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LEGISLATIVE ACTION

Senate

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House

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Floor: WD

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03/09/2012 04:43 PM

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Senator Garcia moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (17) through (26) of section
373.019, Florida Statutes, are renumbered as subsections (19)
through (28), respectively, and new subsections (17) and (18)
are added to that section to read:

373.019 Definitions.—When appearing in this chapter or in
any rule, regulation, or order adopted pursuant thereto, the
term:

(17) "Reclaimed water" means water that has received at
least secondary treatment and basic disinfection and is reused



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14 after flowing out of a domestic wastewater treatment facility.
15 Reclaimed water is not subject to regulation pursuant to s.
16 373.175 or part II of this chapter until it has been discharged
17 into waters as defined in s. 403.031(13).

18 (18) "Reclaimed water distribution system" means a network
19 of pipes, pumping facilities, storage facilities, and
20 appurtenances designed to convey and distribute reclaimed water
21 from one or more domestic wastewater treatment facilities to one
22 or more users of reclaimed water.

23 Section 2. Paragraph (d) of subsection (1) of section
24 373.036, Florida Statutes, is amended to read:

25 373.036 Florida water plan; district water management
26 plans.-

27 (1) FLORIDA WATER PLAN.-In cooperation with the water
28 management districts, regional water supply authorities, and
29 others, the department shall develop the Florida water plan. The
30 Florida water plan shall include, but not be limited to:

31 (d) Goals, objectives, and guidance for the development and
32 review of programs, rules, and plans relating to water
33 resources, based on statutory policies and directives. The state
34 water policy rule, renamed the water resource implementation
35 rule pursuant to s. 373.019(25) ~~373.019(23)~~, shall serve as this
36 part of the plan. Amendments or additions to this part of the
37 Florida water plan shall be adopted by the department as part of
38 the water resource implementation rule. In accordance with s.
39 373.114, the department shall review rules of the water
40 management districts for consistency with this rule. Amendments
41 to the water resource implementation rule must be adopted by the
42 secretary of the department and be submitted to the President of



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43 the Senate and the Speaker of the House of Representatives
44 within 7 days after publication in the Florida Administrative
45 Weekly. Amendments shall not become effective until the
46 conclusion of the next regular session of the Legislature
47 following their adoption.

48 Section 3. Present subsections (4) and (5) of section
49 373.042, Florida Statutes, are redesignated as subsections (5)
50 and (6), respectively, a new subsection (4) is added to that
51 section, and subsection (2) of that section is amended, to read:

52 373.042 Minimum flows and levels.—

53 (2) By November 15, 1997, and annually thereafter, each
54 water management district shall submit to the department for
55 review and approval a priority list and schedule for the
56 establishment of minimum flows and levels for surface
57 watercourses, aquifers, and surface waters within the district.
58 The priority list and schedule shall ~~also~~ identify those listed
59 water bodies for which the district will voluntarily undertake
60 independent scientific peer review; any reservations proposed by
61 the district to be established pursuant to s. 373.223(4); and
62 those listed water bodies that have the potential to be affected
63 by withdrawals in an adjacent district for which department
64 adoption of a reservation pursuant to s. 373.223(4) or a minimum
65 flow or level pursuant to subsection (1) may be appropriate. By
66 March 1, 2006, and annually thereafter, each water management
67 district shall include its approved priority list and schedule
68 in the consolidated annual report required by s. 373.036(7). The
69 priority list shall be based upon the importance of the waters
70 to the state or region and the existence of or potential for
71 significant harm to the water resources or ecology of the state



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72 or region, and shall include those waters which are experiencing
73 or may reasonably be expected to experience adverse impacts.
74 Each water management district's priority list and schedule
75 shall include all first magnitude springs, and all second
76 magnitude springs within state or federally owned lands
77 purchased for conservation purposes. The specific schedule for
78 establishment of spring minimum flows and levels shall be
79 commensurate with the existing or potential threat to spring
80 flow from consumptive uses. Springs within the Suwannee River
81 Water Management District, or second magnitude springs in other
82 areas of the state, need not be included on the priority list if
83 the water management district submits a report to the Department
84 of Environmental Protection demonstrating that adverse impacts
85 are not now occurring nor are reasonably expected to occur from
86 consumptive uses during the next 20 years. The priority list and
87 schedule shall not be subject to any proceeding pursuant to
88 chapter 120. Except as provided in subsection (3), the
89 development of a priority list and compliance with the schedule
90 for the establishment of minimum flows and levels pursuant to
91 this subsection shall satisfy the requirements of subsection
92 (1).

93 (4) A water management district shall provide the
94 department with technical information and staff support for the
95 development of a reservation, minimum flow or level, or recovery
96 or prevention strategy to be adopted by rule by the department.
97 A reservation, minimum flow or level, or recovery or prevention
98 strategy adopted by rule by the department shall be applied by
99 the water management districts without adoption of such
100 reservation, minimum flow or level, or recovery or prevention



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101 strategy by rule.

