By Senator DiCeglie

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A bill to be entitled

An act relating to renewable natural gas; amending s. 366.91, F.S.; authorizing a public utility to recover prudently incurred renewable natural gas infrastructure project costs through an appropriate Florida Public Service Commission cost-recovery mechanism; providing that such costs are not subject to further actions except under certain circumstances; specifying eligible renewable natural gas infrastructure projects; requiring that cost recovery for such projects be approved by the commission; providing requirements for the approval determination; prohibiting cost recovery until a facility is placed in service; providing that certain other regulatory accounting rules may apply to such cost recovery; amending s. 373.807, F.S.; revising the required contents of a basin management action plan for an Outstanding Florida Spring to include identification of certain water quality improvement projects; amending s. 403.067, F.S.; revising the required contents of a wastewater treatment plan within a basin management action plan; amending s. 403.7055, F.S.; encouraging counties and municipalities to develop regional solutions to certain energy issues; requiring the Department of Environmental Protection to provide guidelines and technical assistance to such counties and municipalities; amending s. 570.841, F.S.; authorizing the farm-to-fuel initiative to address the production and capture of renewable natural gas;

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revising the purposes of the department's statewide comprehensive information and education program; reenacting ss. 403.0671(1)(a) and (3) and 403.0673(2)(e) and (f), F.S., relating to basin management action plan wastewater reports and the water quality improvement grant program, to incorporate the amendment made to s. 403.067, F.S., in references thereto; providing an effective date.

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

Section 1. Subsection (10) is added to section 366.91, Florida Statutes, to read:

366.91 Renewable energy.—

(10) A public utility may recover, through an appropriate cost-recovery mechanism administered by the commission, prudently incurred costs for renewable natural gas infrastructure projects. If the commission determines that such costs were reasonable and that the project will facilitate achieving the goals of subsection (1), the commission must deem the project and associated costs prudent for purposes of cost recovery and may not further subject the project to disallowance except for fraud, perjury, or intentional withholding of key information by the public utility. For purposes of utility cost recovery under this subsection only, the term "renewable natural gas" may include a mixture of natural gas and renewable natural gas. Eligible renewable natural gas projects must be located within this state. Types of costs eligible for cost recovery include, but are not limited to, capital investment in projects

necessary to prepare, clean, or otherwise produce renewable natural gas for pipeline distribution and usage; capital investment in facilities, including pipelines that are necessary to inject and deliver renewable natural gas and renewable natural gas storage facilities; operation and maintenance expenses associated with any such renewable natural gas infrastructure projects; and an appropriate return on investment consistent with that allowed for other utility plants that provide service to customers. Cost recovery for any renewable natural gas infrastructure project sought pursuant to this subsection must be approved by the commission.

(a) In assessing whether cost recovery for a renewable natural gas infrastructure project is appropriate, the commission must consider whether the projected costs for such renewable natural gas infrastructure project are reasonable and consistent with this subsection.

(b) Recovery of costs incurred by a public utility for a renewable natural gas project approved for cost recovery under this subsection may not be allowed until such facility is placed in service. Upon approval of cost recovery by the commission, costs incurred before the facility is placed in service may be deferred on the public utility's books for recovery once the facility is in service. This does not preclude application of any other regulatory accounting rules that are otherwise deemed appropriate, including, but not limited to, normal recovery of costs for construction work in progress.

Section 2. Paragraph (b) of subsection (1) and subsection (3) of section 373.807, Florida Statutes, are amended to read:

373.807 Protection of water quality in Outstanding Florida

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Springs.—By July 1, 2016, the department shall initiate assessment, pursuant to s. 403.067(3), of Outstanding Florida Springs or spring systems for which an impairment determination has not been made under the numeric nutrient standards in effect for spring vents. Assessments must be completed by July 1, 2018.

