

By Senator Albritton

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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 certain utilities to submit updated annual plans until
15 certain conditions are met; requiring domestic
16 wastewater utilities applying for permits for new or
17 expanded surface water discharges to prepare a
18 specified plan for eliminating nonbeneficial
19 discharges as part of its permit application;
20 requiring the department to submit an annual report to
21 the Legislature by a specified date; providing
22 applicability; providing construction; authorizing the
23 department to convene and lead one or more technical
24 advisory groups; providing that potable reuse is an
25 alternative water supply and that projects relating to
26 such reuse are eligible for alternative water supply
27 funding; requiring the department and the water
28 management districts to develop and execute, by a
29 specified date, a memorandum of agreement for the

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

46
47 Be It Enacted by the Legislature of the State of Florida:

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

53 403.064 Reuse of reclaimed water.—

54 (17) By November 1, 2021, domestic wastewater utilities
55 that dispose of effluent, reclaimed water, or reuse water by
56 surface water discharge shall submit to the department for
57 review and approval a plan for eliminating nonbeneficial surface
58 water discharge within 5 years, subject to the requirements of

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59 this section. The plan must include the average gallons per day
60 of effluent, reclaimed water, or reuse water which will no
61 longer be discharged into surface waters and the date of such
62 elimination; the average gallons per day of surface water
63 discharge which will continue in accordance with the
64 alternatives provided for in subparagraphs (a)2. and 3., or, if
65 applicable to the utility, under paragraph (b); and the level of
66 treatment which the effluent, reclaimed water, or reuse water
67 will receive before being discharged into a surface water by
68 each alternative.

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

73 1. The plan will result in eliminating the surface water
74 discharge.

75 2. The plan will result in meeting the requirements of s.
76 403.086(10).

77 3. The plan does not provide for a complete elimination of
78 the surface water discharge but does provide an affirmative
79 demonstration that any of the following conditions apply to the
80 remaining discharge:

81 a. The discharge is associated with an indirect potable
82 reuse project;

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

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

87 d. The utility operates domestic wastewater treatment

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88 facilities with reuse systems that reuse a minimum of 90 percent
89 of a facility's annual average flow, as determined by the
90 department using monitoring data for the prior 5 consecutive
91 years, for reuse purposes authorized by the department; or

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

96 (b) The department shall also approve a plan if a utility
97 demonstrates that it is technically, economically, or
98 environmentally infeasible for the utility to meet any of the
99 conditions provided in paragraph (a) for the discharge within 5
100 years after submitting the plan to the department; that
101 implementing such alternatives would create a severe undue
102 economic hardship on the community served by the utility, as
103 demonstrated by the impact to utility ratepayers, a lack of a
104 reasonable return on investment, and the unaffordability of
105 implementing any combination of the alternatives; and that the
106 plan provides a means to eliminate the discharge to the extent
107 feasible.

108 (c) The department shall approve or deny a plan within 9
109 months after receiving the plan and, if a plan is approved, must
110 incorporate it in the utility's operating permit issued under s.
111 403.087. Any applicable environmental and public health
112 protection requirements provided by law or department rule
113 governing the implementation of the plan must also be
114 incorporated into the permit. A utility may modify the plan by
115 amendment to the permit; however, the plan may not be modified
116 such that the requirements of this subsection are not met, and

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117 the department may not extend the time within which a plan will
118 be implemented.

119 (d) Upon approval of a plan by the department, a utility
120 shall fully implement the approved plan by January 1, 2028;
121 however, if the utility proposes to implement a potable reuse
122 project, provided that the utility has implemented all other
123 components of the plan, the utility has until January 1, 2030,
124 to implement the potable reuse project component of the plan.

125 (e) If a plan is not timely submitted by a utility or
126 approved by the department, the utility's domestic wastewater
127 treatment facilities may not dispose of effluent, reclaimed
128 water, or reuse water by surface water discharge after January
129 1, 2028. A violation of this paragraph is subject to
130 administrative and civil penalties pursuant to ss. 403.121,
131 403.131, and 403.141.