102 Section 4. Subsection (7) is added to section 373.046,
103 Florida Statutes, to read:

104 373.046 Interagency agreements.—

105 (7) If the geographic area of a resource management
106 activity, study, or project crosses water management district
107 boundaries, the affected districts may designate a single
108 affected district to conduct all or part of the applicable
109 resource management responsibilities under this chapter, with
110 the exception of those regulatory responsibilities that are
111 subject to subsection (6). If funding assistance is provided to
112 a resource management activity, study, or project, the district
113 providing the funding must ensure that some or all of the
114 benefits accrue to the funding district. This subsection does
115 not impair any interagency agreement in effect on July 1, 2012.

116 Section 5. Subsection (5) is added to section 373.171,
117 Florida Statutes, to read:

118 373.171 Rules.—

119 (5) Cooperative funding programs are not subject to the
120 rulemaking requirements of chapter 120. However, any portion of
121 an approved program which affects the substantial interests of a
122 party is subject to s. 120.569.

123 Section 6. Section 373.250, Florida Statutes, is amended to
124 read:

125 373.250 Reuse of reclaimed water.—

126 (1)(a) The encouragement and promotion of water
127 conservation and reuse of reclaimed water, as defined by the
128 department and used in this chapter, are state objectives and
129 considered to be in the public interest. The Legislature finds



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130 that the use of reclaimed water provided by domestic wastewater
131 treatment plants permitted and operated under a reuse program
132 approved by the department is environmentally acceptable and not
133 a threat to public health and safety.

134 (b) The Legislature recognizes that the interest of the
135 state to sustain water resources for the future through the use
136 of reclaimed water must be balanced with the need of reuse
137 utilities to operate and manage reclaimed water systems in
138 accordance with a variety and range of circumstances, including
139 regulatory and financial considerations, which influence the
140 development and operation of reclaimed water systems across the
141 state.

142 (2) Reclaimed water is an alternative water supply as
143 defined in s. 373.019(1) and is eligible for alternative water
144 supply funding. A contract for state or district funding
145 assistance for the development of reclaimed water as an
146 alternative water supply may include provisions listed under s.
147 373.707(9). The use of reclaimed water may not be excluded from
148 regional water supply planning under s. 373.709.

149 ~~(3)(2)(a) For purposes of this section, "uncommitted" means~~
150 ~~the average amount of reclaimed water produced during the three~~
151 ~~lowest flow months minus the amount of reclaimed water that a~~
152 ~~reclaimed water provider is contractually obligated to provide~~
153 ~~to a customer or user.~~

154 ~~(b)~~ Reclaimed water may be presumed available to a
155 consumptive use permit applicant when a utility exists which
156 provides reclaimed water, which has determined that it has
157 uncommitted reclaimed water capacity, and which has distribution
158 facilities, which are initially provided by the utility at its



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159 cost, to the site of the affected applicant's proposed use.

160 (b) A water management district may not require a permit
161 for the use of reclaimed water. However, when a use includes
162 surface water or groundwater, the permit for such sources may
163 include conditions that govern the use of the permitted sources
164 in relation to the feasibility or use of reclaimed water.

165 (c) A water management district may require the use of
166 reclaimed water in lieu of all or a portion of a proposed use of
167 surface water or groundwater by an applicant when the use of
168 ~~uncommitted~~ reclaimed water is available; is environmentally,
169 economically, and technically feasible; and is of such quality
170 and reliability as is necessary to the user. However, a water
171 management district may neither specify any user to whom the
172 reuse utility must provide reclaimed water nor restrict the use
173 of reclaimed water provided by a reuse utility to a customer in
174 a permit or, unless requested by the reuse utility, in a water
175 shortage order or water shortage emergency order ~~this paragraph~~
176 ~~does not authorize a water management district to require a~~
177 ~~provider of reclaimed water to redirect reclaimed water from one~~
178 ~~user to another or to provide uncommitted water to a specific~~
179 ~~user if such water is anticipated to be used by the provider, or~~
180 ~~a different user selected by the provider, within a reasonable~~
181 ~~amount of time.~~

182 (d) The South Florida Water Management District shall
183 require the use of reclaimed water made available by the
184 elimination of wastewater ocean outfall discharges as provided
185 for in s. 403.086(9) in lieu of surface water or groundwater
186 when the use of ~~uncommitted~~ reclaimed water is available; is
187 environmentally, economically, and technically feasible; and is



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188 of such quality and reliability as is necessary to the user.
189 Such reclaimed water may also be required in lieu of other
190 alternative sources. In determining whether ~~or not~~ to require
191 such reclaimed water in lieu of other alternative sources, the
192 water management district shall consider existing infrastructure
193 investments in place or obligated to be constructed by an
194 executed contract or similar binding agreement as of July 1,
195 2011, for the development of other alternative sources.

