

By the Committee on Environment and Natural Resources; and
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
97 The plan may include conceptual projects under sub-subparagraphs
98 3.a. and 3.e.; however, such inclusion does not extend the time
99 within which the plan must be implemented.

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

112 (c) The department shall approve or deny a plan within 9
113 months after receiving the plan and, if a plan is approved, must
114 incorporate it in the utility's operating permit issued under s.
115 403.087. Any applicable environmental and public health
116 protection requirements provided by law or department rule

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117 governing the implementation of the plan must also be
118 incorporated into the permit. A utility may modify the plan by
119 amendment to the permit; however, the plan may not be modified
120 such that the requirements of this subsection are not met, and
121 the department may not extend the time within which a plan will
122 be implemented.

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

129 (e) If a plan is not timely submitted by a utility or
130 approved by the department, the utility's domestic wastewater
131 treatment facilities may not dispose of effluent, reclaimed
132 water, or reuse water by surface water discharge after January
133 1, 2028. A violation of this paragraph is subject to
134 administrative and civil penalties pursuant to ss. 403.121,
135 403.131, and 403.141.

136 (f) A utility that has had a plan approved by the
137 department pursuant to paragraph (b) shall update the plan
138 annually until the utility is able to meet one or more of the
139 conditions provided in paragraph (a). The updated annual plan
140 must affirmatively demonstrate that the utility continues to be
141 unable to meet any of the conditions provided in paragraph (a)
142 because it is infeasible to do so and a severe undue economic
143 hardship still exists as provided in paragraph (b). The
144 department shall review the updated plans to verify that the
145 utility is unable to meet any of the conditions provided in

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146 paragraph (a) and that the utility continues to meet the
147 conditions of paragraph (b). If the department determines that
148 the utility is able to meet any of the conditions and the
149 utility is no longer eligible for approval under paragraph (b),
150 the utility must submit a plan in accordance with paragraph (a)
151 within 9 months after receiving notice of such a determination
152 from the department, and the utility must fully implement such
153 plan within 5 years after receiving an approval by the
154 department.

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

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

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175 the effluent, reclaimed water, or reuse water will receive
176 before being discharged into a surface water by the utility; and
177 any modified or new plans submitted by a utility since the last
178 report.

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

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

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

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

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

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

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

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204 water quality standards. Reclaimed water is deemed a water
205 source for public water supply systems.

206 (b) The Legislature recognizes that sufficient water supply
207 is imperative to the future of this state and that potable reuse
208 is a source of water which may assist in meeting future demand
209 for water supply.

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

221 (d) Potable reuse is an alternative water supply as defined
222 in s. 373.019, and potable reuse projects are eligible for
223 alternative water supply funding. The use of potable reuse water
224 may not be excluded from regional water supply planning under s.
225 373.709.

226 (e) The department and the water management districts shall
227 develop and execute, by December 31, 2023, a memorandum of
228 agreement providing for the procedural requirements of a
229 coordinated review of all permits associated with the
230 construction and operation of an indirect potable reuse project.
231 The memorandum of agreement must provide that the coordinated
232 review will occur only if requested by a permittee. The purpose

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233 of the coordinated review is to share information, avoid the
234 redundancy of information requested from the permittee, and
235 ensure consistency in the permit for the protection of the
236 public health and the environment.

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

240 1. Beginning January 1, 2026, eligible for expedited
241 permitting under s. 403.973.

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

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

249 Section 2. Section 403.892, Florida Statutes, is created to
250 read:

251 403.892 Incentives for the use of graywater technologies.-

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

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

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

255 381.0065(2)(e).

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

258 (a) Authorize the use of residential graywater technologies
259 in their respective jurisdictions which meet the requirements of
260 this section, the Florida Building Code, and applicable
261 requirements of the Florida Department of Health and have

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262 received all applicable regulatory permits or authorizations;
263 and

264 (b) Provide density or intensity bonuses to the developer
265 or homebuilder to fully offset the capital costs of the
266 technology and installation costs.

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

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

276 (b) Each single-family residential home or residence will
277 have its own residential graywater system that is dedicated for
278 its use.

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

289 (d) The required maintenance of the graywater system will
290 be the responsibility of the residential homeowner or

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291 manufacturer.

292 (e) An operation and maintenance manual for the graywater
293 system will be supplied to the initial homeowner of each home.
294 The manual shall provide a method of contacting the installer or
295 manufacturer and shall include directions to the residential
296 homeowner that the manual shall remain with the residence
297 throughout the life cycle of the system.

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

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

316 Section 3. To further promote the reuse of reclaimed water
317 for irrigation purposes, the rules that apply when reclaimed
318 water is injected into a receiving groundwater that has 1,000 to
319 3,000 mg/L total dissolved solids are applicable to reclaimed

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320 water aquifer storage and recovery wells injecting into a
321 receiving groundwater of less than 1,000 mg/L total dissolved
322 solids if the applicant demonstrates that it is injecting into a
323 confined aquifer, that there are no potable water supply wells
324 within 3,500 feet of the aquifer storage and recovery wells,
325 that it has implemented institutional controls to prevent the
326 future construction of potable water supply wells within 3,500
327 feet of the aquifer storage and recovery wells, and that the
328 recovered water is being used for irrigation purposes. The
329 injection of reclaimed water that meets the requirements of this
330 section is not potable reuse. This section may not be construed
331 to exempt the reclaimed water aquifer storage and recovery wells
332 from requirements that prohibit the causing of or contribution
333 to violations of water quality standards in surface waters,
334 including groundwater discharges that flow by interflow and
335 affect water quality in surface waters.

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

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