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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/17/2020	.	
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The Committee on Governmental Oversight and Accountability
(Albritton) recommended the following:

Senate Amendment (with title amendment)

Delete lines 172 - 398

and insert:

(h) "Reclaimed water" has the same meaning as in s.
373.019.

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

(4) Existing water quality protections that prohibit



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11 discharges from causing or contributing to violations of water
12 quality standards in groundwater and surface water apply to
13 potable reuse projects. In addition, when reclaimed water is
14 released or discharged into groundwater or surface water for
15 potable reuse purposes, there shall be a consideration of
16 emerging constituents and impacts to other users of such
17 groundwater or surface water.

18 (5) Potable reuse is an alternative water supply as defined
19 in s. 373.019, and potable reuse projects are eligible for
20 alternative water supply funding. The use of potable reuse water
21 may not be excluded from regional water supply planning under s.
22 373.709.

23 (6) The department shall:

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

26 (b) Review existing rules governing reclaimed water and
27 potable reuse to identify obsolete and inconsistent requirements
28 and adopt rules that revise existing potable reuse rules to
29 eliminate such inconsistencies, while maintaining existing
30 public health and environmental protections.

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

35 (d) Initiate rulemaking by December 31, 2020, and submit
36 the adopted rules to the President of the Senate and the Speaker
37 of the House of Representatives by December 12, 2021, for
38 approval and incorporation into chapter 403 by the Legislature.
39 Such rules may not be published as administrative rules by the



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40 department.

41 (7) The department and the water management districts shall
42 develop and execute a memorandum of agreement providing for the
43 procedural requirements of a coordinated review of all permits
44 associated with the construction and operation of an indirect
45 potable reuse project. The memorandum of agreement must provide
46 that the coordinated review will occur only if requested by a
47 permittee. The purpose of the coordinated review is to share
48 information, avoid the redundancy of information requested from
49 the permittee, and ensure consistency in the permit for the
50 protection of the public health and the environment. The
51 department and the water management districts shall develop and
52 execute the memorandum of agreement by December 31, 2022.

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

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

58 (b) Granted an annual credit against the tax imposed by
59 chapter 220 in an amount equal to 5 percent of the eligible
60 capital costs generated by a qualifying project for a period not
61 to exceed 20 years after the date that project operations begin.
62 The tax credit applies only to the corporate income tax
63 liability or the premium tax liability generated by or arising
64 out of the qualifying project, and the sum of all tax credits
65 provided pursuant to this section may not exceed 100 percent of
66 the eligible capital costs as defined in s. 220.191(1)(c). Any
67 credit granted pursuant to this paragraph may not be carried
68 forward or backward.



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

71 (d) Consistent with s. 373.707, eligible for priority
72 funding in the same manner as other alternative water supply
73 projects from the Drinking Water State Revolving Fund, under the
74 Water Protection and Sustainability Program, and for water
75 management district cooperative funding.

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

78 Section 3. Section 403.892, Florida Statutes, is created to
79 read:

80 403.892 Incentives for the use of graywater technologies.-

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

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

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

84 381.0065(2)(e).

85 (2) To promote the beneficial reuse of water in this state,
86 a county, municipality, or special district shall:

87 (a) Authorize the use of residential graywater technologies
88 in its jurisdiction which meet the applicable requirements of
89 subsections (3) through (7), the Florida Building Code, and the
90 Department of Health and which have received all applicable
91 regulatory permits or authorizations; and

92 (b) Provide incentives to developers to fully offset the
93 capital costs of the technology, including the costs of
94 installation if the developer submits a proof of purchase within
95 6 months after incurring such costs, to fully realize the
96 beneficial reuse of water contribution where the developer or
97 homebuilder installs graywater technology and meets the



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98 requirements of subsections (3) through (7) in at least 25
99 residential units of a proposed development. Incentives may
100 include, but need not be limited to, density or intensity bonus
101 incentives or more air-conditioned and living space.

102 (3) The residential graywater technologies must be wholly
103 located on an individual residential lot or structure and used
104 solely to reuse graywater for use in toilets located within the
105 residential lot or structure. The quality of the water
106 discharged by the system for reuse must meet the NSF 350
107 standard for toilet flushing.

