

1 A bill to be entitled
2 An act relating to reclaimed water; amending s.
3 403.064, F.S.; requiring certain domestic wastewater
4 utilities to submit to the Department of Environmental
5 Protection by a specified date a plan for eliminating
6 nonbeneficial surface water discharge within a
7 specified timeframe; providing requirements for the
8 plan; requiring the department to approve plans that
9 meet certain requirements; requiring the department to
10 make a determination regarding a plan within a
11 specified timeframe; requiring the utilities to
12 implement approved plans by specified dates; providing
13 for administrative and civil penalties; requiring
14 domestic wastewater utilities applying for permits for
15 new or expanded surface water discharges to prepare a
16 specified plan for eliminating nonbeneficial
17 discharges as part of its permit application;
18 requiring the department to submit an annual report to
19 the Legislature by a specified date; providing
20 applicability; providing construction; authorizing the
21 department to convene and lead one or more technical
22 advisory groups; providing that potable reuse is an
23 alternative water supply and that projects relating to
24 such reuse are eligible for alternative water supply
25 funding; requiring the department and the water

26 management districts to develop and execute, by a
27 specified date, a memorandum of agreement for the
28 coordinated review of specified permits; providing
29 that potable reuse projects are eligible for certain
30 expedited permitting and priority funding; providing
31 construction; creating s. 403.892, F.S.; defining
32 terms; requiring counties, municipalities, and special
33 districts to authorize graywater technologies under
34 certain circumstances and to provide incentives for
35 the implementation of such technologies; providing
36 requirements for the use of graywater technologies;
37 providing that the installation of residential
38 graywater systems meets certain public utility water
39 conservation measure requirements; providing for the
40 applicability of specified reclaimed water aquifer
41 storage and recovery well requirements; providing a
42 declaration of important state interest; providing an
43 effective date.

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

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47 Section 1. Present subsection (17) of section 403.064,
48 Florida Statutes, is redesignated as subsection (18) and
49 amended, and a new subsection (17) is added to that section, to
50 read:

51 403.064 Reuse of reclaimed water.—

52 (17) By November 1, 2021, domestic wastewater utilities
53 that dispose of effluent, reclaimed water, or reuse water by
54 surface water discharge shall submit to the department for
55 review and approval a plan for eliminating nonbeneficial surface
56 water discharge within 5 years, subject to the requirements of
57 this section. The plan must include the average gallons per day
58 of effluent, reclaimed water, or reuse water which will no
59 longer be discharged into surface waters and the date of such
60 elimination; the average gallons per day of surface water
61 discharge which will continue in accordance with the
62 alternatives provided for in subparagraphs (a)2. and 3.; and the
63 level of treatment which the effluent, reclaimed water, or reuse
64 water will receive before being discharged into a surface water
65 by each alternative.

66 (a) The department shall approve a plan that includes all
67 of the information required under this subsection as meeting the
68 requirements of this section if one or more of the following
69 conditions are met:

70 1. The plan will result in eliminating the surface water
71 discharge.

72 2. The plan will result in meeting the requirements of s.
73 403.086(10).

74 3. The plan does not provide for a complete elimination of
75 the surface water discharge but does provide an affirmative

76 demonstration that any of the following conditions apply to the
77 remaining discharge:

78 a. The discharge is associated with an indirect potable
79 reuse project;

80 b. The discharge is a wet weather discharge that occurs in
81 accordance with an applicable department permit;

82 c. The discharge is into a stormwater management system
83 and is subsequently withdrawn by a user for irrigation purposes;

84 d. The utility operates domestic wastewater treatment
85 facilities with reuse systems that reuse a minimum of 90 percent
86 of a facility's annual average flow, as determined by the
87 department using monitoring data for the prior 5 consecutive
88 years, for reuse purposes authorized by the department; or

89 e. The discharge provides direct ecological or public
90 water supply benefits, such as rehydrating wetlands or
91 implementing the requirements of minimum flows and minimum water
92 levels or recovery or prevention strategies for a waterbody.

93
94 The plan may include conceptual projects under sub-subparagraphs
95 a. and e.; however, such inclusion does not extend the time
96 within which the plan must be implemented.

97 (b) The department shall approve or deny a plan within 9
98 months after receiving the plan and, if a plan is approved, must
99 incorporate it in the utility's operating permit issued under s.
100 403.087. Any applicable environmental and public health

101 protection requirements provided by law or department rule
102 governing the implementation of the plan must also be
103 incorporated into the permit. A utility may modify the plan by
104 amendment to the permit; however, the plan may not be modified
105 such that the requirements of this subsection are not met, and
106 the department may not extend the time within which a plan will
107 be implemented.