(1)

(b) A basin management action plan for an Outstanding Florida Spring must ~~shall~~ be adopted within 2 years after its initiation and must include, at a minimum:

1. A list of all specific projects and programs identified to implement a nutrient total maximum daily load;

2. A list of all specific projects identified in any incorporated onsite sewage treatment and disposal system remediation plan, if applicable;

3. A priority rank for each listed project;

4. For each listed project, a planning level cost estimate and the estimated date of completion;

5. The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project;

6. An estimate of each listed project's nutrient load reduction;

7. Identification of each point source or category of nonpoint sources, including, but not limited to, urban turf fertilizer, sports turf fertilizer, agricultural fertilizer, onsite sewage treatment and disposal systems, wastewater treatment facilities, animal wastes, and stormwater facilities. An estimated allocation of the pollutant load must be provided for each point source or category of nonpoint sources; ~~and~~

8. Identification of water quality improvement projects that can also produce and capture renewable natural gas through the use of anaerobic digestion or other similar treatment technologies at wastewater treatment plants, livestock farms, food production facilities, and organic waste management operations; and

9. An implementation plan designed with a target to achieve the nutrient total maximum daily load no more than 20 years after the adoption of a basin management action plan.

The department shall develop a schedule establishing 5-year, 10-year, and 15-year targets for achieving the nutrient total maximum daily load. The schedule shall be used to provide guidance for planning and funding purposes and is exempt from chapter 120.

(3) As part of a basin management action plan that includes an Outstanding Florida Spring, the department, relevant local governments, and relevant local public and private wastewater utilities shall develop an onsite sewage treatment and disposal system remediation plan for a spring if the department determines onsite sewage treatment and disposal systems within a basin management action plan contribute at least 20 percent of nonpoint source nitrogen pollution or if the department determines remediation is necessary to achieve the total maximum daily load. The plan must identify cost-effective and financially feasible projects necessary to reduce the nutrient impacts from onsite sewage treatment and disposal systems and shall be completed and adopted as part of the basin management action plan no later than the first 5-year milestone required by

subparagraph (1)(b)9. ~~subparagraph (1)(b)8.~~ The department is the lead agency in coordinating the preparation of and the adoption of the plan. The department shall:

(a) Collect and evaluate credible scientific information on the effect of nutrients, particularly forms of nitrogen, on springs and springs systems; and

(b) Develop a public education plan to provide area residents with reliable, understandable information about onsite sewage treatment and disposal systems and springs.

In addition to the requirements in s. 403.067, the plan must include options for repair, upgrade, replacement, drainfield modification, addition of effective nitrogen reducing features, connection to a central sewerage system, or other action for an onsite sewage treatment and disposal system or group of systems within a basin management action plan that contribute at least 20 percent of nonpoint source nitrogen pollution or if the department determines remediation is necessary to achieve a total maximum daily load. For these systems, the department shall include in the plan a priority ranking for each system or group of systems that requires remediation and shall award funds to implement the remediation projects contingent on an appropriation in the General Appropriations Act, which may include all or part of the costs necessary for repair, upgrade, replacement, drainfield modification, addition of effective nitrogen reducing features, initial connection to a central sewerage system, or other action. In awarding funds, the department may consider expected nutrient reduction benefit per unit cost, size and scope of project, relative local financial

contribution to the project, and the financial impact on property owners and the community. The department may waive matching funding requirements for proposed projects within an area designated as a rural area of opportunity under s. 288.0656.

Section 3. Paragraph (a) of subsection (7) of section 403.067, Florida Statutes, is amended to read:

403.067 Establishment and implementation of total maximum daily loads.—

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

(a) *Basin management action plans.*—

1. In developing and implementing the total maximum daily load for a waterbody, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the watersheds and basins tributary to the waterbody. Such plan must integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote timely, cost-effective actions as provided for in s. 403.151. The plan must establish a schedule implementing the management strategies, establish a basis for evaluating the plan's effectiveness, and identify feasible funding strategies for implementing the plan's management strategies. The management strategies may include regional treatment systems or other public works, when appropriate, and voluntary trading of water quality credits to achieve the needed pollutant load reductions.

2. A basin management action plan must equitably allocate, pursuant to paragraph (6)(b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan must be those practices developed pursuant to paragraph (c). When appropriate, the plan may take into account the benefits of pollutant load reduction achieved by point or nonpoint sources that have implemented management strategies to reduce pollutant loads, including best management practices, before the development of the basin management action plan. The plan must also identify the mechanisms that will address potential future increases in pollutant loading.

3. The basin management action planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process. The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable

extent. Notice of the public meeting must be published in a newspaper of general circulation in each county in which the watershed or basin lies at least 5 days, but not more than 15 days, before the public meeting. A basin management action plan does not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.

