

202164e1

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

202164e1

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.; providing  
34 definitions; requiring counties, municipalities, and  
35 special districts to authorize graywater technologies  
36 under certain circumstances and to provide certain  
37 incentives for the implementation of such  
38 technologies; providing requirements for the use of  
39 graywater technologies; providing that the  
40 installation of residential graywater systems meets  
41 certain public utility water conservation measure  
42 requirements; providing for the applicability of  
43 specified reclaimed water aquifer storage and recovery  
44 well requirements; providing a declaration of  
45 important state interest; providing an effective date.

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

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

52 403.064 Reuse of reclaimed water.—

53 (17) By November 1, 2021, domestic wastewater utilities  
54 that dispose of effluent, reclaimed water, or reuse water by  
55 surface water discharge shall submit to the department for  
56 review and approval a plan for eliminating nonbeneficial surface  
57 water discharge by January 1, 2032, subject to the requirements  
58 of this section. The plan must include the average gallons per

202164e1

59 day of effluent, reclaimed water, or reuse water that will no  
60 longer be discharged into surface waters and the date of such  
61 elimination, the average gallons per day of surface water  
62 discharge which will continue in accordance with the  
63 alternatives provided for in subparagraphs (a)2. and 3., and the  
64 level of treatment that the effluent, reclaimed water, or reuse  
65 water will receive before being discharged into a surface water  
66 by each alternative.

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

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

73 2. The plan will result in meeting the requirements of s.  
74 403.086(10).

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

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

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

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

85 d. The utility operates domestic wastewater treatment  
86 facilities with reuse systems that reuse a minimum of 90 percent  
87 of a facility's annual average flow, as determined by the

202164e1

88 department using monitoring data for the prior 5 consecutive  
89 years, for reuse purposes authorized by the department; or  
90 e. The discharge provides direct ecological or public water  
91 supply benefits, such as rehydrating wetlands or implementing  
92 the requirements of minimum flows and minimum water levels or  
93 recovery or prevention strategies for a waterbody.

94  
95 The plan may include conceptual projects under sub-subparagraphs  
96 3.a. and 3.e.; however, such inclusion does not extend the time  
97 within which the plan must be implemented.

98 (b) The department shall approve or deny a plan within 9  
99 months after receiving the plan. A utility may modify the plan  
100 by submitting such modification to the department; however, the  
101 plan may not be modified such that the requirements of this  
102 subsection are not met, and the department may not extend the  
103 time within which a plan will be implemented. The approval of  
104 the plan or a modification by the department does not constitute  
105 final agency action.

106 (c) A utility shall fully implement the approved plan by  
107 January 1, 2032.

108 (d) If a plan is not timely submitted by a utility or  
109 approved by the department, the utility's domestic wastewater  
110 treatment facilities may not dispose of effluent, reclaimed  
111 water, or reuse water by surface water discharge after January  
112 1, 2028. A violation of this paragraph is subject to  
113 administrative and civil penalties pursuant to ss. 403.121,  
114 403.131, and 403.141.

115 (e) A domestic wastewater utility applying for a permit for  
116 a new or expanded surface water discharge shall prepare a plan

202164e1

117 in accordance with this subsection as part of that permit  
118 application. The department may not approve a permit for a new  
119 or expanded surface water discharge unless the plan meets one or  
120 more of the conditions provided in paragraph (a).

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

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

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

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

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

145 4. A domestic wastewater treatment facility that is

202164e1

146 operated by an operator of a mobile home park as defined in s.  
147 723.003 and has a permitted capacity of less than 300,000  
148 gallons per day.

149 (h) This subsection does not prohibit the inclusion of a  
150 plan for backup discharges under s. 403.086(8) (a).

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

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

165 (b) The Legislature recognizes that sufficient water supply  
166 is imperative to the future of the state and that potable reuse  
167 is a source of water which may assist in meeting future demand  
168 for water supply.

