

By Senator Garcia

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1 A bill to be entitled
2 An act relating to reclaimed water; amending s.
3 373.019, F.S.; revising the definition of the term
4 "water" or "waters in the state" to exclude reclaimed
5 water; amending s. 373.250, F.S.; providing
6 legislative findings relating to the use of reclaimed
7 water; providing that reclaimed water is an
8 alternative water supply and eligible for such
9 funding; authorizing specified contract provisions for
10 the development of reclaimed water as an alternative
11 water supply; deleting a definition for the term
12 "uncommitted"; providing for the determination of
13 uncommitted reclaimed water capacity by certain
14 utilities; prohibiting water management districts from
15 requiring permits for the use of reclaimed water;
16 authorizing permit conditions for certain surface
17 water and groundwater sources; authorizing water
18 management districts to require the use of reclaimed
19 water under certain conditions; prohibiting water
20 management districts from requiring or restricting
21 services provided by reuse utilities; providing an
22 exception; clarifying which permit applicants are
23 required to submit certain information; requiring the
24 Department of Environmental Protection and each water
25 management district to initiate rulemaking to adopt
26 specified revisions to the water resource
27 implementation rule; revising applicability; providing
28 an effective date.
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30 Be It Enacted by the Legislature of the State of Florida:

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32 Section 1. Subsection (20) of section 373.019, Florida
33 Statutes, is amended to read:

34 373.019 Definitions.—When appearing in this chapter or in
35 any rule, regulation, or order adopted pursuant thereto, the
36 term:

37 (20) "Water" or "waters in the state" means any and all
38 water on or beneath the surface of the ground or in the
39 atmosphere, including natural or artificial watercourses, lakes,
40 ponds, or diffused surface water and water percolating,
41 standing, or flowing beneath the surface of the ground, as well
42 as all coastal waters within the jurisdiction of the state.
43 Reclaimed water, as defined by the department, is not water or
44 waters in the state until it has been discharged into waters as
45 defined in s. 403.031(13).

46 Section 2. Section 373.250, Florida Statutes, is amended to
47 read:

48 373.250 Reuse of reclaimed water.—

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

57 (b) The Legislature recognizes that the interest of the
58 state to sustain water resources for the future through the use

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59 of reclaimed water must be balanced with the need of reuse
60 utilities to operate and manage reclaimed water systems in
61 accordance with a variety and range of circumstances, including
62 regulatory and financial considerations, which influence the
63 development and operation of reclaimed water systems across the
64 state.

65 (2) Reclaimed water is an alternative water supply as
66 defined in s. 373.019(1) and is eligible for alternative water
67 supply funding. A contract for state or district funding
68 assistance for the development of reclaimed water as an
69 alternative water supply may include provisions listed under s.
70 373.707(9).

71 ~~(3)(2)(a) For purposes of this section, "uncommitted" means~~
72 ~~the average amount of reclaimed water produced during the three~~
73 ~~lowest-flow months minus the amount of reclaimed water that a~~
74 ~~reclaimed water provider is contractually obligated to provide~~
75 ~~to a customer or user.~~

76 ~~(b)~~ Reclaimed water may be presumed available to a
77 consumptive use permit applicant when a utility exists which
78 provides reclaimed water, which has determined that it has
79 uncommitted reclaimed water capacity, and which has distribution
80 facilities, which are initially provided by the utility at its
81 cost, to the site of the affected applicant's proposed use.

82 (b) A water management district may not require a permit
83 for the use of reclaimed water. However, when a use includes
84 surface water or groundwater, the permit for such sources may
85 include conditions that govern the use of the permitted sources
86 in relation to the feasibility or use of reclaimed water.

87 (c) A water management district may require the use of

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88 reclaimed water in lieu of all or a portion of a proposed use of
89 surface water or groundwater by an applicant when the use of
90 ~~uncommitted~~ reclaimed water is available; is environmentally,
91 economically, and technically feasible; and is of such quality
92 and reliability as is necessary to the user. However, a water
93 management district may neither specify any user to whom the
94 reuse utility must provide reclaimed water nor restrict the use
95 of reclaimed water provided by a reuse utility to a customer in
96 a permit, water shortage order, or water shortage emergency
97 order unless requested by the reuse utility ~~this paragraph does~~
98 ~~not authorize a water management district to require a provider~~
99 ~~of reclaimed water to redirect reclaimed water from one user to~~
100 ~~another or to provide uncommitted water to a specific user if~~
101 ~~such water is anticipated to be used by the provider, or a~~
102 ~~different user selected by the provider, within a reasonable~~
103 ~~amount of time.~~

104 (d) The South Florida Water Management District shall
105 require the use of reclaimed water made available by the
106 elimination of wastewater ocean outfall discharges as provided
107 for in s. 403.086(9) in lieu of surface water or groundwater
108 when the use of ~~uncommitted~~ reclaimed water is available; is
109 environmentally, economically, and technically feasible; and is
110 of such quality and reliability as is necessary to the user.
111 Such reclaimed water may also be required in lieu of other
112 alternative sources. In determining whether ~~or not~~ to require
113 such reclaimed water in lieu of other alternative sources, the
114 water management district shall consider existing infrastructure
115 investments in place or obligated to be constructed by an
116 executed contract or similar binding agreement as of July 1,

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117 2011, for the development of other alternative sources.