196 (4)~~(3)~~ The water management district shall, in consultation
197 with the department, adopt rules to implement this section. Such
198 rules shall include, but not be limited to:

199 (a) Provisions to permit use of water from other sources in
200 emergency situations or if reclaimed water becomes unavailable,
201 for the duration of the emergency or the unavailability of
202 reclaimed water. These provisions shall also specify the method
203 for establishing the quantity of water to be set aside for use
204 in emergencies or when reclaimed water becomes unavailable. The
205 amount set aside is subject to periodic review and revision. The
206 methodology shall take into account the risk that reclaimed
207 water may not be available in the future, the risk that other
208 sources may be fully allocated to other uses in the future, the
209 nature of the uses served with reclaimed water, the extent to
210 which the applicant intends to rely upon reclaimed water, and
211 the extent of economic harm which may result if other sources
212 are not available to replace the reclaimed water. It is the
213 intent of this paragraph to ensure that users of reclaimed water
214 have the same access to ground or surface water and will
215 otherwise be treated in the same manner as other users of the
216 same class not relying on reclaimed water.



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217 ~~(b) A water management district shall not adopt any rule~~
218 ~~which gives preference to users within any class of use~~
219 ~~established under s. 373.246 who do not use reclaimed water over~~
220 ~~users within the same class who use reclaimed water.~~

221 (b)~~(e)~~ Provisions to require permit applicants that are not
222 reuse utilities to provide, as part of their reclaimed water
223 feasibility evaluation for a nonpotable use, written
224 documentation from a reuse utility addressing the availability
225 of reclaimed water. This requirement shall apply when the
226 applicant's proposed use is within an area that is or may be
227 served with reclaimed water by a reuse utility within a 5-year
228 horizon, as established by the reuse utility and provided to the
229 district. If the applicable reuse utility fails to respond or
230 does not provide the information required under paragraph (c)
231 ~~(d)~~ within 30 days after receipt of the request, the applicant
232 shall provide to the district a copy of the written request and
233 a statement that the utility failed to provide the requested
234 information. The district is not required to adopt, by rule, the
235 area where written documentation from a reuse utility is
236 required, but the district shall publish the area, and any
237 updates thereto, on the district's website. This paragraph may
238 not be construed to limit the ability of a district to require
239 the use of reclaimed water or to limit a utility's ability to
240 plan reclaimed water infrastructure.

241 (c)~~(d)~~ Provisions specifying the content of the
242 documentation required in paragraph (b) ~~(e)~~, including
243 sufficient information regarding the availability and costs
244 associated with the connection to and the use of reclaimed
245 water, to facilitate the permit applicant's reclaimed water



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246 feasibility evaluation.

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248 A water management district may not adopt any rule that gives
249 preference to users within any class of use established under s.
250 373.246 who do not use reclaimed water over users within the
251 same class who use reclaimed water.

252 (5) (a) No later than October 1, 2012, the department shall
253 initiate rulemaking to adopt revisions to the water resource
254 implementation rule, as defined in s. 373.019(23), which shall
255 include:

256 1. Criteria for the use of a proposed impact offset derived
257 from the use of reclaimed water when a water management district
258 evaluates an application for a consumptive use permit. As used
259 in this subparagraph, the term "impact offset" means the use of
260 reclaimed water to reduce or eliminate a harmful impact that has
261 occurred or would otherwise occur as a result of other surface
262 water or groundwater withdrawals.

263 2. Criteria for the use of substitution credits where a
264 water management district has adopted rules establishing
265 withdrawal limits from a specified water resource within a
266 defined geographic area. As used in this subparagraph, the term
267 "substitution credit" means the use of reclaimed water to
268 replace all or a portion of an existing permitted use of
269 resource-limited surface water or groundwater, allowing a
270 different user or use to initiate a withdrawal or increase its
271 withdrawal from the same resource-limited surface water or
272 groundwater source provided that the withdrawal creates no net
273 adverse impact on the limited water resource or creates a net
274 positive impact if required by water management district rule as



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275 part of a strategy to protect or recover a water resource.

276 (b) Within 60 days after the final adoption by the
277 department of the revisions to the water resource implementation
278 rule required under paragraph (a), each water management
279 district shall initiate rulemaking to incorporate those
280 revisions by reference into the rules of the district.

281 (6)-(4) Reuse utilities and the applicable water management
282 district or districts are encouraged to periodically coordinate
283 and share information concerning the status of reclaimed water
284 distribution system construction, the availability of reclaimed
285 water supplies, and existing consumptive use permits in areas
286 served by the reuse utility.

287 (7)-(5) Nothing in This section does not impair or limit the
288 authority of shall impair a water management district district's
289 authority to plan for and regulate consumptive uses of water
290 under this chapter or regulate the use of surface water or
291 groundwater to supplement a reclaimed water system.

292 (8)-(6) This section applies to applications for new
293 consumptive use permits and renewals and modifications of
294 existing consumptive use permits.

