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LEGISLATIVE ACTION

Senate

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House

The Committee on Innovation, Industry, and Technology
(Albritton) recommended the following:

1 **Senate Substitute for Amendment (451010) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Subsection (17) is added to section 403.064,
7 Florida Statutes, to read:

8 403.064 Reuse of reclaimed water.—

9 (17) Notwithstanding any other provisions in this section
10 to the contrary, beginning January 1, 2026, domestic wastewater



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11 treatment facilities may not dispose of effluent, reclaimed
12 water, or reuse water by surface water discharge, except that
13 this prohibition does not apply to indirect potable reuse
14 projects; domestic wastewater treatment facility discharges
15 during wet weather which occur in accordance with the applicable
16 department permit; discharges into a stormwater management
17 system which are subsequently withdrawn by a user for irrigation
18 purposes; domestic wastewater treatment facilities located in
19 fiscally constrained counties as defined in s. 218.67(1);
20 projects where reclaimed water is recovered from an aquifer
21 recharge system and subsequently discharged into a surface water
22 for potable reuse; wetlands creation, restoration, and
23 enhancement projects; minimum flows and levels recovery or
24 prevention strategy plan projects; domestic wastewater treatment
25 facilities with reuse systems that provide a minimum of 90
26 percent of a facility's annual average flow, as determined by
27 the department using monitoring data for the prior 5 consecutive
28 years, for reuse purposes authorized by the department; domestic
29 wastewater treatment facilities located in municipalities that
30 have less than \$10 million in total revenue, as determined by
31 the most recent annual financial report submitted to the
32 Department of Financial Services in accordance with s. 218.32;
33 or domestic wastewater treatment facilities located in
34 municipalities that are entirely within a rural area of
35 opportunity designated under s. 288.0656.

36 Section 2. Section 403.8531, Florida Statutes, is created
37 to read:

38 403.8531 Potable reuse.—

39 (1) Recognizing that sufficient water supply is imperative



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40 to the future of this state and that potable reuse is one source
41 of water which may assist in meeting future demands, the
42 Legislature intends for the department to adopt rules for
43 potable reuse which:

44 (a) Protect the public health and environment by ensuring
45 that the potable reuse rules meet federal and state drinking
46 water and water quality standards, including, but not limited
47 to, the Clean Water Act, the Safe Drinking Water Act, and water
48 quality standards pursuant to chapter 403, and, when possible,
49 implement such rules through existing regulatory programs.

50 (b) Support reclaimed water being used for potable reuse
51 purposes.

52 (c) Implement the recommendations set forth in the Potable
53 Reuse Commission's 2020 report "Advancing Potable Reuse in
54 Florida: Framework for the Implementation of Potable Reuse in
55 Florida."

56 (d) Require that the point of compliance with drinking
57 water standards for potable reuse projects is the final
58 discharge point for finished water from the water treatment
59 facility.

60 (e) Protect the aquifer and Florida's springs and surface
61 waters by ensuring that potable reuse projects do not cause or
62 contribute to violations of water quality standards in surface
63 waters, including groundwater discharges that flow by interflow
64 and affect water quality in surface waters, and that potable
65 reuse projects shall be designed and operated to ensure
66 compliance with groundwater quality standards.

67 (2) As used in this section, the term:

68 (a) "Advanced treated reclaimed water" means the water



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69 produced from an advanced water treatment process for potable
70 reuse applications.

71 (b) "Advanced treatment technology" means the treatment
72 technology selected by a utility to address emerging
73 constituents and pathogens in reclaimed water as part of a
74 potable reuse project.

75 (c) "Direct potable reuse" means the introduction of
76 advanced treated reclaimed water into a raw water supply
77 immediately upstream from a drinking water treatment facility or
78 directly into a potable water supply distribution system.

79 (d) "Emerging constituents" means pharmaceuticals, personal
80 care products, and other chemicals not regulated as part of
81 drinking water quality standards.