108 (4) The developer shall provide to the applicable
109 governmental entity, as part of its application for development
110 approval for the proposed residential properties, a
111 manufacturer's warranty or data providing reasonable assurance
112 that the proposed residential graywater system will function as
113 designed, including an estimate of anticipated potable water
114 savings for each system. A submittal of the manufacturer's
115 warranty or data from a building code official or governmental
116 entity that has monitored or measured the residential graywater
117 system is acceptable as reasonable assurance.

118 (5) The developer shall provide to the applicable
119 governmental entity, as part of the developer's application for
120 development approval for the proposed residential units,
121 documentation that the individual graywater system will be
122 maintained for the life of the system in accordance with the
123 manufacturer's or installer's recommendations.

124 (6) The residential property owner, homeowners'
125 association, or manufacturer is responsible for the maintenance
126 of the system.



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127 (7) The developer shall provide an operation and
128 maintenance manual for the system to the initial residential
129 property owner. The manual must provide a method of contacting
130 the installer or manufacturer and must include directions to the
131 owner or occupant that the manual must remain with the residence
132 throughout the life cycle of the system.

133 (8) The installation of residential graywater systems in a
134 county or municipality in accordance with this section shall
135 qualify as a water conservation measure in a public water
136 utility's water conservation plan pursuant to s. 373.227. The
137 efficiency of the conservation measure must be commensurate with
138 the amount of potable water savings estimated for each system
139 provided by the developer pursuant to subsection (4).

140 Section 4. (1) In implementing s. 403.8531, Florida
141 Statutes, as created by this act, the Department of
142 Environmental Protection, in coordination with one or more
143 technical working groups pursuant to subsection (2), shall adopt
144 rules for the implementation of potable reuse projects. The
145 department shall:

146 (a) Revise the appropriate chapters in the Florida
147 Administrative Code, including chapter 62-610, Florida
148 Administrative Code, to ensure that all rules implementing
149 potable reuse are in the Florida Administrative Code division 62
150 governing drinking water regulation.

151 (b) Revise existing drinking water rules to include
152 reclaimed water as a source water for the public water supply
153 and require such treatment of the water as is necessary to meet
154 existing drinking water rules, including rules for pathogens.
155 The potable reuse rules must include the implementation of a log



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156 reduction credit system using advanced treatment technology to
157 meet pathogen treatment requirements, and must require a public
158 water supplier to provide an approach to meet the pathogen
159 treatment requirements in an engineering report as part of its
160 public water supply permit application for authorization of
161 potable reuse. To ensure protection of the public health, as
162 part of the public water supply permit application to authorize
163 potable reuse, a public water supplier shall provide a
164 department-specified level of treatment or propose an approach
165 to achieving the log reduction targets based on source water
166 characterization that is sufficient for a pathogen risk of
167 infection which meets the national drinking water criteria of
168 less than 1 x 10⁻⁴ annually.

169 (c) Prescribe the means for using appropriate treatment
170 technology to address emerging constituents in potable reuse
171 projects. The advanced treatment technology must be technically
172 and economically feasible and must provide for flexibility in
173 the specific treatment processes employed to recognize different
174 project scenarios, emerging constituent concentrations, desired
175 finished water quality, and the treatment capability of the
176 facility. The advanced treatment technology may also be used for
177 pathogen removal or reduction.

178 1. The rules must require appropriate monitoring to
179 evaluate the performance of the advanced treatment technology,
180 including the monitoring of surrogate parameters and controls,
181 which monitoring must occur either before or after the advanced
182 treatment technology process, or both, as appropriate.

183 2. For direct potable reuse projects, the rules must
184 require reclaimed water to be included in the source water



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185 characterization for a drinking water treatment facility and, if
186 that source water characterization indicates the presence of
187 emerging constituents at levels of public health interest, must
188 specify how appropriate treatment technology will be used to
189 address those emerging constituents.