169 (c) The department may convene and lead one or more  
170 technical advisory groups to coordinate the rulemaking and  
171 review of rules for potable reuse as required under this  
172 section. The technical advisory group, which shall assist in the  
173 development of such rules, must be composed of knowledgeable  
174 representatives of a broad group of interested stakeholders,

202164e1

175 including, but not limited to, representatives from the water  
176 management districts, the wastewater utility industry, the water  
177 utility industry, the environmental community, the business  
178 community, the public health community, the agricultural  
179 community, and the consumers.

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

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

196 (f) To encourage investment in the development of potable  
197 reuse projects by private entities, a potable reuse project  
198 developed as a qualifying project under s. 255.065 is:

199 1. Beginning January 1, 2026, eligible for expedited  
200 permitting under s. 403.973.

201 2. Consistent with s. 373.707, eligible for priority  
202 funding in the same manner as other alternative water supply  
203 projects from the Drinking Water State Revolving Fund, under the

202164e1

204 Water Protection and Sustainability Program, and for water  
205 management district cooperative funding.

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

208 Section 2. Section 403.892, Florida Statutes, is created to  
209 read:

210 403.892 Incentives for the use of graywater technologies.-

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

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

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

214 381.0065(2)(e).

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

217 (a) Authorize the use of residential graywater technologies  
218 in their respective jurisdictions which meet the requirements of  
219 this section, the Florida Building Code, and applicable  
220 requirements of the Department of Health and for which a  
221 developer or homebuilder has received all applicable regulatory  
222 permits or authorizations.

223 (b) Provide a 25 percent density or intensity bonus to a  
224 developer or homebuilder if at least 75 percent of a proposed or  
225 existing development will have a graywater system installed or a  
226 35 percent bonus if 100 percent of a proposed or an existing  
227 development will have a graywater system installed. The bonus  
228 under this paragraph is in addition to any bonus provided by a  
229 county, municipality, or special district ordinance in effect on  
230 July 1, 2021.

231 (3) To qualify for the incentives under subsection (2), the  
232 developer or homebuilder must certify to the applicable



202164e1

233 governmental entity as part of its application for development  
234 approval or amendment of a development order that all of the  
235 following conditions are met:

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

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

243 (c) The developer or homebuilder has submitted a  
244 manufacturer's warranty or data providing reasonable assurance  
245 that the residential graywater system will function as designed  
246 and includes an estimate of anticipated potable water savings  
247 for each system. A submission of the manufacturer's warranty or  
248 data from a building code official, governmental entity, or  
249 research institute that has monitored or measured the  
250 residential graywater system that is proposed to be installed  
251 for such development shall be accepted as reasonable assurance  
252 and no further information or assurance is needed.

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

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

261 (4) If the requirements of subsection (3) have been met,

202164e1

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

271 (5) The installation of residential graywater systems in a  
272 county or municipality in accordance with this section shall  
273 qualify as a water conservation measure in a public water  
274 utility's water conservation plan under s. 373.227. The  
275 efficiency of such measures shall be commensurate with the  
276 amount of potable water savings estimated for each system  
277 provided by the developer or homebuilder under paragraph (3) (c).

278 Section 3. To further promote the reuse of reclaimed water  
279 for irrigation purposes, the rules that apply when reclaimed  
280 water is injected into a receiving groundwater that has 1,000 to  
281 3,000 mg/L total dissolved solids are applicable to reclaimed  
282 water aquifer storage and recovery wells injecting into a  
283 receiving groundwater of less than 1,000 mg/L total dissolved  
284 solids if the applicant demonstrates that it is injecting into a  
285 confined aquifer, that there are no potable water supply wells  
286 within 3,500 feet of the aquifer storage and recovery wells,  
287 that it has implemented institutional controls to prevent the  
288 future construction of potable water supply wells within 3,500  
289 feet of the aquifer storage and recovery wells, and that the  
290 recovered water is being used for irrigation purposes. The

202164e1

291 injection of reclaimed water that meets the requirements of this  
292 section is not potable reuse. This section may not be construed  
293 to exempt the reclaimed water aquifer storage and recovery wells  
294 from requirements that prohibit the causing of or contribution  
295 to violations of water quality standards in surface waters,  
296 including groundwater discharges that flow by interflow and  
297 affect water quality in surface waters.

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

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