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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.; 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:

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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

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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

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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.

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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

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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

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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,

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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

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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

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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,

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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

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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.