82 (e) "Indirect potable reuse" means the planned delivery or
83 discharge of reclaimed water to groundwater or surface waters
84 for the development of, or to supplement, the potable water
85 supply.

86 (f) "Off-spec reclaimed water" means reclaimed water that
87 does not meet the standards for potable reuse.

88 (g) "Potable reuse" means the augmentation of a drinking
89 water supply with advanced treated reclaimed water from a
90 domestic wastewater treatment facility, and consists of direct
91 potable reuse and indirect potable reuse.

92 (h) "Reclaimed water" means water that has received at
93 least secondary treatment and basic disinfection and is reused
94 after flowing out of a domestic wastewater treatment facility.

95 (3) To comply with drinking water quality standards,
96 reclaimed water is deemed a water source for public water supply
97 systems.



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98 (4) Existing water quality protections that prohibit
99 discharges from causing or contributing to violations of water
100 quality standards in groundwater and surface waters apply to
101 potable reuse projects. In addition, when reclaimed water is
102 released or discharged into groundwater or surface water for
103 potable reuse purposes, there shall be a consideration of
104 emerging constituents and impacts to other users of such
105 groundwater or surface water.

106 (5) Potable reuse is an alternative water supply as defined
107 in s. 373.019, and potable reuse projects are eligible for
108 alternative water supply funding. The use of potable reuse water
109 may not be excluded from regional water supply planning under s.
110 373.709.

111 (6) The department shall:

112 (a) Adopt rules that authorize potable reuse projects that
113 are consistent with this section.

114 (b) Review existing rules governing reclaimed water and
115 potable reuse to identify obsolete and inconsistent requirements
116 and adopt rules that revise existing potable reuse rules to
117 eliminate such inconsistencies, while maintaining existing
118 public health and environmental protections.

119 (c) Review aquifer recharge rules and, if revisions are
120 necessary to ensure continued compliance with existing public
121 health and environmental protection rules when reclaimed water
122 is used for aquifer recharge, adopt such rules.

123 (d) Initiate rulemaking by December 31, 2020, and submit
124 the adopted rules to the President of the Senate and the Speaker
125 of the House of Representatives by December 12, 2021, for
126 approval and incorporation into chapter 403 by the Legislature.



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127 Such rules may not be published as administrative rules by the
128 department.

129 (7) The department and the water management districts shall
130 develop and execute a memorandum of agreement providing for the
131 procedural requirements of a coordinated review of all permits
132 associated with the construction and operation of an indirect
133 potable reuse project. The memorandum of agreement must provide
134 that the coordinated review will occur only if requested by a
135 permittee. The purpose of the coordinated review is to share
136 information, to avoid the redundancy of information requested
137 from the permittee, and to ensure consistency in the permit for
138 the protection of the public health and the environment. The
139 department and the water management districts shall develop and
140 execute the memorandum of agreement by December 31, 2022.

141 (8) To encourage investment in the development of potable
142 reuse projects by private entities, a potable reuse project
143 developed as a qualifying project pursuant to s. 255.065 is:

144 (a) Beginning January 1, 2025, eligible for expedited
145 permitting under s. 403.973.

146 (b) Granted an annual credit against the tax imposed by
147 chapter 220 in an amount equal to 5 percent of the eligible
148 capital costs generated by a qualifying project for a period not
149 to exceed 20 years after the date that project operations begin.
150 The tax credit applies only to the corporate income tax
151 liability or the premium tax liability generated by or arising
152 out of the qualifying project, and the sum of all tax credits
153 provided pursuant to this section may not exceed 100 percent of
154 the eligible capital costs as defined in s. 220.191(1)(c). Any
155 credit granted pursuant to this paragraph may not be carried



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156 forward or backward.

157 (c) Granted a 3-year extension of any deadlines imposed
158 under s. 403.064(17).