295 Section 7. Subsection (1) of section 373.421, Florida
296 Statutes, is amended to read:

297 373.421 Delineation methods; formal determinations.-

298 (1) The Environmental Regulation Commission shall adopt a
299 unified statewide methodology for the delineation of the extent
300 of wetlands as defined in s. 373.019(27) ~~373.019(25)~~. This
301 methodology shall consider regional differences in the types of
302 soils and vegetation that may serve as indicators of the extent
303 of wetlands. This methodology shall also include provisions for



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304 determining the extent of surface waters other than wetlands for
305 the purposes of regulation under s. 373.414. This methodology
306 shall not become effective until ratified by the Legislature.
307 Subsequent to legislative ratification, the wetland definition
308 in s. 373.019(27) ~~373.019(25)~~ and the adopted wetland
309 methodology shall be binding on the department, the water
310 management districts, local governments, and any other
311 governmental entities. Upon ratification of such wetland
312 methodology, the Legislature preempts the authority of any water
313 management district, state or regional agency, or local
314 government to define wetlands or develop a delineation
315 methodology to implement the definition and determines that the
316 exclusive definition and delineation methodology for wetlands
317 shall be that established pursuant to s. 373.019(27) ~~373.019(25)~~
318 and this section. Upon such legislative ratification, any
319 existing wetlands definition or wetland delineation methodology
320 shall be superseded by the wetland definition and delineation
321 methodology established pursuant to this chapter. Subsequent to
322 legislative ratification, a delineation of the extent of a
323 surface water or wetland by the department or a water management
324 district, pursuant to a formal determination under subsection
325 (2), or pursuant to a permit issued under this part in which the
326 delineation was field-verified by the permitting agency and
327 specifically approved in the permit, shall be binding on all
328 other governmental entities for the duration of the formal
329 determination or permit. All existing rules and methodologies of
330 the department, the water management districts, and local
331 governments, regarding surface water or wetland definition and
332 delineation shall remain in full force and effect until the



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333 common methodology rule becomes effective. However, this shall
334 not be construed to limit any power of the department, the water
335 management districts, and local governments to amend or adopt a
336 surface water or wetland definition or delineation methodology
337 until the common methodology rule becomes effective.

338 Section 8. Subsection (3) of section 373.709, Florida
339 Statutes, is amended to read:

340 373.709 Regional water supply planning.—

341 (3) The water supply development component of a regional
342 water supply plan which deals with or affects public utilities
343 and public water supply for those areas served by a regional
344 water supply authority and its member governments ~~within the~~
345 ~~boundary of the Southwest Florida Water Management District~~
346 shall be developed jointly by the authority and the applicable
347 water management district. In areas not served by regional water
348 supply authorities, or other multijurisdictional water supply
349 entities, and where opportunities exist to meet water supply
350 needs more efficiently through multijurisdictional projects
351 identified pursuant to paragraph (2) (a), water management
352 districts are directed to assist in developing
353 multijurisdictional approaches to water supply project
354 development jointly with affected water utilities, special
355 districts, and local governments.

356 Section 9. Subsection (9) of section 403.086, Florida
357 Statutes, is amended to read:

358 403.086 Sewage disposal facilities; advanced and secondary
359 waste treatment.—

360 (9) The Legislature finds that the discharge of domestic
361 wastewater through ocean outfalls wastes valuable water supplies



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362 that should be reclaimed for beneficial purposes to meet public
363 and natural systems demands. The Legislature also finds that
364 discharge of domestic wastewater through ocean outfalls
365 compromises the coastal environment, quality of life, and local
366 economies that depend on those resources. The Legislature
367 declares that more stringent treatment and management
368 requirements for such domestic wastewater and the subsequent,
369 timely elimination of ocean outfalls as a primary means of
370 domestic wastewater discharge are in the public interest.

371 (a) The construction of new ocean outfalls for domestic
372 wastewater discharge and the expansion of existing ocean
373 outfalls for this purpose, along with associated pumping and
374 piping systems, are prohibited. Each domestic wastewater ocean
375 outfall shall be limited to the discharge capacity specified in
376 the department permit authorizing the outfall in effect on July
377 1, 2008, which discharge capacity shall not be increased.
378 Maintenance of existing, department-authorized domestic
379 wastewater ocean outfalls and associated pumping and piping
380 systems is allowed, subject to the requirements of this section.
381 The department is directed to work with the United States
382 Environmental Protection Agency to ensure that the requirements
383 of this subsection are implemented consistently for all domestic
384 wastewater facilities in Florida which discharge through ocean
385 outfalls.