4. Each new or revised basin management action plan must include all of the following:

a. The appropriate management strategies available through existing water quality protection programs to achieve total maximum daily loads, which may provide for phased implementation to promote timely, cost-effective actions as provided for in s. 403.151.

b. A description of best management practices adopted by rule.

c. For the applicable 5-year implementation milestone, a list of projects that will achieve the pollutant load reductions needed to meet the total maximum daily load or the load allocations established pursuant to subsection (6). Each project must include a planning-level cost estimate and an estimated date of completion.

d. A list of projects developed pursuant to paragraph (e), if applicable.

e. The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project, if applicable.

f. A planning-level estimate of each listed project's expected load reduction, if applicable.

5. The department shall adopt all or any part of a basin management action plan and any amendment to such plan by secretarial order pursuant to chapter 120 to implement this section.

6. The basin management action plan must include 5-year milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones must ~~shall~~ be conducted every 5 years, and revisions to the plan must ~~shall~~ be made as appropriate. Any entity with a specific pollutant load reduction requirement established in a basin management action plan shall identify the projects or strategies that such entity will undertake to meet current 5-year pollution reduction milestones, beginning with the first 5-year milestone for new basin management action plans, and submit such projects to the department for inclusion in the appropriate basin management action plan. Each project identified must include an estimated amount of nutrient reduction that is reasonably expected to be achieved based on the best scientific information available. Revisions to the basin management action plan must ~~shall~~ be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must follow the procedures in subparagraph (c)4. Revised basin management action plans must be adopted pursuant to subparagraph 5.

7. In accordance with procedures adopted by rule under paragraph (9)(c), basin management action plans, and other

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pollution control programs under local, state, or federal authority as provided in subsection (4), may allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted total maximum daily load or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation; however, the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits.

8. The department's rule relating to the equitable abatement of pollutants into surface waters does ~~do~~ not apply to water bodies or waterbody segments for which a basin management plan that takes into account future new or expanded activities or discharges has been adopted under this section.

9. In order to promote resilient wastewater utilities, if the department identifies domestic wastewater treatment facilities or onsite sewage treatment and disposal systems as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the department determines remediation is necessary to achieve the total maximum daily load, a basin management action plan for a nutrient total maximum daily load must include the following:

a. A wastewater treatment plan developed by each local

government, in cooperation with the department, the water management district, and the public and private domestic wastewater treatment facilities within the jurisdiction of the local government, which ~~that~~ addresses domestic wastewater. The wastewater treatment plan must:

(I) Provide for construction, expansion, or upgrades necessary to achieve the total maximum daily load requirements applicable to the domestic wastewater treatment facility.

(II) Include the permitted capacity in average annual gallons per day for the domestic wastewater treatment facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a projected timeline of the dates by which the construction of any facility improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; any renewable energy opportunities stemming from the production and capture of renewable natural gas; and the identity of responsible parties.

The wastewater treatment plan must be adopted as part of the basin management action plan no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a total maximum daily load. A local government is not responsible for a private domestic wastewater facility's compliance with a basin management action plan unless such facility is operated

through a public-private partnership to which the local government is a party.

b. An onsite sewage treatment and disposal system remediation plan developed by each local government in cooperation with the department, the Department of Health, water management districts, and public and private domestic wastewater treatment facilities.

(I) The onsite sewage treatment and disposal system remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for onsite sewage treatment and disposal systems. To identify cost-effective and financially feasible projects for remediation of onsite sewage treatment and disposal systems, the local government shall:

(A) Include an inventory of onsite sewage treatment and disposal systems based on the best information available;

(B) Identify onsite sewage treatment and disposal systems that would be eliminated through connection to existing or future central domestic wastewater infrastructure in the jurisdiction or domestic wastewater service area of the local government, that would be replaced with or upgraded to enhanced nutrient-reducing onsite sewage treatment and disposal systems, or that would remain on conventional onsite sewage treatment and disposal systems;

(C) Estimate the costs of potential onsite sewage treatment and disposal system connections, upgrades, or replacements; and

(D) Identify deadlines and interim milestones for the planning, design, and construction of projects.

(II) The department shall adopt the onsite sewage treatment

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and disposal system remediation plan as part of the basin management action plan no later than July 1, 2025, or as required for Outstanding Florida Springs under s. 373.807.

