a) "Domestic wastewater" has the same meaning as in s.  
46 367.021.

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

49 (c) "Program" means the Blue Star Collection System  
50 Assessment and Maintenance Program.

51 (d) "Sanitary sewer overflow" means the unauthorized  
52 overflow, spill, release, discharge, or diversion of untreated  
53 or partially treated domestic wastewater.

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

55 (a) The implementation of domestic wastewater collection



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56 system assessment and maintenance practices has been shown to  
57 effectively limit sanitary sewer overflows and the unauthorized  
58 discharge of pathogens.

59 (b) The voluntary implementation of domestic wastewater  
60 collection system assessment and maintenance practices beyond  
61 those required by law has the potential to further limit  
62 sanitary sewer overflows.

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

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

74 (4) APPROVAL, STANDARDS, AND VIOLATIONS.—

75 (a) The department shall adopt rules to administer the  
76 program, including, at a minimum, the certification standards  
77 for the program as provided in paragraph (b) and the violation  
78 provisions as provided in paragraph (d), and shall review and  
79 approve public and private domestic wastewater utilities that  
80 apply for certification or renewal under the program and that  
81 demonstrate maintenance of program certification pursuant to  
82 paragraph (c) based upon the certification standards.

83 (b) A utility must provide, at a minimum, reasonable  
84 documentation of the following certification standards in order



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85 to be certified under the program:

86 1. The implementation of periodic collection system and  
87 pump station structural condition assessments and the  
88 performance of as-needed maintenance and replacements.

89 2. The rate of reinvestment determined necessary by the  
90 utility to fully implement its collection system and pump  
91 station structural condition assessment and maintenance and  
92 replacement program.

93 3. The implementation of a program designed to limit the  
94 presence of fats, roots, oils, and grease in the collection  
95 system.

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

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

100 b. Direct stormwater connections that allow the direct  
101 inflow of stormwater into the private system and the public  
102 domestic wastewater collection system.

103 5. A power outage contingency plan that addresses  
104 mitigation of the impacts of power outages on the utility's  
105 collection system and pump stations.

106 6. An infiltration and inflow reduction plan to minimize  
107 infiltration and inflow throughout the utility's collection  
108 system.

109 (c)1. Program certifications shall expire after 5 years. A  
110 utility shall document its implementation of the program on an  
111 annual basis with the department and must demonstrate that the  
112 utility meets all program standards or the department shall  
113 revoke the utility's program certification.



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114       2. The approval of an application for renewal certification  
115 must be based on the utility demonstrating maintenance of  
116 program standards. A utility applying for renewal certification  
117 must demonstrate maintenance of program standards and progress  
118 in implementing the program or the department may not approve  
119 the application.

120       3. The department may determine that a utility is not  
121 meeting or maintaining program standards and may revoke the  
122 utility's program certification if the utility experiences  
123 sanitary sewer overflows due to factors under the control of the  
124 utility or if the utility violates any permit condition or any  
125 applicable department rule or law.

126       (d) A utility that submits information or documentation to  
127 the department pursuant to this section is subject to s.  
128 403.161(1)(c). The department shall revoke the program  
129 certification of a utility that knowingly submits false or  
130 inaccurate information or documentation in an application for  
131 certification under the program.

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

135       (6) FEDERAL PROGRAM PARTICIPATION.—The department shall  
136 allow public and nonprofit utilities to participate in the Clean  
137 Water State Revolving Fund Program for any purpose of the  
138 program that is consistent with federal requirements for  
139 participating in the Clean Water State Revolving Fund Program.

140       (7) REDUCED PENALTIES.—In the calculation of penalties  
141 pursuant to s. 403.161 for a sanitary sewer overflow, the  
142 department may reduce the penalty based on a utility's status as



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143 a certified blue star utility in accordance with this section.  
144 The department may also reduce a penalty based on a certified  
145 blue star utility's investment in assessment and maintenance  
146 activities to identify and address conditions that may cause  
147 sanitary sewer overflows or interruption of service to customers  
148 due to a physical condition or defect in the system.

149 Section 2. Paragraph (c) of subsection (7) of section  
150 403.067, Florida Statutes, is amended to read:

151 403.067 Establishment and implementation of total maximum  
152 daily loads.—

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

155 (c) *Best management practices.*—

156 1. The department, in cooperation with the water management  
157 districts and other interested parties, as appropriate, may  
158 develop suitable interim measures, best management practices, or  
159 other measures necessary to achieve the level of pollution  
160 reduction established by the department for nonagricultural  
161 nonpoint pollutant sources in allocations developed pursuant to  
162 subsection (6) and this subsection. These practices and measures  
163 may be adopted by rule by the department and the water  
164 management districts and, where adopted by rule, shall be  
165 implemented by those parties responsible for nonagricultural  
166 nonpoint source pollution.

