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LEGISLATIVE ACTION

Senate

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House

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

403.064 Reuse of reclaimed water.—

(17) Notwithstanding any other provisions in this section  
to the contrary, beginning January 1, 2026, domestic wastewater  
treatment facilities may not dispose of effluent, reclaimed



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16 system which are subsequently withdrawn by a user for irrigation  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

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

37 403.8531 Potable reuse.—

38 (1) Recognizing that sufficient water supply is imperative  
39 to the future of this state and that potable reuse is one source



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40 of water which may assist in meeting future demands, the  
41 Legislature intends for the department to adopt rules for  
42 potable reuse which:

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

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

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

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

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

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

67 (a) "Advanced treated reclaimed water" means the water  
68 produced from an advanced water treatment process for potable



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69 reuse applications.

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

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

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

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

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

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

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

94 (3) Reclaimed water is deemed a water source for public  
95 water supply systems.

96 (4) Existing water quality protections that prohibit  
97 discharges from causing or contributing to violations of water



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98 quality standards in groundwater and surface waters apply to  
99 potable reuse projects. In addition, when reclaimed water is  
100 released or discharged into groundwater or surface water for  
101 potable reuse purposes, consideration of emerging constituents  
102 may be required due to existing regulatory requirements, such as  
103 antidegradation and discharge standards, as well as impacts to  
104 other users of such groundwater or surface water.

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

110 (6) The department shall:

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

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

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

122 (d) Initiate rulemaking by December 31, 2020, and submit  
123 the adopted rules to the President of the Senate and the Speaker  
124 of the House of Representatives by December 12, 2021, for  
125 ratification. Such rules are effective only upon ratification by  
126 the Legislature.



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

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

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

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

155       (c) Granted a 3-year extension of any deadlines imposed



156 under s. 403.064(17).

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

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

164 Section 3. Section 403.892, Florida Statutes, is created to  
165 read:

166 403.892 Incentives for the use of graywater technologies.-

167 (1) As used in this section, the term "graywater" has the  
168 same meaning as in s. 381.0065(2) (e).

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

172 (a) Authorize the use of residential graywater technologies  
173 in their respective jurisdictions which comply with the Florida  
174 Building Code; and

175 (b) Provide incentives to developers to fully offset the  
176 costs of their beneficial reuse of water contribution through  
177 graywater technology. Such incentives may include, but are not  
178 limited to:

179 1. Allowing the developer density or intensity bonus  
180 incentives or more floor space than allowed under the current or  
181 proposed future land use designation or zoning;

182 2. Reducing or waiving fees, such as impact fees or water  
183 and sewer charges; or

184 3. Granting other incentives.



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

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

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

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





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214 department-specified level of treatment or propose an approach  
215 to achieving the log reduction targets based on source water  
216 characterization that is sufficient for a pathogen risk of  
217 infection which meets the national drinking water criteria of  
218 less than 1 x 10<sup>-4</sup> annually.

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

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

234 2. For direct potable reuse projects, the rules must  
235 require reclaimed water to be included in the source water  
236 characterization for a drinking water treatment facility and, if  
237 that source water characterization indicates the presence of  
238 emerging constituents at levels of public health interest, must  
239 specify how appropriate treatment technology will be used to  
240 address those emerging constituents.

241 3. For indirect potable reuse projects, the department  
242 shall amend the existing monitoring requirements contained



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

266 (d) Specify industrial pretreatment requirements for  
267 potable reuse projects. These industrial pretreatment  
268 requirements must match the industrial pretreatment requirements  
269 contained in chapter 62-625, Florida Administrative Code, as of  
270 the effective date of this act. If necessary, the department  
271 also must require the utility operating a potable reuse project



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272 to implement a source control program, and the utility shall  
273 identify the sources that need to be addressed.

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

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

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

288 (h) Revise the definition of the term "indirect potable  
289 reuse" provided in chapter 62-610, Florida Administrative Code,  
290 to match the definition provided in s. 403.8531, Florida  
291 Statutes.

292 (2) The department shall convene and lead one or more  
293 technical advisory committees to coordinate the rulemaking and  
294 review of rules required by s. 403.8531, Florida Statutes. The  
295 technical advisory committees, which shall assist in the  
296 development of such rules, must be composed of knowledgeable  
297 representatives of a broad group of interested stakeholders,  
298 including, but not limited to, representatives from the water  
299 management districts, the wastewater utility industry, the water  
300 utility industry, the environmental community, the business



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301 community, the public health community, and the agricultural  
302 community, and consumers.