118 (4)~~(3)~~ The water management district shall, in consultation
119 with the department, adopt rules to implement this section. Such
120 rules shall include, but not be limited to:

121 (a) Provisions to permit use of water from other sources in
122 emergency situations or if reclaimed water becomes unavailable,
123 for the duration of the emergency or the unavailability of
124 reclaimed water. These provisions shall also specify the method
125 for establishing the quantity of water to be set aside for use
126 in emergencies or when reclaimed water becomes unavailable. The
127 amount set aside is subject to periodic review and revision. The
128 methodology shall take into account the risk that reclaimed
129 water may not be available in the future, the risk that other
130 sources may be fully allocated to other uses in the future, the
131 nature of the uses served with reclaimed water, the extent to
132 which the applicant intends to rely upon reclaimed water, and
133 the extent of economic harm which may result if other sources
134 are not available to replace the reclaimed water. It is the
135 intent of this paragraph to ensure that users of reclaimed water
136 have the same access to ground or surface water and will
137 otherwise be treated in the same manner as other users of the
138 same class not relying on reclaimed water.

139 ~~(b) A water management district shall not adopt any rule
140 which gives preference to users within any class of use
141 established under s. 373.246 who do not use reclaimed water over
142 users within the same class who use reclaimed water.~~

143 (b)~~(c)~~ Provisions to require permit applicants that are not
144 reuse utilities to provide, as part of their reclaimed water
145 feasibility evaluation for a nonpotable use, written

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146 documentation from a reuse utility addressing the availability
147 of reclaimed water. This requirement shall apply when the
148 applicant's proposed use is within an area that is or may be
149 served with reclaimed water by a reuse utility within a 5-year
150 horizon, as established by the reuse utility and provided to the
151 district. If the applicable reuse utility fails to respond or
152 does not provide the information required under paragraph (c)
153 ~~(d)~~ within 30 days after receipt of the request, the applicant
154 shall provide to the district a copy of the written request and
155 a statement that the utility failed to provide the requested
156 information. The district is not required to adopt, by rule, the
157 area where written documentation from a reuse utility is
158 required, but the district shall publish the area, and any
159 updates thereto, on the district's website. This paragraph may
160 not be construed to limit the ability of a district to require
161 the use of reclaimed water or to limit a utility's ability to
162 plan reclaimed water infrastructure.

163 (c)~~(d)~~ Provisions specifying the content of the
164 documentation required in paragraph (b) ~~(e)~~, including
165 sufficient information regarding the availability and costs
166 associated with the connection to and the use of reclaimed
167 water, to facilitate the permit applicant's reclaimed water
168 feasibility evaluation.

169
170 A water management district may not adopt any rule that gives
171 preference to users within any class of use established under s.
172 373.246 who do not use reclaimed water over users within the
173 same class who use reclaimed water.

174 (5) (a) No later than October 1, 2012, the department shall

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175 initiate rulemaking to adopt revisions to the water resource
176 implementation rule, as defined in s. 373.019(23), which shall
177 include:

178 1. Criteria for the use of a proposed impact offset derived
179 from the use of reclaimed water when a water management district
180 evaluates an application for a consumptive use permit. As used
181 in this subparagraph, the term "impact offset" means the use of
182 reclaimed water to reduce or eliminate a harmful impact that has
183 occurred or would otherwise occur as a result of other surface
184 water or groundwater withdrawals.

185 2. Criteria for the use of substitution credits where a
186 water management district has adopted rules establishing
187 withdrawal limits from a specified water resource within a
188 defined geographic area. As used in this subparagraph, the term
189 "substitution credit" means the use of reclaimed water to
190 replace all or a portion of an existing permitted use of
191 resource-limited surface water or groundwater, allowing a
192 different user or use to initiate a withdrawal or increase its
193 withdrawal from the same resource-limited surface water or
194 groundwater source provided that the withdrawal creates no net
195 adverse impact on the limited water resource or creates a net
196 positive impact if required by water management district rule as
197 part of a strategy to protect or recover a water resource.

198 (b) Within 60 days after the final adoption by the
199 department of the revisions to the water resource implementation
200 rule required under paragraph (a), each water management
201 district shall initiate rulemaking to incorporate those
202 revisions by reference into the rules of the district.

203 (6) ~~(4)~~ Reuse utilities and the applicable water management

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204 district or districts are encouraged to periodically coordinate
205 and share information concerning the status of reclaimed water
206 distribution system construction, the availability of reclaimed
207 water supplies, and existing consumptive use permits in areas
208 served by the reuse utility.

209 (7) ~~(5)~~ ~~Nothing in~~ This section does not impair or limit the
210 authority of ~~shall impair~~ a water management district ~~district's~~
211 ~~authority~~ to plan for and regulate consumptive uses of water
212 under this chapter or regulate the use of surface water or
213 groundwater to supplement a reclaimed water system.

214 (8) ~~(6)~~ This section applies to applications for new
215 consumptive use permits and renewals and modifications of
216 existing consumptive use permits.

217 Section 3. This act shall take effect July 1, 2012.