167 2. The Department of Agriculture and Consumer Services may  
168 develop and adopt by rule pursuant to ss. 120.536(1) and 120.54  
169 suitable interim measures, best management practices, or other  
170 measures necessary to achieve the level of pollution reduction  
171 established by the department for agricultural pollutant sources



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172 in allocations developed pursuant to subsection (6) and this  
173 subsection or for programs implemented pursuant to paragraph  
174 (12) (b). These practices and measures may be implemented by  
175 those parties responsible for agricultural pollutant sources and  
176 the department, the water management districts, and the  
177 Department of Agriculture and Consumer Services shall assist  
178 with implementation. In the process of developing and adopting  
179 rules for interim measures, best management practices, or other  
180 measures, the Department of Agriculture and Consumer Services  
181 shall consult with the department, the Department of Health, the  
182 water management districts, representatives from affected  
183 farming groups, and environmental group representatives. Such  
184 rules must also incorporate provisions for a notice of intent to  
185 implement the practices and a system to assure the  
186 implementation of the practices, including site inspection and  
187 recordkeeping requirements.

188       3. When ~~where~~ interim measures, best management practices,  
189 or other measures are adopted by rule, the effectiveness of such  
190 practices in achieving the levels of pollution reduction  
191 established in allocations developed by the department pursuant  
192 to subsection (6) and this subsection or in programs implemented  
193 pursuant to paragraph (12) (b) must be verified at representative  
194 sites by the department. The department shall use best  
195 professional judgment in making the initial verification that  
196 the best management practices are reasonably expected to be  
197 effective and, where applicable, must notify the appropriate  
198 water management district or the Department of Agriculture and  
199 Consumer Services of its initial verification before the  
200 adoption of a rule proposed pursuant to this paragraph.



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201 Implementation, in accordance with rules adopted under this  
202 paragraph, of practices that have been initially verified to be  
203 effective, or verified to be effective by monitoring at  
204 representative sites, by the department, shall provide a  
205 presumption of compliance with state water quality standards and  
206 release from the provisions of s. 376.307(5) for those  
207 pollutants addressed by the practices, and the department is not  
208 authorized to institute proceedings against the owner of the  
209 source of pollution to recover costs or damages associated with  
210 the contamination of surface water or groundwater caused by  
211 those pollutants. Research projects funded by the department, a  
212 water management district, or the Department of Agriculture and  
213 Consumer Services to develop or demonstrate interim measures or  
214 best management practices shall be granted a presumption of  
215 compliance with state water quality standards and a release from  
216 the provisions of s. 376.307(5). The presumption of compliance  
217 and release is limited to the research site and only for those  
218 pollutants addressed by the interim measures or best management  
219 practices. Eligibility for the presumption of compliance and  
220 release is limited to research projects on sites where the owner  
221 or operator of the research site and the department, a water  
222 management district, or the Department of Agriculture and  
223 Consumer Services have entered into a contract or other  
224 agreement that, at a minimum, specifies the research objectives,  
225 the cost-share responsibilities of the parties, and a schedule  
226 that details the beginning and ending dates of the project.

227 4. When ~~where~~ water quality problems are demonstrated,  
228 despite the appropriate implementation, operation, and  
229 maintenance of best management practices and other measures





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230 required by rules adopted under this paragraph, the department,  
231 a water management district, or the Department of Agriculture  
232 and Consumer Services, in consultation with the department,  
233 shall institute a reevaluation of the best management practice  
234 or other measure. Should the reevaluation determine that the  
235 best management practice or other measure requires modification,  
236 the department, a water management district, or the Department  
237 of Agriculture and Consumer Services, as appropriate, shall  
238 revise the rule to require implementation of the modified  
239 practice within a reasonable time period as specified in the  
240 rule.

241 5. Agricultural records relating to processes or methods of  
242 production, costs of production, profits, or other financial  
243 information held by the Department of Agriculture and Consumer  
244 Services pursuant to subparagraphs 3. and 4. or pursuant to any  
245 rule adopted pursuant to subparagraph 2. are confidential and  
246 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
247 Constitution. Upon request, records made confidential and exempt  
248 pursuant to this subparagraph shall be released to the  
249 department or any water management district provided that the  
250 confidentiality specified by this subparagraph for such records  
251 is maintained.