132 (f) A utility that has had a plan approved by the
133 department pursuant to paragraph (b) shall update the plan
134 annually until the utility is able to meet one or more of the
135 conditions provided in paragraph (a). The updated annual plan
136 must affirmatively demonstrate that the utility continues to be
137 unable to meet any of the conditions provided in paragraph (a)
138 because it is infeasible to do so and a severe undue economic
139 hardship still exists as provided in paragraph (b). The
140 department shall review the updated plans to verify that the
141 utility is unable to meet any of the conditions provided in
142 paragraph (a) and that the utility continues to meet the
143 conditions of paragraph (b). If the department determines that
144 the utility is able to meet any of the conditions and the
145 utility is no longer eligible for approval under paragraph (b),

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146 the utility must submit a plan in accordance with paragraph (a)
147 within 9 months after receiving notice of such a determination
148 from the department, and the utility must fully implement such
149 plan within 5 years after receiving an approval by the
150 department.

151 (g) A domestic wastewater utility applying for a permit for
152 a new or expanded surface water discharge shall prepare a plan
153 in accordance with this subsection as part of that permit
154 application. The department may not approve a permit for a new
155 or expanded surface water discharge unless the plan meets one or
156 more of the conditions provided in paragraph (a).

157 (h) By December 31, 2021, and annually thereafter, the
158 department shall submit a report to the President of the Senate
159 and the Speaker of the House of Representatives which provides
160 the average gallons per day of effluent, reclaimed water, or
161 reuse water which will no longer be discharged into surface
162 waters by the utility and the dates of such elimination; the
163 average gallons per day of surface water discharges which will
164 continue in accordance with the alternatives provided in
165 subparagraphs (a)2. and 3., and the level of treatment which the
166 effluent, reclaimed water, or reuse water will receive before
167 being discharged into a surface water by each alternative and
168 utility; the average gallons per day of effluent, reclaimed
169 water, or reuse water which is proposed to continue to be
170 discharged under paragraph (b) and the level of treatment which
171 the effluent, reclaimed water, or reuse water will receive
172 before being discharged into a surface water by the utility; and
173 any modified or new plans submitted by a utility since the last
174 report.

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175 (i) This subsection does not apply to any of the following:

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

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

181 3. A domestic wastewater treatment facility that is located
182 in a municipality that has less than \$10 million in total
183 revenue, as determined by the municipality's most recent annual
184 financial report submitted to the Department of Financial
185 Services in accordance with s. 218.32.

186 (j) This subsection does not prohibit the inclusion of a
187 plan for backup discharges pursuant to s. 403.086(8)(a).

188 (k) This subsection may not be deemed to exempt a utility
189 from requirements that prohibit the causing of or contributing
190 to violations of water quality standards in surface waters,
191 including groundwater discharges that affect water quality in
192 surface waters.

193 (18) (a) ~~(17)~~ By December 31, 2020, the department shall
194 initiate rule revisions based on the recommendations of the
195 Potable Reuse Commission's 2020 report "Advancing Potable Reuse
196 in Florida: Framework for the Implementation of Potable Reuse in
197 Florida." Rules for potable reuse projects must address
198 contaminants of emerging concern and meet or exceed federal and
199 state drinking water quality standards and other applicable
200 water quality standards. Reclaimed water is deemed a water
201 source for public water supply systems.

202 (b) The Legislature recognizes that sufficient water supply
203 is imperative to the future of this state and that potable reuse

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204 is a source of water which may assist in meeting future demand
205 for water supply.

206 (c) The department may convene and lead one or more
207 technical advisory groups to coordinate the rulemaking and
208 review of rules for potable reuse as required under this
209 section. The technical advisory group, which shall assist in the
210 development of such rules, must be composed of knowledgeable
211 representatives of a broad group of interested stakeholders,
212 including, but not limited to, representatives from the water
213 management districts, the wastewater utility industry, the water
214 utility industry, the environmental community, the business
215 community, the public health community, the agricultural
216 community, and the consumers.

217 (d) Potable reuse is an alternative water supply as defined
218 in s. 373.019, and potable reuse projects are eligible for
219 alternative water supply funding. The use of potable reuse water
220 may not be excluded from regional water supply planning under s.
221 373.709.

222 (e) The department and the water management districts shall
223 develop and execute, by December 31, 2023, a memorandum of
224 agreement providing for the procedural requirements of a
225 coordinated review of all permits associated with the
226 construction and operation of an indirect potable reuse project.
227 The memorandum of agreement must provide that the coordinated
228 review will occur only if requested by a permittee. The purpose
229 of the coordinated review is to share information, avoid the
230 redundancy of information requested from the permittee, and
231 ensure consistency in the permit for the protection of the
232 public health and the environment.