386 (b) The discharge of domestic wastewater through ocean
387 outfalls must ~~shall~~ meet advanced wastewater treatment and
388 management requirements by December 31, 2020 ~~no later than~~
389 ~~December 31, 2018~~. For purposes of this subsection, the term
390 "advanced wastewater treatment and management requirements"



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391 means the advanced waste treatment requirements set forth in
392 subsection (4), a reduction in outfall baseline loadings of
393 total nitrogen and total phosphorus which is equivalent to that
394 which would be achieved by the advanced waste treatment
395 requirements in subsection (4), or a reduction in cumulative
396 outfall loadings of total nitrogen and total phosphorus
397 occurring between December 31, 2008, and December 31, 2025,
398 which is equivalent to that which would be achieved if the
399 advanced waste treatment requirements in subsection (4) were
400 fully implemented beginning December 31, 2020 ~~2018~~, and
401 continued through December 31, 2025. The department shall
402 establish the average baseline loadings of total nitrogen and
403 total phosphorus for each outfall using monitoring data
404 available for calendar years 2003 through 2007 and ~~shall~~
405 establish required loading reductions based on this baseline.
406 The baseline loadings and required loading reductions of total
407 nitrogen and total phosphorus shall be expressed as an average
408 annual daily loading value. The advanced wastewater treatment
409 and management requirements of this paragraph are ~~shall be~~
410 deemed ~~to be~~ met for any domestic wastewater facility
411 discharging through an ocean outfall on July 1, 2008, which has
412 installed by ~~no later than~~ December 31, 2018, a fully
413 operational reuse system comprising 100 percent of the
414 facility's annual average daily flow for reuse activities
415 authorized by the department.

416 (c)1. Each utility that had a permit for a domestic
417 wastewater facility that discharged ~~discharges~~ through an ocean
418 outfall on July 1, 2008, must ~~shall~~ install a functioning reuse
419 system by ~~no later than~~ December 31, 2025. For purposes of this



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420 subsection, a "functioning reuse system" means an
421 environmentally, economically, and technically feasible system
422 that provides a minimum of 60 percent of a the facility's
423 baseline actual flow or, for utilities operating more than one
424 facility, 60 percent of the utility's entire wastewater system
425 flow on an annual basis on December 31, 2025. Reuse may be ~~on an~~
426 annual basis for irrigation of public access areas, residential
427 properties, or agricultural crops; aquifer recharge; groundwater
428 recharge; industrial cooling; or other acceptable reuse purposes
429 authorized by the department. For purposes of this subsection,
430 the term "baseline flow" "~~facility's actual flow on an annual~~
431 ~~basis~~" means the annual average flow of domestic wastewater
432 discharging through the facility's ocean outfall, as determined
433 by the department, using monitoring data available for calendar
434 years 2003 through 2007.

435 2. Flows diverted from facilities to other facilities that
436 provide 100 percent reuse of the diverted flows before ~~prior to~~
437 December 31, 2025, are ~~shall be~~ considered to contribute to
438 meeting the ~~60 percent~~ reuse requirement. For utilities
439 operating more than one outfall, the reuse requirement may can
440 be apportioned between the ~~met if the combined actual reuse~~
441 ~~flows from~~ facilities served by the outfalls ~~is at least 60~~
442 ~~percent of the sum of the total actual flows from the~~
443 ~~facilities,~~ including flows diverted to other facilities for 100
444 percent reuse before ~~prior to~~ December 31, 2025. Utilities that
445 shared a common ocean outfall for the discharge of domestic
446 wastewater on July 1, 2008, regardless of which utility operates
447 the ocean outfall, are individually responsible for meeting the
448 reuse requirement and may enter into binding agreements to share



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449 or transfer such responsibility among the utilities. If ~~In the~~
450 ~~event~~ treatment in addition to the advanced wastewater treatment
451 and management requirements described in paragraph (b) is needed
452 ~~in order~~ to support a functioning reuse system, the such
453 treatment ~~must shall~~ be fully operational by no later than
454 December 31, 2025.

455 (d) The discharge of domestic wastewater through ocean
456 outfalls is prohibited after December 31, 2025, except as a
457 backup discharge that is part of a functioning reuse system or
458 other wastewater management system authorized by the department
459 as provided for in paragraph (e). Except as otherwise provided
460 in this subsection, a backup discharge may occur only during
461 periods of reduced demand for reclaimed water in the reuse
462 system, such as periods of wet weather, or as the result of peak
463 flows from other wastewater management systems, and must shall
464 comply with the advanced wastewater treatment and management
465 requirements of paragraph (b). Peak flow backup discharges from
466 other wastewater management systems may not cumulatively exceed
467 5 percent of a facility's baseline flow, measured as a 5-year
468 rolling average, and are subject to applicable secondary waste
469 treatment and water-quality-based effluent limitations specified
470 in department rules. When in compliance with the effluent
471 limitations, the peak flow backup discharges shall be deemed to
472 meet the advanced wastewater treatment and management
473 requirements of this subsection.