303 Section 5. To further promote the reuse of reclaimed water  
304 for irrigation purposes, the rules that apply when reclaimed  
305 water is injected into a receiving groundwater having 1,000 to  
306 3,000 mg/L total dissolved solids are applicable to reclaimed  
307 water aquifer storage and recovery wells injecting into a  
308 receiving groundwater of less than 1,000 mg/L total dissolved  
309 solids if the applicant demonstrates that there are no public  
310 supply wells within 3,500 feet of the aquifer storage and  
311 recovery wells and that it has implemented institutional  
312 controls to prevent the future construction of public supply  
313 wells within 3,500 feet of the aquifer storage and recovery  
314 wells.

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

318 Section 7. This act shall take effect upon becoming a law.

319

320 ===== T I T L E A M E N D M E N T =====

321 And the title is amended as follows:

322 Delete everything before the enacting clause  
323 and insert:

324 A bill to be entitled  
325 An act relating to reclaimed water; amending s.  
326 403.064, F.S.; prohibiting domestic wastewater  
327 treatment facilities from disposing of effluent,  
328 reclaimed water, or reuse water by surface water  
329 discharge beginning on a specified date; providing



330 exceptions; creating s. 403.8531, F.S.; providing  
331 legislative intent; defining terms; providing that  
332 reclaimed water is a water source for public water  
333 supply systems; providing specified groundwater and  
334 surface water quality protections for potable reuse  
335 projects; providing that potable reuse is an  
336 alternative water supply and that projects relating to  
337 such reuse are eligible for alternative water supply  
338 funding; requiring the Department of Environmental  
339 Protection to adopt specified rules; requiring the  
340 department to review reclaimed water and potable reuse  
341 rules and revise them as necessary; requiring the  
342 department to review aquifer recharge rules and revise  
343 them as necessary; requiring the department to  
344 initiate rulemaking and to submit such rules to the  
345 Legislature for ratification by specified dates;  
346 requiring legislative ratification of the rules;  
347 requiring the department and the water management  
348 districts to develop and execute, by a specified date,  
349 a memorandum of agreement for the coordinated review  
350 of specified permits; providing that potable reuse  
351 projects by private entities are eligible for certain  
352 expedited permitting and tax credits; providing  
353 construction; creating s. 403.892, F.S.; defining the  
354 term "graywater"; requiring counties, municipalities,  
355 and special districts to authorize graywater  
356 technologies under certain circumstances and to  
357 provide incentives for the implementation of such  
358 technologies; requiring the department to adopt rules



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359 for the implementation of potable reuse projects which  
360 meet certain requirements; requiring the department to  
361 convene at least one technical advisory committee for  
362 specified purposes; providing for the composition of  
363 the advisory committee; providing for the  
364 applicability of specified reclaimed water aquifer  
365 storage and recovery system requirements; providing a  
366 directive to the Division of Law Revision; providing  
367 an effective date.

368  
369 WHEREAS, sustainable water supplies are important to this  
370 state's economy, environment, and quality of life, and

371 WHEREAS, in 2019, Floridians used nearly 6.5 billion  
372 gallons of water per day and are projected to need an additional  
373 1.1 billion gallons of water per day by 2035, and

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

377 WHEREAS, this state's continued growth and economic success  
378 depend on the implementation of safe and sustainable alternative  
379 water supplies, and

380 WHEREAS, the use of reclaimed water is an important  
381 component of both wastewater management and water resource  
382 management in this state, and

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

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



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388           WHEREAS, potable reuse is the augmentation of a drinking  
389 water supply with reclaimed water from a municipal wastewater  
390 source and is an alternative water supply source that can be  
391 harnessed to help meet the additional water needs of this state  
392 while protecting both the public health and the environment, and

393           WHEREAS, the Legislature finds that through the use of  
394 advanced treatment technology, potable reuse is a safe and  
395 sustainable alternative water supply source that can be used to  
396 support a diverse, resilient, and sustainable water supply  
397 portfolio, and is considered to be in the public interest, and

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