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233 (f) To encourage investment in the development of potable
 234 reuse projects by private entities, a potable reuse project
 235 developed as a qualifying project pursuant to s. 255.065 is:

236 1. Beginning January 1, 2026, eligible for expedited
 237 permitting under s. 403.973.

238 2. Consistent with s. 373.707, eligible for priority
 239 funding in the same manner as other alternative water supply
 240 projects from the Drinking Water State Revolving Fund, under the
 241 Water Protection and Sustainability Program, and for water
 242 management district cooperative funding.

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

245 Section 2. Section 403.892, Florida Statutes, is created to
 246 read:

247 403.892 Incentives for the use of graywater technologies.-

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

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

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

251 381.0065(2) (e).

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

254 (a) Authorize the use of residential graywater technologies
 255 in their respective jurisdictions which meet the requirements of
 256 this section, the Florida Building Code, and applicable
 257 requirements of the Florida Department of Health and have
 258 received all applicable regulatory permits or authorizations;
 259 and

260 (b) Provide density or intensity bonuses to the developer
 261 or homebuilder to fully offset the capital costs of the

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262 technology and installation costs.

263 (3) To qualify for the incentives, the developer or
264 homebuilder must certify to the applicable government entity as
265 part of its application for development approval or amendment of
266 a development order that all of the following conditions are
267 met:

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

272 (b) Each single-family residential home or residence will
273 have its own residential graywater system that is dedicated for
274 its use.

275 (c) It has submitted a manufacturer's warranty or data
276 providing reasonable assurance that the residential graywater
277 system will function as designed and includes an estimate of
278 anticipated potable water savings for each system. A submission
279 of the manufacturer's warranty or data from a building code
280 official, government entity, or research institute that has
281 monitored or measured the residential graywater system that is
282 proposed to be installed for such development shall be accepted
283 as reasonable assurance and no further information or assurance
284 is needed.

285 (d) The required maintenance of the graywater system will
286 be the responsibility of the residential homeowner or
287 manufacturer.

288 (e) An operation and maintenance manual for the graywater
289 system will be supplied to the initial homeowner of each home.
290 The manual shall provide a method of contacting the installer or

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291 manufacturer and shall include directions to the residential
292 homeowner that the manual shall remain with the residence
293 throughout the life cycle of the system.

294 (4) If the requirements of subsection (3) have been met,
295 the county or municipality must include the incentives provided
296 for in subsection (2) when it approves the development or
297 amendment of a development order. The approval must also provide
298 for the process that the developer or homebuilder will follow to
299 verify that such systems have been purchased. Proof of purchase
300 must be provided within 180 days from the issuance of a
301 certificate of occupancy for single-family residential homes
302 that are either detached or multifamily projects under five
303 stories.

304 (5) The installation of residential graywater systems in a
305 county or municipality in accordance with this section shall
306 qualify as a water conservation measure in a public water
307 utility's water conservation plan pursuant to s. 373.227. The
308 efficiency of such measures shall be commensurate with the
309 amount of potable water savings estimated for each system
310 provided by the developer or homebuilder pursuant to paragraph
311 (3) (c).

312 Section 3. To further promote the reuse of reclaimed water
313 for irrigation purposes, the rules that apply when reclaimed
314 water is injected into a receiving groundwater that has 1,000 to
315 3,000 mg/L total dissolved solids are applicable to reclaimed
316 water aquifer storage and recovery wells injecting into a
317 receiving groundwater of less than 1,000 mg/L total dissolved
318 solids if the applicant demonstrates that it is injecting into a
319 confined aquifer, that there are no potable water supply wells

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320 within 3,500 feet of the aquifer storage and recovery wells, and
321 that it has implemented institutional controls to prevent the
322 future construction of potable water supply wells within 3,500
323 feet of the aquifer storage and recovery wells. This section may
324 not be construed to exempt the reclaimed water aquifer storage
325 and recovery wells from requirements that prohibit the causing
326 of or contribution to violations of water quality standards in
327 surface waters, including groundwater discharges that flow by
328 interflow and affect water quality in surface waters.

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

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