474 (e) The holder of a department permit authorizing the
475 discharge of domestic wastewater through an ocean outfall as of
476 July 1, 2008, shall submit the following to the secretary of the
477 department ~~the following~~:



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478 1. A detailed plan to meet the requirements of this
479 subsection, including the identification of the technical,
480 environmental, and economic feasibility of various reuse
481 options; the an identification of all land acquisition and
482 facilities necessary to provide for reuse of the domestic
483 wastewater; an analysis of the costs to meet the requirements,
484 including the level of treatment necessary to satisfy state
485 water quality requirements and local water quality
486 considerations and a cost comparison of reuse using flows from
487 ocean outfalls and flows from other domestic wastewater sources;
488 and a financing plan for meeting the requirements, including
489 identifying any actions necessary to implement the financing
490 plan, such as bond issuance or other borrowing, assessments,
491 rate increases, fees, other charges, or other financing
492 mechanisms. The plan must evaluate reuse demand in the context
493 of future regional water supply demands, the availability of
494 traditional water supplies, the need for development of
495 alternative water supplies, the degree to which various reuse
496 options offset potable water supplies, and other factors
497 considered in the South Florida Water Management District's
498 Lower East Coast Regional Water Supply Plan. The plan must ~~shall~~
499 include a detailed schedule for the completion of all necessary
500 actions and ~~shall~~ be accompanied by supporting data and other
501 documentation. The plan must ~~shall~~ be submitted by October 1,
502 2014 ~~no later than July 1, 2013.~~

503 2. By July 1, 2018 ~~No later than July 1, 2016,~~ an update of
504 the plan required in subparagraph 1. documenting any refinements
505 or changes in the costs, actions, or financing necessary to
506 eliminate the ocean outfall discharge in accordance with this



507 subsection or a written statement that the plan is current and
508 accurate.

509 (f) By December 31, 2009, and by December 31 every 5 years
510 thereafter, the holder of a department permit authorizing the
511 discharge of domestic wastewater through an ocean outfall shall
512 submit to the secretary of the department a report summarizing
513 the actions accomplished to date and the actions remaining and
514 proposed to meet the requirements of this subsection, including
515 progress toward meeting the specific deadlines set forth in
516 paragraphs (b) through (e). The report shall include the
517 detailed schedule for and status of the evaluation of reuse and
518 disposal options, preparation of preliminary design reports,
519 preparation and submittal of permit applications, construction
520 initiation, construction progress milestones, construction
521 completion, initiation of operation, and continuing operation
522 and maintenance.

523 (g) No later than July 1, 2010, and by July 1 every 5 years
524 thereafter, the department shall submit a report to the
525 Governor, the President of the Senate, and the Speaker of the
526 House of Representatives on the implementation of this
527 subsection. The report shall summarize progress to date,
528 including the increased amount of reclaimed water provided and
529 potable water offsets achieved, and identify any obstacles to
530 continued progress, including all instances of substantial
531 noncompliance.

532 (h) By February 1, 2012, the department shall submit a
533 report to the Governor and Legislature detailing the results and
534 recommendations from phases 1 through 3 of its ongoing study on
535 reclaimed water use.



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536 (i) The renewal of each permit that authorizes the
537 discharge of domestic wastewater through an ocean outfall as of
538 July 1, 2008, shall be accompanied by an order in accordance
539 with s. 403.088(2)(e) and (f) which establishes an enforceable
540 compliance schedule consistent with the requirements of this
541 subsection.

542 (j) An entity that diverts wastewater flow from a receiving
543 facility that discharges domestic wastewater through an ocean
544 outfall must meet the ~~60 percent~~ reuse requirement of paragraph
545 (c). Reuse by the diverting entity of the diverted flows shall
546 be credited to the diverting entity. The diverted flow shall
547 also be correspondingly deducted from the receiving facility's
548 baseline actual flow on an annual basis from which the required
549 reuse is calculated pursuant to paragraph (c), and the receiving
550 facility's reuse requirement shall be recalculated accordingly.

551
552 The department, the South Florida Water Management District, and
553 the affected utilities must consider the information in the
554 detailed plan under paragraph (e) for the purpose of adjusting,
555 as necessary, the reuse requirements of this subsection. The
556 department shall submit a report to the Legislature by February
557 15, 2015, containing recommendations for any changes necessary
558 to the requirements of this subsection.

559 Section 10. Paragraphs (r) and (u) of subsection (1) of
560 section 403.813, Florida Statutes, are amended to read:

561 403.813 Permits issued at district centers; exceptions.—

562 (1) A permit is not required under this chapter, chapter
563 373, chapter 61-691, Laws of Florida, or chapter 25214 or
564 chapter 25270, 1949, Laws of Florida, for activities associated



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565 with the following types of projects; however, except as
566 otherwise provided in this subsection, nothing in this
567 subsection relieves an applicant from any requirement to obtain
568 permission to use or occupy lands owned by the Board of Trustees
569 of the Internal Improvement Trust Fund or any water management
570 district in its governmental or proprietary capacity or from
571 complying with applicable local pollution control programs
572 authorized under this chapter or other requirements of county
573 and municipal governments:

574 (r) The removal of aquatic plants, the removal of tussocks,
575 the associated replanting of indigenous aquatic plants, and the
576 associated removal from lakes of organic detrital material when
577 such planting or removal is performed and authorized by permit
578 or exemption granted under s. 369.20 or s. 369.25, provided
579 that:

