

By Senator Dockery

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1 A bill to be entitled

2 An act relating to reclaimed water development; amending
3 s. 373.250, F.S.; defining the term "reuse of reclaimed
4 water" to include certain specified uses; providing that
5 reclaimed water is available to a consumptive use permit
6 applicant; requiring a water management district to
7 require the use of reclaimed water under certain
8 circumstances; providing that the use of reclaimed water
9 is economically feasible if provided for a charge less
10 than or equal to the charge for potable water provided by
11 a water utility located in the permit applicant's service
12 area; providing that the charge for potable water provided
13 by the closest water utility will determine economic
14 feasibility if the proposed use is not located in a water
15 utility service area, except for the use of irrigation
16 water for commercial agricultural operations; providing
17 for the designation of mandatory reclaimed water zones;
18 authorizing a local government or a water management
19 district to designate mandatory reclaimed water zones
20 under certain circumstances; prohibiting a water
21 management district from approving a nonpotable user's
22 application unless certain written evidence is provided;
23 authorizing a water management district to approve a
24 permit application without requiring use of reclaimed
25 water; excluding new consumptive use permit applications,
26 modifications, or renewals of existing permits for the use
27 of irrigation water for commercial agricultural operations
28 or reclaimed water or seawater that is the sole water
29 source for a new or existing nonpotable water use;

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30 prohibiting a water management district, the Department of
31 Environmental Protection, or other state agency from
32 basing its approval of a permit, grant, loan, or agreement
33 on the designation of a mandatory reclaimed water zone;
34 requiring a water management district to adopt rules that
35 create a program to assign an offset to a reclaimed water
36 provider which results from the substitution of reclaimed
37 water supplied for existing water withdrawals; requiring
38 such rules to be adopted by a certain date depending on an
39 area's classification; providing guidelines for the rules;
40 requiring a water management district to adopt rules
41 related to the supplementation of reclaimed water;
42 requiring a water management district to regulate the use
43 of reclaimed water as prescribed by law; providing an
44 effective date.

45
46 Be It Enacted by the Legislature of the State of Florida:

47
48 Section 1. Section 373.250, Florida Statutes, is amended to
49 read:

50 373.250 Reuse of reclaimed water.--

51 (1) The encouragement and promotion of water conservation
52 and reuse of reclaimed water, as defined by the department, are
53 state objectives and considered to be in the public interest. The
54 Legislature finds that the use of reclaimed water provided by
55 domestic wastewater treatment plants permitted and operated under
56 a reuse program approved by the department is environmentally
57 acceptable and not a threat to public health and safety.

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58 (2) (a) For purposes of this section, "uncommitted" means
59 the average amount of reclaimed water produced during the three
60 lowest-flow months minus the amount of reclaimed water that a
61 reclaimed water provider is contractually obligated to provide to
62 a customer or user.

63 (b) For purposes of this section, "reuse of reclaimed
64 water" includes, but is not limited to, irrigation use,
65 commercial use, industrial use, recreational use, electrical
66 generation use, mining and extractive use, and environmental use.

67 (c) ~~(b)~~ Reclaimed water is may be presumed available to a
68 consumptive use permit applicant if when a utility that exists
69 which provides reclaimed water exists and, which has uncommitted
70 reclaimed water capacity, and which has distribution facilities
71 that can be extended to the permit applicant's property, which
72 are initially provided by the utility at its cost, to the site of
73 the affected applicant's proposed use.

74 (d) ~~(e)~~ A water management district shall may require the
75 use of reclaimed water if in lieu of surface water or groundwater
76 when the use of uncommitted reclaimed water is environmentally,
77 economically, and technically feasible and of such quality and
78 reliability as is necessary to the user. However, this paragraph
79 does not authorize a water management district to require a
80 provider of reclaimed water to redirect reclaimed water from one
81 user to another or to provide uncommitted reclaimed water to a
82 specific user or class of user if such water is anticipated to be
83 used by the provider, or a different user selected by the
84 provider, within a reasonable amount of time.

85 (e) The use of reclaimed water is economically feasible, if
86 it is provided for a charge less than or equal to the charge for

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87 potable water provided by a water utility in whose service area
88 the affected permit applicant's proposed use is located. If the
89 affected permit applicant's proposed use is not located in a
90 water utility service area, the charge for potable water provided
91 by the closest water utility shall be used to determine economic
92 feasibility. This paragraph does not apply to the use of
93 irrigation water for commercial agricultural operations.

94 (3) The Legislature authorizes the designation of mandatory
95 reclaimed water zones if the use of reclaimed water is
96 environmentally, economically, and technically feasible for
97 nonpotable uses of water within the designated mandatory
98 reclaimed water zone.

99 (a) A local government, either individually or by
100 interlocal agreement, may designate mandatory reclaimed water
101 zones, if one or more reclaimed water providers have committed to
102 provide reclaimed water to all nonpotable water users or classes
103 of nonpotable water users. A water management district may not
104 approve an application for nonpotable water users or classes of
105 nonpotable water users located within a mandatory reclaimed water
106 zone, unless the permit applicant has provided written evidence
107 demonstrating that the local government, which designated the
108 mandatory reclaimed water zone, has authorized an exemption for
109 the use of nonpotable water or the permit applicant has
110 demonstrated that reclaimed water service has been requested, but
111 has not been made available within the timeframe in paragraph
112 (c).