108 (c) Upon approval of a plan by the department, a utility
109 shall fully implement the approved plan by January 1, 2028;
110 however, if the utility proposes to implement a potable reuse
111 project, provided that the utility has implemented all other
112 components of the plan, the utility has until January 1, 2030,
113 to implement the potable reuse project component of the plan.

114 (d) If a plan is not timely submitted by a utility or
115 approved by the department, the utility's domestic wastewater
116 treatment facilities may not dispose of effluent, reclaimed
117 water, or reuse water by surface water discharge after January
118 1, 2028. A violation of this paragraph is subject to
119 administrative and civil penalties pursuant to ss. 403.121,
120 403.131, and 403.141.

121 (e) A domestic wastewater utility applying for a permit
122 for a new or expanded surface water discharge shall prepare a
123 plan in accordance with this subsection as part of that permit
124 application. The department may not approve a permit for a new
125 or expanded surface water discharge unless the plan meets one or

126 more of the conditions provided in paragraph (a).

127 (f) By December 31, 2021, and annually thereafter, the
128 department shall submit a report to the President of the Senate
129 and the Speaker of the House of Representatives which provides
130 the average gallons per day of effluent, reclaimed water, or
131 reuse water which will no longer be discharged into surface
132 waters by the utility and the dates of such elimination; the
133 average gallons per day of surface water discharges which will
134 continue in accordance with the alternatives provided in
135 subparagraphs (a)2. and 3., and the level of treatment which the
136 effluent, reclaimed water, or reuse water will receive before
137 being discharged into a surface water by each alternative and
138 utility; and any modified or new plans submitted by a utility
139 since the last report.

140 (g) This subsection does not apply to any of the
141 following:

142 1. A domestic wastewater treatment facility that is
143 located in a fiscally constrained county as described in s.
144 218.67(1).

145 2. A domestic wastewater treatment facility that is
146 located in a municipality that is entirely within a rural area
147 of opportunity as designated pursuant to s. 288.0656.

148 3. A domestic wastewater treatment facility that is
149 located in a municipality that has less than \$10 million in
150 total revenue, as determined by the municipality's most recent

151 annual financial report submitted to the Department of Financial
152 Services in accordance with s. 218.32.

153 (h) This subsection does not prohibit the inclusion of a
154 plan for backup discharges pursuant to s. 403.086(8) (a).

155 (i) This subsection may not be deemed to exempt a utility
156 from requirements that prohibit the causing of or contributing
157 to violations of water quality standards in surface waters,
158 including groundwater discharges that affect water quality in
159 surface waters.

160 (18) (a) ~~(17)~~ By December 31, 2020, the department shall
161 initiate rule revisions based on the recommendations of the
162 Potable Reuse Commission's 2020 report "Advancing Potable Reuse
163 in Florida: Framework for the Implementation of Potable Reuse in
164 Florida." Rules for potable reuse projects must address
165 contaminants of emerging concern and meet or exceed federal and
166 state drinking water quality standards and other applicable
167 water quality standards. Reclaimed water is deemed a water
168 source for public water supply systems.

169 (b) The Legislature recognizes that sufficient water
170 supply is imperative to the future of this state and that
171 potable reuse is a source of water which may assist in meeting
172 future demand for water supply.

173 (c) The department may convene and lead one or more
174 technical advisory groups to coordinate the rulemaking and
175 review of rules for potable reuse as required under this

176 section. The technical advisory group, which shall assist in the
177 development of such rules, must be composed of knowledgeable
178 representatives of a broad group of interested stakeholders,
179 including, but not limited to, representatives from the water
180 management districts, the wastewater utility industry, the water
181 utility industry, the environmental community, the business
182 community, the public health community, the agricultural
183 community, and the consumers.

184 (d) Potable reuse is an alternative water supply as
185 defined in s. 373.019, and potable reuse projects are eligible
186 for alternative water supply funding. The use of potable reuse
187 water may not be excluded from regional water supply planning
188 under s. 373.709.

189 (e) The department and the water management districts
190 shall develop and execute, by December 31, 2023, a memorandum of
191 agreement providing for the procedural requirements of a
192 coordinated review of all permits associated with the
193 construction and operation of an indirect potable reuse project.
194 The memorandum of agreement must provide that the coordinated
195 review will occur only if requested by a permittee. The purpose
196 of the coordinated review is to share information, avoid the
197 redundancy of information requested from the permittee, and
198 ensure consistency in the permit for the protection of the
199 public health and the environment.

200 (f) To encourage investment in the development of potable

201 reuse projects by private entities, a potable reuse project
 202 developed as a qualifying project pursuant to s. 255.065 is:

203 1. Beginning January 1, 2026, eligible for expedited
 204 permitting under s. 403.973.