252 6. ~~The provisions of~~ Subparagraphs 1. and 2. do not  
253 preclude the department or water management district from  
254 requiring compliance with water quality standards or with  
255 current best management practice requirements set forth in any  
256 applicable regulatory program authorized by law for the purpose  
257 of protecting water quality. Additionally, subparagraphs 1. and  
258 2. are applicable only to the extent that they do not conflict



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259 with any rules adopted by the department that are necessary to  
260 maintain a federally delegated or approved program.

261 7. For the sole purpose of establishing a total maximum  
262 daily load for pathogens in a surface water, the department must  
263 provide a domestic wastewater utility with a defensible  
264 expectation of compliance with state water quality standards for  
265 fecal indicator bacteria when the utility implements and  
266 maintains a program as a certified blue star utility in  
267 accordance with s. 403.1839 and demonstrates a history of  
268 compliance with wastewater disinfection requirements  
269 incorporated in the utility's operating permit for any discharge  
270 into the impaired surface water.

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

273 403.087 Permits; general issuance; denial; revocation;  
274 prohibition; penalty.—

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

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

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

286 (c) If applicable, has submitted annual program  
287 implementation reports demonstrating progress in the



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288 implementation of the program.

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

292 403.161 Prohibitions, violation, penalty, intent.—

293 (6) Notwithstanding any other law, the department may  
294 reduce the amount of a penalty based on the person's investment  
295 in the assessment, maintenance, rehabilitation, or expansion of  
296 the permitted facility.

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

300 403.1838 Small Community Sewer Construction Assistance  
301 Act.—

302 (2) The department shall use funds specifically  
303 appropriated to award grants under this section to assist  
304 financially disadvantaged small communities with their needs for  
305 adequate sewer facilities. The department may use funds  
306 specifically appropriated to award grants under this section to  
307 assist nonprofit utilities providing wastewater services to  
308 financially disadvantaged small communities. For purposes of  
309 this section, the term "financially disadvantaged small  
310 community" means a county, municipality, or special district  
311 that has a population of 10,000 or fewer, according to the  
312 latest decennial census, and a per capita annual income less  
313 than the state per capita annual income as determined by the  
314 United States Department of Commerce. For purposes of this  
315 subsection, the term "special district" has the same meaning as  
316 provided in s. 189.012 and includes only those special districts



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317 whose public purpose includes water and sewer services, utility  
318 systems and services, or wastewater systems and services. The  
319 department may waive the population requirement for an  
320 independent special district that serves fewer than 10,000  
321 wastewater customers, is located within a watershed with an  
322 adopted total maximum daily load or basin management action plan  
323 for pollutants associated with domestic wastewater pursuant to  
324 s. 403.067, and is wholly located within a rural area of  
325 opportunity as defined in s. 288.0656.

326 (3) (a) In accordance with rules adopted by the department  
327 ~~Environmental Regulation Commission~~ under this section, the  
328 department may provide grants, from funds specifically  
329 appropriated for this purpose, to financially disadvantaged  
330 small communities and to nonprofit utilities serving financially  
331 disadvantaged small communities for up to 100 percent of the  
332 costs of planning, assessing, designing, constructing,  
333 upgrading, or replacing wastewater collection, transmission,  
334 treatment, disposal, and reuse facilities, including necessary  
335 legal and administrative expenses. Grants issued pursuant to  
336 this section may also be used for planning and implementing  
337 domestic wastewater collection system assessment and maintenance  
338 programs to identify conditions that may cause sanitary sewer  
339 overflows or interruption of service to customers due to a  
340 physical condition or defect in the system.

341 (b) The rules of the department ~~Environmental Regulation~~  
342 ~~Commission~~ must:

343 1. Require that projects to plan, assess, design,  
344 construct, upgrade, or replace wastewater collection,  
345 transmission, treatment, disposal, and reuse facilities be cost-



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346 effective, environmentally sound, permittable, and  
347 implementable.

348         2. Require appropriate user charges, connection fees, and  
349 other charges sufficient to ensure the long-term operation,  
350 maintenance, and replacement of the facilities constructed under  
351 each grant.

352         3. Require grant applications to be submitted on  
353 appropriate forms with appropriate supporting documentation, and  
354 require records to be maintained.

355         4. Establish a system to determine eligibility of grant  
356 applications.

357         5. Establish a system to determine the relative priority of  
358 grant applications. The system must consider public health  
359 protection and water pollution abatement.

360         6. Establish requirements for competitive procurement of  
361 engineering and construction services, materials, and equipment.

362         7. Provide for termination of grants when program  
363 requirements are not met.

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