113 (b) If a local government has not designated a mandatory
114 reclaimed water zone, a water management district may designate,
115 by order, mandatory reclaimed water zones in areas where one or

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116 more reclaimed water providers have committed to provide
117 reclaimed water to all nonpotable water users or classes of
118 nonpotable water users. Mandatory reclaimed water zones
119 designated pursuant to this paragraph shall remain in effect
120 until repealed by the water management district or until a
121 mandatory reclaimed water zone is established by a local
122 government in the same geographic area.

123 (c) If a permit applicant within a mandatory reclaimed
124 water zone demonstrates that it requested reclaimed water from
125 the reclaimed water provider and the provider did not make
126 reclaimed water available within 180 days after such request, a
127 water management district may approve a permit application
128 without requiring the use of reclaimed water. However, the water
129 management district shall require the permit applicant to request
130 the use of reclaimed water before applying for any modification
131 or renewal of the permit.

132 (d) This subsection applies to all new consumptive use
133 permit applications, modifications, and renewals of existing
134 consumptive use permits; however, it does not apply to any new
135 consumptive use permit applications, modifications, or renewals
136 of existing consumptive use permits for the use of irrigation
137 water for commercial agricultural operations or where reclaimed
138 water or seawater is the sole water source for a new or existing
139 nonpotable water use.

140 (e) A water management district, the Department of
141 Environmental Protection, or other state agency may not base its
142 decision to act on or approve a permit, grant, loan, or agreement
143 upon the designation of a mandatory reclaimed water zone.

144 (4) In areas of the state where new or increased water

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145 withdrawals have been limited by law including, but not limited
146 to, minimum flows and levels established pursuant to ss. 373.042
147 and 373.0421 or water reservations created pursuant to s.
148 373.223, the water management district with jurisdiction over the
149 area shall create a program by rule to assign to the reclaimed
150 water provider any offset created by the substitution of
151 reclaimed water supplied by the provider for existing water
152 withdrawals, which would allow the reclaimed water provider the
153 ability to obtain a consumptive use permit authorizing a new or
154 increased water withdrawal. For existing areas, where new or
155 increased water withdrawals have been limited by law, this rule
156 shall be adopted no later than January 1, 2009. For all other
157 areas, the rule shall be adopted no later than one year following
158 the date new or increased water withdrawals are limited by law.
159 In areas located within more than one water management district,
160 the same rule shall be jointly adopted by the affected water
161 management districts by the specified deadline. The Lower East
162 Coast, as defined in the rules of the South Florida Water
163 Management District, shall be considered an area where new or
164 increased water withdrawals have been limited by law and for
165 which this program shall be adopted by rule no later than January
166 1, 2009.

167 (5) Any rule adopted pursuant to paragraph (4) shall
168 provide for the following:

169 (a) The process to be used to determine how offsets are
170 generated, quantified, and validated;

171 (b) The timing and duration of the offset, provided
172 however, the reclaimed water provider shall at a minimum be
173 entitled to the offset as long as it continues to supply the

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174 reclaimed water that was substituted for the existing water
175 withdrawal;

176 (c) A mechanism that would allow a reclaimed water user to
177 recapture the offset assigned to the reclaimed water provider
178 should the provider permanently cease to supply reclaimed water
179 to the user; and

180 (d) A procedure to allow reclaimed water providers to
181 collaborate to combine their reclaimed water supplies and to
182 assign all or part of any offset recognized by the water
183 management district to any or all of the collaborating reclaimed
184 water providers.

185 (6)~~(3)~~ The water management district shall, in consultation
186 with the department, adopt rules to implement this section. Such
187 rules shall include, but not be limited to:

188 (a) Provisions to permit use of water from other sources in
189 emergency situations or if reclaimed water becomes unavailable,
190 for the duration of the emergency or the unavailability of
191 reclaimed water. These provisions shall also specify the method
192 for establishing the quantity of water to be set aside for use in
193 emergencies or when reclaimed water becomes unavailable. The
194 amount set aside is subject to periodic review and revision. The
195 methodology shall take into account the risk that reclaimed water
196 may not be available in the future, the risk that other sources
197 may be fully allocated to other uses in the future, the nature of
198 the uses served with reclaimed water, the extent to which the
199 applicant intends to rely upon reclaimed water and the extent of
200 economic harm which may result if other sources are not available
201 to replace the reclaimed water. It is the intent of this
202 paragraph to ensure that users of reclaimed water have the same

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203 access to ground or surface water and will otherwise be treated
204 in the same manner as other users of the same class not relying
205 on reclaimed water.

206 (b) Provisions to authorize the supplementation of
207 reclaimed water with surface water, groundwater, or stormwater.
208 Such rules shall recognize that available flows of reclaimed
209 water change seasonally and permitting the supplementation of
210 reclaimed water with other water sources during periods of low
211 flow will extend the reclaimed water supply for greater
212 beneficial reuse.

213 (c)~~(b)~~ A water management district may ~~shall~~ not adopt any
214 rule which gives preference to users within any class of use
215 established under s. 373.246 who do not use reclaimed water over
216 users within the same class who use reclaimed water.

217 (7)~~(4)~~ Nothing in this section shall impair a water
218 management district's authority to plan for and regulate
219 consumptive uses of water under this chapter, except that
220 regulation of reclaimed water use by water management districts
221 shall be consistent with the provisions of this section.

222 (8)~~(5)~~ This section applies to new consumptive use permits
223 and renewals of existing consumptive use permits.

224 Section 2. This act shall take effect upon becoming a law.