159 (d) Consistent with s. 373.707, eligible for priority
160 funding in the same manner as other alternative water supply
161 projects from the Drinking Water State Revolving Fund, under the
162 Water Protection and Sustainability Program, and for water
163 management district cooperative funding.

164 (9) This section is not intended and may not be construed
165 to supersede s. 373.250(3).

166 Section 3. Section 403.892, Florida Statutes, is created to
167 read:

168 403.892 Incentives for the use of graywater technologies.-

169 (1) As used in this section, the term:

170 (a) "Developer" has the same meaning as in s. 380.031.

171 (b) "Graywater" has the same meaning as in s.

172 381.0065(2)(e).

173 (2) To promote the beneficial reuse of water in this state,
174 a county, municipality, or special district shall do all of the
175 following:

176 (a) Authorize the use of residential graywater technologies
177 in their respective jurisdictions which comply with the Florida
178 Building Code; and

179 (b) Provide incentives to developers to fully offset the
180 costs of their beneficial reuse of water contribution through
181 graywater technology. Such incentives may include, but are not
182 limited to:

183 1. Allowing the developer density or intensity bonus
184 incentives or more floor space than allowed under the current or



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185 proposed future land use designation or zoning;

186 2. Reducing or waiving fees, such as impact fees or water
187 and sewer charges; or

188 3. Granting other incentives.

189 (3) If the local government has already applied one of the
190 incentives identified in paragraph (2) (b) to the development,
191 the local government must provide the developer with an
192 additional incentive identified in paragraph (2) (b) to meet the
193 requirements of this section.

194 Section 4. (1) In implementing s. 403.8531, Florida
195 Statutes, as created by this act, the Department of
196 Environmental Protection, in coordination with one or more
197 technical working groups pursuant to subsection (2), shall adopt
198 rules for the implementation of potable reuse projects. The
199 department shall:

200 (a) Revise the appropriate chapters in the Florida
201 Administrative Code, including chapter 62-610, Florida
202 Administrative Code, to ensure that all rules implementing
203 potable reuse are in the Florida Administrative Code division 62
204 governing drinking water regulation.

205 (b) Revise existing drinking water rules to include
206 reclaimed water as a source water for the public water supply
207 and require such treatment of the water as is necessary to meet
208 existing drinking water rules, including rules for pathogens.
209 The potable reuse rules must include the implementation of a log
210 reduction credit system using advanced treatment technology to
211 meet pathogen treatment requirements, and must require a public
212 water supplier to provide an approach to meet the required
213 pathogen treatment requirements in an engineering report as part



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214 of its public water supply permit application for authorization
215 of potable reuse. To ensure protection of the public health, as
216 part of the public water supply permit application to authorize
217 potable reuse, a public water supplier shall provide a
218 department-specified level of treatment or propose an approach
219 to achieving the log reduction targets based on source water
220 characterization that is sufficient for a pathogen risk of
221 infection which meets the national drinking water criteria of
222 less than 1 x 10⁻⁴ annually.

223 (c) Prescribe the means for using appropriate treatment
224 technology to address emerging constituents in potable reuse
225 projects. The advanced treatment technology must be technically
226 and economically feasible and must provide for flexibility in
227 the specific treatment processes employed to recognize different
228 project scenarios, emerging constituent concentrations, desired
229 finished water quality, and the treatment capability of the
230 facility. The advanced treatment technology may also be used for
231 pathogen removal or reduction.

232 1. The rules must require appropriate monitoring to
233 evaluate advanced treatment technology treatment performance,
234 including the monitoring of surrogate parameters and controls,
235 which monitoring must occur either before or after the advanced
236 treatment technologies treatment process, or both, as
237 appropriate.

238 2. For direct potable reuse projects, the rules must
239 require reclaimed water to be included in the source water
240 characterization for a drinking water treatment facility and, if
241 that source water characterization indicates the presence of
242 emerging constituents at levels of public health interest, must



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243 specify how appropriate treatment technology will be used to
244 address those emerging constituents.