10. The installation of new onsite sewage treatment and disposal systems constructed within a basin management action plan area adopted under this section, a reasonable assurance plan, or a pollution reduction plan is prohibited where connection to a publicly owned or investor-owned sewerage system is available as defined in s. 381.0065(2)(a). On lots of 1 acre or less within a basin management action plan adopted under this section, a reasonable assurance plan, or a pollution reduction plan where a publicly owned or investor-owned sewerage system is not available, the installation of enhanced nutrient-reducing onsite sewage treatment and disposal systems or other wastewater treatment systems that achieve at least 65 percent nitrogen reduction is required.

11. When identifying wastewater projects in a basin management action plan, the department may not require the higher cost option if it achieves the same nutrient load reduction as a lower cost option. A regulated entity may choose a different cost option if it complies with the pollutant reduction requirements of an adopted total maximum daily load and meets or exceeds the pollution reduction requirement of the original project.

12. Annually, local governments subject to a basin management action plan or located within the basin of a waterbody not attaining nutrient or nutrient-related standards must provide to the department an update on the status of construction of sanitary sewers to serve such areas, in a manner

prescribed by the department.

Section 4. Section 403.7055, Florida Statutes, is amended to read:

403.7055 Methane and renewable natural gas processing and capture.—

(1) Each county and municipality is encouraged to develop ~~form multicounty~~ regional solutions to the processing, capture, and reuse or sale of methane gas and renewable natural gas as defined in s. 366.91(2) from landfills and wastewater treatment facilities.

(2) The department shall provide planning guidelines and technical assistance to each county and municipality to develop and implement such regional ~~multicounty~~ efforts.

Section 5. Section 570.841, Florida Statutes, is amended to read:

570.841 Farm-to-fuel initiative.—

(1) The department may develop a farm-to-fuel initiative to enhance the market for and promote the production and distribution of renewable energy from Florida-grown crops, agricultural wastes and residues, and other biomass and to enhance the value of agricultural products or expand agribusiness in this ~~the~~ state. The initiative may address the production and capture of renewable natural gas through the use of digesters and other treatment technologies at livestock farms, food production facilities, and other agricultural waste management operations.

(2) The department may conduct a statewide comprehensive information and education program aimed at educating the general public and agricultural producers about the benefits of

renewable energy and the use and production of alternative fuels.

Section 6. For the purpose of incorporating the amendment made by this act to section 403.067, Florida Statutes, in references thereto, paragraph (a) of subsection (1) and subsection (3) of section 403.0671, Florida Statutes, are reenacted to read:

403.0671 Basin management action plan wastewater reports.—

(1) By July 1, 2021, the department, in coordination with the county health departments, wastewater treatment facilities, and other governmental entities, shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives evaluating the costs of wastewater projects identified in the basin management action plans developed pursuant to ss. 373.807 and 403.067(7) and the onsite sewage treatment and disposal system remediation plans and other restoration plans developed to meet the total maximum daily loads required under s. 403.067. The report must include:

(a) Projects to:

1. Replace onsite sewage treatment and disposal systems with enhanced nutrient-reducing onsite sewage treatment and disposal systems.

2. Install or retrofit onsite sewage treatment and disposal systems with enhanced nutrient-reducing technologies.

3. Construct, upgrade, or expand domestic wastewater treatment facilities to meet the wastewater treatment plan required under s. 403.067(7)(a)9.

4. Connect onsite sewage treatment and disposal systems to domestic wastewater treatment facilities;

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(3) Beginning January 1, 2022, and each January 1 thereafter, the department shall submit to the Office of Economic and Demographic Research the cost estimates for projects required in s. 403.067(7)(a)9. The office shall include the project cost estimates in its annual assessment conducted pursuant to s. 403.928.

Section 7. For the purpose of incorporating the amendment made by this act to section 403.067, Florida Statutes, in references thereto, paragraphs (e) and (f) of subsection (2) of section 403.0673, Florida Statutes, are reenacted to read:

403.0673 Water quality improvement grant program.—A grant program is established within the Department of Environmental Protection to address wastewater, stormwater, and agricultural sources of nutrient loading to surface water or groundwater.

(2) The department may provide grants for all of the following types of projects that reduce the amount of nutrients entering those waterbodies identified in subsection (1):

(e) Projects identified pursuant to s. 403.067(7)(a) or (e).

(f) Projects identified in a wastewater treatment plan or an onsite sewage treatment and disposal system remediation plan developed pursuant to s. 403.067(7)(a)9.a. and b.

Section 8. This act shall take effect July 1, 2024.

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