580 1. Organic detrital material that exists on the surface of
581 natural mineral substrate shall be allowed to be removed to a
582 depth of 3 feet or to the natural mineral substrate, whichever
583 is less;

584 2. All material removed pursuant to this paragraph shall be
585 deposited in an upland site in a manner that will prevent the
586 reintroduction of the material into waters in the state except
587 when spoil material is permitted to be used to create wildlife
588 islands in freshwater bodies of the state when a governmental
589 entity is permitted pursuant to s. 369.20 to create such islands
590 as a part of a restoration or enhancement project;

591 3. All activities are performed in a manner consistent with
592 state water quality standards; and

593 4. No activities under this exemption are conducted in



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594 wetland areas, as defined in ~~by~~ s. 373.019(27) ~~373.019(25)~~,
595 which are supported by a natural soil as shown in applicable
596 United States Department of Agriculture county soil surveys,
597 except when a governmental entity is permitted pursuant to s.
598 369.20 to conduct such activities as a part of a restoration or
599 enhancement project.

600

601 The department may not adopt implementing rules for this
602 paragraph, notwithstanding any other provision of law.

603 (u) Notwithstanding any provision to the contrary in this
604 subsection, a permit or other authorization under chapter 253,
605 chapter 369, chapter 373, or this chapter is not required for an
606 individual residential property owner for the removal of organic
607 detrital material from freshwater rivers or lakes that have a
608 natural sand or rocky substrate and that are not Aquatic
609 Preserves or for the associated removal and replanting of
610 aquatic vegetation for the purpose of environmental enhancement,
611 providing that:

612 1. No activities under this exemption are conducted in
613 wetland areas, as defined in ~~by~~ s. 373.019(27) ~~373.019(25)~~,
614 which are supported by a natural soil as shown in applicable
615 United States Department of Agriculture county soil surveys.

616 2. No filling or peat mining is allowed.

617 3. No removal of native wetland trees, including, but not
618 limited to, ash, bay, cypress, gum, maple, or tupelo, occurs.

619 4. When removing organic detrital material, no portion of
620 the underlying natural mineral substrate or rocky substrate is
621 removed.

622 5. Organic detrital material and plant material removed is



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623 deposited in an upland site in a manner that will not cause
624 water quality violations.

625 6. All activities are conducted in such a manner, and with
626 appropriate turbidity controls, so as to prevent any water
627 quality violations outside the immediate work area.

628 7. Replanting with a variety of aquatic plants native to
629 the state shall occur in a minimum of 25 percent of the
630 preexisting vegetated areas where organic detrital material is
631 removed, except for areas where the material is removed to bare
632 rocky substrate; however, an area may be maintained clear of
633 vegetation as an access corridor. The access corridor width may
634 not exceed 50 percent of the property owner's frontage or 50
635 feet, whichever is less, and may be a sufficient length
636 waterward to create a corridor to allow access for a boat or
637 swimmer to reach open water. Replanting must be at a minimum
638 density of 2 feet on center and be completed within 90 days
639 after removal of existing aquatic vegetation, except that under
640 dewatered conditions replanting must be completed within 90 days
641 after reflooding. The area to be replanted must extend waterward
642 from the ordinary high water line to a point where normal water
643 depth would be 3 feet or the preexisting vegetation line,
644 whichever is less. Individuals are required to make a reasonable
645 effort to maintain planting density for a period of 6 months
646 after replanting is complete, and the plants, including
647 naturally recruited native aquatic plants, must be allowed to
648 expand and fill in the revegetation area. Native aquatic plants
649 to be used for revegetation must be salvaged from the
650 enhancement project site or obtained from an aquatic plant
651 nursery regulated by the Department of Agriculture and Consumer



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652 Services. Plants that are not native to the state may not be
653 used for replanting.

654 8. No activity occurs any farther than 100 feet waterward
655 of the ordinary high water line, and all activities must be
656 designed and conducted in a manner that will not unreasonably
657 restrict or infringe upon the riparian rights of adjacent upland
658 riparian owners.

659 9. The person seeking this exemption notifies the
660 applicable department district office in writing at least 30
661 days before commencing work and allows the department to conduct
662 a preconstruction site inspection. Notice must include an
663 organic-detrital-material removal and disposal plan and, if
664 applicable, a vegetation-removal and revegetation plan.

665 10. The department is provided written certification of
666 compliance with the terms and conditions of this paragraph
667 within 30 days after completion of any activity occurring under
668 this exemption.

669 Section 11. Subsection (6) of section 556.102, Florida
670 Statutes, is amended to read:

671 556.102 Definitions.—As used in this act:

672 (6) "Excavate" or "excavation" means any manmade cut,
673 cavity, trench, or depression in the earth's surface, formed by
674 removal of earth, intended to change the grade or level of land,
675 or intended to penetrate or disturb the surface of the earth,
676 including land beneath the waters of the state, as defined in s.
677 373.019(22) ~~373.019(20)~~, and the term includes pipe bursting and
678 directional drilling or boring from one point to another point
679 beneath the surface of the earth, or other trenchless
680 technologies.