190 3. For indirect potable reuse projects, the department
191 shall amend the existing monitoring requirements contained
192 within part V of chapter 62-610, Florida Administrative Code, to
193 require monitoring for one or more representative emerging
194 constituents. The utility responsible for the indirect potable
195 reuse project shall develop an emerging constituent monitoring
196 protocol consisting of the selection of one or more
197 representative emerging constituents for monitoring and the
198 identification of action levels associated with such emerging
199 constituents. The monitoring protocol must provide that, if
200 elevated levels of the representative emerging constituent are
201 detected, the utility must report the elevated detection to the
202 department and investigate the source and cause of such elevated
203 emerging constituent. The utility shall submit the monitoring
204 protocol to the department for review and approval and shall
205 implement the monitoring protocol as approved by the department.
206 If the monitoring protocol detects an elevated emerging
207 constituent, and if the utility's investigation indicates that
208 the use of the reclaimed water is the cause of such elevated
209 emerging constituent, the utility must develop a plan to address
210 or remedy that cause. The utility's monitoring results,
211 investigation of any detected elevated emerging constituent
212 levels, determination of cause, and any plan developed to
213 address or remedy the cause must be submitted to the department



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214 for review and approval.

215 (d) Specify industrial pretreatment requirements for
216 potable reuse projects. These industrial pretreatment
217 requirements must match the industrial pretreatment requirements
218 contained in chapter 62-625, Florida Administrative Code, as of
219 the effective date of this act. If necessary, the department
220 also must require the utility operating a potable reuse project
221 to implement a source control program, and the utility shall
222 identify the sources that need to be addressed.

223 (e) Provide off-spec reclaimed water requirements for
224 potable reuse projects which include the immediate disposal,
225 temporary storage, alternative nonpotable reuse, or retreatment
226 or disposal of off-spec reclaimed water based on operating
227 protocols established by the public water supplier and approved
228 by the department.

229 (f) Revise existing rules to specify the point of
230 compliance with drinking water standards for potable reuse
231 projects as the point where the finished water is finally
232 discharged from the drinking water treatment facility to the
233 water distribution system.

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

237 (h) Revise the definition of the term "indirect potable
238 reuse" provided in chapter 62-610, Florida Administrative Code,
239 to match the definition provided in s. 403.8531, Florida
240 Statutes.

241 (2) The department shall convene and lead one or more
242 technical advisory groups to coordinate the rulemaking and



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243 review of rules required by s. 403.8531, Florida Statutes. The
244 technical advisory committees, which shall assist in the
245 development of such rules, must be composed of knowledgeable
246 representatives of a broad group of interested stakeholders,
247 including, but not limited to, representatives from the water
248 management districts, the wastewater utility industry, the water
249 utility industry, the environmental community, the business
250 community, the public health community, and the agricultural
251 community, and consumers.

252 Section 5. To further promote the reuse of reclaimed water
253 for irrigation purposes, the rules that apply when reclaimed
254 water is injected into a receiving groundwater that has 1,000 to
255 3,000 mg/L total dissolved solids are applicable to reclaimed
256 water aquifer storage and recovery wells injecting into a
257 receiving groundwater of less than 1,000 mg/L total dissolved
258 solids if the applicant demonstrates that it is injecting into a
259 confined aquifer, that there are no public supply wells within
260 3,500 feet of the aquifer storage and recovery wells, and that
261 it has implemented institutional controls to prevent the future
262 construction of public supply wells within 3,500 feet of the
263 aquifer storage and recovery wells. This section may not be
264 construed to exempt the reclaimed water aquifer storage and
265 recovery wells from requirements that prohibit the causing or
266 contribution to violations of water quality standards in surface
267 water, including groundwater discharges that flow by interflow
268 and affect water quality in surface water.

269
270 ===== T I T L E A M E N D M E N T =====

271 And the title is amended as follows:



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272 Delete lines 22 - 35
273 and insert:
274 Legislature for approval by specified dates; providing
275 that such rules are only effective upon approval and
276 incorporation into the Florida Statutes by the
277 Legislature; requiring the department and the water
278 management districts to develop and execute, by a
279 specified date, a memorandum of agreement for the
280 coordinated review of specified permits; providing
281 that potable reuse projects are eligible for certain
282 expedited permitting and tax credits; providing
283 construction; creating s. 403.892, F.S.; defining
284 terms; requiring counties, municipalities, and special
285 districts to authorize graywater technologies under
286 certain circumstances and to provide incentives for
287 the implementation of such technologies; providing
288 requirements for the use of graywater technologies;
289 requiring the department to