245 3. For indirect potable reuse projects, the department
246 shall amend the existing monitoring requirements contained
247 within part V of chapter 62-610, Florida Administrative Code, to
248 require monitoring for one or more representative emerging
249 constituents. The utility responsible for the indirect potable
250 reuse project shall develop an emerging constituent monitoring
251 protocol consisting of the selection of one or more
252 representative emerging constituents for monitoring and the
253 identification of action levels associated with such emerging
254 constituents. The monitoring protocol must provide that, if
255 elevated levels of the representative emerging constituent are
256 detected, the utility must report the elevated detection to the
257 department and investigate the source and cause of such elevated
258 emerging constituent. The utility shall submit the monitoring
259 protocol to the department for review and approval and shall
260 implement the monitoring protocol as approved by the department.
261 If the monitoring protocol detects an elevated emerging
262 constituent, and if the utility's investigation indicates that
263 the use of the reclaimed water is the cause of such elevated
264 emerging constituent, the utility must develop a plan to address
265 or remedy that cause. The utility's monitoring results,
266 investigation of any detected elevated emerging constituent
267 levels, determination of cause, and any plan developed to
268 address or remedy the cause must be submitted to the department
269 for review and approval.

270 (d) Specify industrial pretreatment requirements for
271 potable reuse projects. These industrial pretreatment



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272 requirements must match the industrial pretreatment requirements
273 contained in chapter 62-625, Florida Administrative Code, as of
274 the effective date of this act. If necessary, the department
275 also must require the utility operating a potable reuse project
276 to implement a source control program, and the utility shall
277 identify the sources that need to be addressed.

278 (e) Provide off-spec reclaimed water requirements for
279 potable reuse projects which include the immediate disposal,
280 temporary storage, alternative nonpotable reuse, or retreatment
281 or disposal of off-spec reclaimed water based on operating
282 protocols established by the public water supplier and approved
283 by the department.

284 (f) Revise existing rules to specify the point of
285 compliance with drinking water standards for potable reuse
286 projects as the point where the finished water is finally
287 discharged from the drinking water treatment facility to the
288 water distribution system.

289 (g) Ensure that, as rules for potable reuse projects are
290 implemented, chapter 62-610.850, Florida Administrative Code, is
291 applicable.

292 (h) Revise the definition of the term "indirect potable
293 reuse" provided in chapter 62-610, Florida Administrative Code,
294 to match the definition provided in s. 403.8531, Florida
295 Statutes.

296 (2) The department shall convene and lead one or more
297 technical advisory committees to coordinate the rulemaking and
298 review of rules required by s. 403.8531, Florida Statutes. The
299 technical advisory committees, which shall assist in the
300 development of such rules, must be composed of knowledgeable



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301 representatives of a broad group of interested stakeholders,
302 including, but not limited to, representatives from the water
303 management districts, the wastewater utility industry, the water
304 utility industry, the environmental community, the business
305 community, the public health community, and the agricultural
306 community, and consumers.

307 Section 5. To further promote the reuse of reclaimed water
308 for irrigation purposes, the rules that apply when reclaimed
309 water is injected into a receiving groundwater having 1,000 to
310 3,000 mg/L total dissolved solids are applicable to reclaimed
311 water aquifer storage and recovery wells injecting into a
312 receiving groundwater of less than 1,000 mg/L total dissolved
313 solids if the applicant demonstrates that there are no public
314 supply wells within 3,500 feet of the aquifer storage and
315 recovery wells and that it has implemented institutional
316 controls to prevent the future construction of public supply
317 wells within 3,500 feet of the aquifer storage and recovery
318 wells.

319 Section 6. The Division of Law Revision is directed to
320 replace the phrase "the effective date of this act" wherever it
321 occurs in this act with the date the act becomes a law.