205 2. Consistent with s. 373.707, eligible for priority
 206 funding in the same manner as other alternative water supply
 207 projects from the Drinking Water State Revolving Fund, under the
 208 Water Protection and Sustainability Program, and for water
 209 management district cooperative funding.

210 (g) This subsection is not intended and may not be
 211 construed to supersede s. 373.250(3).

212 Section 2. Section 403.892, Florida Statutes, is created
 213 to read:

214 403.892 Incentives for the use of graywater technologies.—

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

216 (a) "Developer" has the same meaning as in s. 380.031(2).

217 (b) "Graywater" has the same meaning as in s.
 218 381.0065(2)(e).

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

221 (a) Authorize the use of residential graywater
 222 technologies in their respective jurisdictions which meet the
 223 requirements of this section, the Florida Building Code, and
 224 applicable requirements of the Florida Department of Health and
 225 have received all applicable regulatory permits or

226 authorizations; and

227 (b) Provide a 15 percent density or intensity bonus to a
228 developer or homebuilder if at least 75 percent of a proposed or
229 an existing development will have a graywater system installed.
230 The bonus under this paragraph is in addition to any bonus
231 provided by a county, municipality, or special district
232 ordinance in effect on July 1, 2021.

233 (3) To qualify for the incentives, a developer or
234 homebuilder must certify to the applicable government entity as
235 part of its application for development approval or amendment of
236 a development order that all of the following conditions are
237 met:

238 (a) The proposed or existing development has at least 25
239 single-family residential homes that are either detached or
240 multifamily dwellings. This paragraph does not apply to
241 multifamily projects over five stories in height.

242 (b) Each single-family residential home or residence will
243 have its own residential graywater system that is dedicated for
244 its use.

245 (c) It has submitted a manufacturer's warranty or data
246 providing reasonable assurance that the residential graywater
247 system will function as designed and includes an estimate of
248 anticipated potable water savings for each system. A submission
249 of the manufacturer's warranty or data from a building code
250 official, government entity, or research institute that has

251 monitored or measured the residential graywater system that is
252 proposed to be installed for such development shall be accepted
253 as reasonable assurance and no further information or assurance
254 is needed.

255 (d) The required maintenance of the graywater system will
256 be the responsibility of the residential homeowner.

257 (e) An operation and maintenance manual for the graywater
258 system will be supplied to the initial homeowner of each home.
259 The manual shall provide a method of contacting the installer or
260 manufacturer and shall include directions to the residential
261 homeowner that the manual shall remain with the residence
262 throughout the life cycle of the system.

263 (4) If the requirements of subsection (3) have been met,
264 the county or municipality must include the incentives provided
265 for in subsection (2) when it approves the development or
266 amendment of a development order. The approval must also provide
267 for the process that the developer or homebuilder will follow to
268 verify that such systems have been purchased. Proof of purchase
269 must be provided within 180 days from the issuance of a
270 certificate of occupancy for single-family residential homes
271 that are either detached or multifamily projects under five
272 stories.

273 (5) The installation of residential graywater systems in a
274 county or municipality in accordance with this section shall
275 qualify as a water conservation measure in a public water

276 utility's water conservation plan pursuant to s. 373.227. The
277 efficiency of such measures shall be commensurate with the
278 amount of potable water savings estimated for each system
279 provided by the developer or homebuilder pursuant to paragraph
280 (3) (c).

281 Section 3. To further promote the reuse of reclaimed water
282 for irrigation purposes, the rules that apply when reclaimed
283 water is injected into a receiving groundwater that has 1,000 to
284 3,000 mg/L total dissolved solids are applicable to reclaimed
285 water aquifer storage and recovery wells injecting into a
286 receiving groundwater of less than 1,000 mg/L total dissolved
287 solids if the applicant demonstrates that it is injecting into a
288 confined aquifer, that there are no potable water supply wells
289 within 3,500 feet of the aquifer storage and recovery wells,
290 that it has implemented institutional controls to prevent the
291 future construction of potable water supply wells within 3,500
292 feet of the aquifer storage and recovery wells, and that the
293 recovered water is being used for irrigation purposes. The
294 injection of reclaimed water that meets the requirements of this
295 section is not potable reuse. This section may not be construed
296 to exempt the reclaimed water aquifer storage and recovery wells
297 from requirements that prohibit the causing of or contribution
298 to violations of water quality standards in surface waters,
299 including groundwater discharges that flow by interflow and
300 affect water quality in surface waters.

301 Section 4. The Legislature determines and declares that
302 this act fulfills an important state interest.

303 Section 5. This act shall take effect upon becoming a law.