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681 Section 12. This act does not:

682 (1) Impair or limit the authority of the Department of
683 Environmental Protection to regulate water quality, including
684 reclaimed water, pursuant to chapter 403, Florida Statutes, or
685 to require a reuse feasibility study pursuant to s. 403.064,
686 Florida Statutes.

687 (2) Impair or limit the authority of a water management
688 district to conduct regional water supply planning pursuant
689 chapter 373, Florida Statutes.

690 (3) Affect any requirement that may be applicable to
691 funding of alternative water supply development, including
692 reclaimed water, pursuant to s. 373.707, Florida Statutes.

693 (4) Affect or limit any applicable provisions regarding the
694 setting of rates by public and private water utilities pursuant
695 to chapter 153 or chapter 180, Florida Statutes, or s. 367.081,
696 Florida Statutes.

697 (5) Affect or impair the powers of the Governor under the
698 State Constitution; general law, including, but not limited to,
699 chapter 14, Florida Statutes; and police powers of the state to
700 adopt and enforce emergency rules, regulations, and orders.

701 Section 13. This act shall take effect July 1, 2012.

702
703 ===== T I T L E A M E N D M E N T =====
704 And the title is amended as follows:

705 Delete everything before the enacting clause
706 and insert:

707 A bill to be entitled
708 An act relating to reclaimed water; amending s.
709 373.019, F.S.; defining the terms "reclaimed water"



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710 and "reclaimed water distribution system"; amending
711 ss. 373.036 F.S.; conforming cross-references to
712 changes made by the act; amending s. 373.042, F.S.;
713 requiring water management districts to include
714 certain reservations and water bodies in priority
715 lists and schedules; providing for the adoption of
716 certain reservations and minimum flows and levels by
717 the Department of Environmental Protection; requiring
718 water management districts to apply, without adopting
719 by rule, reservations, minimum flows and levels, and
720 recovery and prevention strategies adopted by the
721 department; amending s. 373.046, F.S.; authorizing
722 water management districts to enter into interagency
723 agreements for resource management activities under
724 specified conditions; providing applicability;
725 amending s. 373.171, F.S.; exempting cooperative
726 funding programs from certain rulemaking requirements;
727 amending s. 373.250, F.S.; providing legislative
728 findings relating to the use of reclaimed water;
729 providing that reclaimed water is an alternative water
730 supply and eligible for such funding; authorizing
731 specified contract provisions for the development of
732 reclaimed water as an alternative water supply;
733 prohibiting the exclusion of reclaimed water use from
734 regional water supply planning; deleting a definition
735 for the term "uncommitted"; providing for the
736 determination of uncommitted reclaimed water capacity
737 by certain utilities; prohibiting water management
738 districts from requiring permits for the use of



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739 reclaimed water; authorizing permit conditions for
740 certain surface water and groundwater sources;
741 authorizing water management districts to require the
742 use of reclaimed water under certain conditions;
743 prohibiting water management districts from requiring
744 or restricting services provided by reuse utilities;
745 providing an exception; clarifying which permit
746 applicants are required to submit certain information;
747 requiring the Department of Environmental Protection
748 and each water management district to initiate
749 rulemaking to adopt specified revisions to the water
750 resource implementation rule; amending s. 373.421,
751 F.S.; conforming cross-references to changes made by
752 the act; amending s. 373.709, F.S., relating to
753 regional water supply planning; removing a reference
754 to the Southwest Florida Water Management District;
755 requiring a regional water supply authority and the
756 applicable water management district to jointly
757 develop the water supply component of the regional
758 water supply plan; amending s. 403.086, F.S.;
759 postponing the dates by which domestic wastewater
760 facilities must meet more stringent treatment and
761 management requirements; providing exceptions;
762 revising the definition of the term "functioning reuse
763 system"; changing the term "facility's actual flow on
764 an annual basis" to "baseline flow"; revising plan
765 requirements for the elimination of ocean outfalls;
766 providing that certain utilities that shared a common
767 ocean outfall on a specified date are individually



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768 responsible for meeting the reuse requirement;
769 authorizing those utilities to enter into binding
770 agreements to share or transfer responsibility for
771 meeting reuse requirements; revising provisions
772 authorizing the backup discharge of domestic
773 wastewater through ocean outfalls; requiring a holder
774 of a department permit authorizing the discharge of
775 domestic wastewater through an ocean outfall to submit
776 certain information; requiring the Department of
777 Environmental Protection, the South Florida Water
778 Management District, and affected utilities to
779 consider certain information for the purpose of
780 adjusting reuse requirements; requiring the department
781 to submit a report to the Legislature; amending ss.
782 403.813 and 556.102, F.S.; conforming cross-references
783 to changes made by the act; revising applicability;
784 providing for construction of the act; providing an
785 effective date.