322 Section 7. The Legislature determines and declares that
323 this act fulfills an important state interest.

324 Section 8. This act shall take effect upon becoming a law.

325
326 ===== T I T L E A M E N D M E N T =====

327 And the title is amended as follows:

328 Delete everything before the enacting clause
329 and insert:



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330 A bill to be entitled
331 An act relating to reclaimed water; amending s.
332 403.064, F.S.; prohibiting domestic wastewater
333 treatment facilities from disposing of effluent,
334 reclaimed water, or reuse water by surface water
335 discharge beginning on a specified date; providing
336 exceptions; creating s. 403.8531, F.S.; providing
337 legislative intent; defining terms; providing that
338 reclaimed water is a water source for public water
339 supply systems; providing specified groundwater and
340 surface water quality protections for potable reuse
341 projects; providing that potable reuse is an
342 alternative water supply and that projects relating to
343 such reuse are eligible for alternative water supply
344 funding; requiring the Department of Environmental
345 Protection to adopt specified rules; requiring the
346 department to review reclaimed water and potable reuse
347 rules and revise them as necessary; requiring the
348 department to review aquifer recharge rules and revise
349 them as necessary; requiring the department to
350 initiate rulemaking and to submit such rules to the
351 Legislature for approval by specified dates; requiring
352 the department and the water management districts to
353 develop and execute, by a specified date, a memorandum
354 of agreement for the coordinated review of specified
355 permits; providing that potable reuse projects are
356 eligible for certain expedited permitting and tax
357 credits; providing construction; creating s. 403.892,
358 F.S.; defining terms; requiring counties,



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359 municipalities, and special districts to authorize
360 graywater technologies under certain circumstances and
361 to provide incentives for the implementation of such
362 technologies; requiring the department to adopt rules
363 for the implementation of potable reuse projects which
364 meet certain requirements; requiring the department to
365 convene at least one technical advisory committee for
366 specified purposes; providing for the composition of
367 the technical advisory committee; providing for the
368 applicability of specified reclaimed water aquifer
369 storage and recovery well requirements; providing a
370 directive to the Division of Law Revision; providing a
371 declaration of important state interest; providing an
372 effective date.

373
374 WHEREAS, sustainable water supplies are important to this
375 state's economy, environment, and quality of life, and

376 WHEREAS, in 2019, Floridians used nearly 6.5 billion
377 gallons of water per day and are projected to need an additional
378 1.1 billion gallons of water per day by 2035, and

379 WHEREAS, more than 75 percent of this state's water supply
380 comes from groundwater, and the availability of additional fresh
381 groundwater has become limited in many areas of this state, and

382 WHEREAS, this state's continued growth and economic success
383 depend on the implementation of safe and sustainable alternative
384 water supplies, and

385 WHEREAS, the use of reclaimed water is an important
386 component of both wastewater management and water resource
387 management in this state, and



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388 WHEREAS, in 2018, approximately 48 percent of the total
389 domestic wastewater flow in this state, 797 million gallons per
390 day, was reused for beneficial purposes, and

391 WHEREAS, the reuse of water is a critical component of
392 meeting this state's existing and future water supply needs, and

393 WHEREAS, potable reuse is the augmentation of a drinking
394 water supply with reclaimed water from a municipal wastewater
395 source and is an alternative water supply source that can be
396 harnessed to help meet the additional water needs of this state
397 while protecting both the public health and the environment, and

398 WHEREAS, the Legislature finds that through the use of
399 advanced treatment technology, potable reuse is a safe and
400 sustainable alternative water supply source that can be used to
401 support a diverse, resilient, and sustainable water supply
402 portfolio, and is considered to be in the public interest, and

403 WHEREAS, potable reuse projects, when implemented in a
404 properly planned way using current environmental and engineered
405 treatment processes, have reduced, and will continue to reduce,
406 this state's dependence on increased withdrawals from
407 groundwater and surface water sources, pollutant loadings to
408 waters of the state, and the nonbeneficial use of reclaimed
409 water, thus improving water quality and benefitting the
410 environment and local economies that depend on this state's
411 natural resources, NOW, THEREFORE,