

1                   A bill to be entitled  
2     An act relating to reclaimed water; amending s.  
3     373.019, F.S.; revising the definition of the term  
4     "water" or "waters in the state" to exclude reclaimed  
5     water; amending s. 373.250, F.S.; providing  
6     legislative findings relating to the use of reclaimed  
7     water; providing that reclaimed water is an  
8     alternative water supply and eligible for such  
9     funding; authorizing specified contract provisions for  
10    the development of reclaimed water as an alternative  
11    water supply; deleting a definition for the term  
12    "uncommitted"; providing for the determination of  
13    uncommitted reclaimed water capacity by certain  
14    utilities; prohibiting water management districts from  
15    requiring permits for the use of reclaimed water;  
16    authorizing permit conditions for certain surface  
17    water and groundwater sources; authorizing water  
18    management districts to require the use of reclaimed  
19    water under certain conditions; prohibiting water  
20    management districts from requiring or restricting  
21    services provided by reuse utilities; providing an  
22    exception; clarifying which permit applicants are  
23    required to submit certain information; requiring the  
24    Department of Environmental Protection and each water  
25    management district to initiate rulemaking to adopt  
26    specified revisions to the water resource  
27    implementation rule; revising applicability; providing  
28    an effective date.

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

Section 1. Subsection (20) of section 373.019, Florida Statutes, is amended to read:

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

(20) "Water" or "waters in the state" means any and all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, as well as all coastal waters within the jurisdiction of the state. Reclaimed water, as defined by the department, is not water or waters in the state until it has been discharged into waters as defined in s. 403.031(13).

Section 2. Section 373.250, Florida Statutes, is amended to read:

373.250 Reuse of reclaimed water.—

(1) (a) The encouragement and promotion of water conservation and reuse of reclaimed water, as defined by the department and used in this chapter, are state objectives and considered to be in the public interest. The Legislature finds that the use of reclaimed water provided by domestic wastewater treatment plants permitted and operated under a reuse program approved by the department is environmentally acceptable and not a threat to public health and safety.

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57 (b) The Legislature recognizes that the interest of the  
58 state to sustain water resources for the future through the use  
59 of reclaimed water must be balanced with the need of reuse  
60 utilities to operate and manage reclaimed water systems in  
61 accordance with a variety and range of circumstances, including  
62 regulatory and financial considerations, which influence the  
63 development and operation of reclaimed water systems across the  
64 state.

65 (2) Reclaimed water is an alternative water supply as  
66 defined in s. 373.019(1) and is eligible for alternative water  
67 supply funding. A contract for state or district funding  
68 assistance for the development of reclaimed water as an  
69 alternative water supply may include provisions listed under s.  
70 373.707(9).

71 ~~(3)(2)(a) For purposes of this section, "uncommitted"~~  
72 ~~means the average amount of reclaimed water produced during the~~  
73 ~~three lowest-flow months minus the amount of reclaimed water~~  
74 ~~that a reclaimed water provider is contractually obligated to~~  
75 ~~provide to a customer or user.~~

76 ~~(b)~~ Reclaimed water may be presumed available to a  
77 consumptive use permit applicant when a utility exists which  
78 provides reclaimed water, which has determined that it has  
79 uncommitted reclaimed water capacity, and which has distribution  
80 facilities, which are initially provided by the utility at its  
81 cost, to the site of the affected applicant's proposed use.

82 (b) A water management district may not require a permit  
83 for the use of reclaimed water. However, when a use includes  
84 surface water or groundwater, the permit for such sources may

85 include conditions that govern the use of the permitted sources  
 86 in relation to the feasibility or use of reclaimed water.

87 (c) A water management district may require the use of  
 88 reclaimed water in lieu of all or a portion of a proposed use of  
 89 surface water or groundwater by an applicant when the use of  
 90 ~~uncommitted~~ reclaimed water is available; is environmentally,  
 91 economically, and technically feasible; and is of such quality  
 92 and reliability as is necessary to the user. However, a water  
 93 management district may neither specify any user to whom the  
 94 reuse utility must provide reclaimed water nor restrict the use  
 95 of reclaimed water provided by a reuse utility to a customer in  
 96 a permit, water shortage order, or water shortage emergency  
 97 order unless requested by the reuse utility ~~this paragraph does~~  
 98 ~~not authorize a water management district to require a provider~~  
 99 ~~of reclaimed water to redirect reclaimed water from one user to~~  
 100 ~~another or to provide uncommitted water to a specific user if~~  
 101 ~~such water is anticipated to be used by the provider, or a~~  
 102 ~~different user selected by the provider, within a reasonable~~  
 103 ~~amount of time.~~

104 (d) The South Florida Water Management District shall  
 105 require the use of reclaimed water made available by the  
 106 elimination of wastewater ocean outfall discharges as provided  
 107 for in s. 403.086(9) in lieu of surface water or groundwater  
 108 when the use of ~~uncommitted~~ reclaimed water is available; is  
 109 environmentally, economically, and technically feasible; and is  
 110 of such quality and reliability as is necessary to the user.  
 111 Such reclaimed water may also be required in lieu of other  
 112 alternative sources. In determining whether ~~or not~~ to require

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113 such reclaimed water in lieu of other alternative sources, the  
114 water management district shall consider existing infrastructure  
115 investments in place or obligated to be constructed by an  
116 executed contract or similar binding agreement as of July 1,  
117 2011, for the development of other alternative sources.

118 (4)~~(3)~~ The water management district shall, in  
119 consultation with the department, adopt rules to implement this  
120 section. Such rules shall include, but not be limited to:

121 (a) Provisions to permit use of water from other sources  
122 in emergency situations or if reclaimed water becomes  
123 unavailable, for the duration of the emergency or the  
124 unavailability of reclaimed water. These provisions shall also  
125 specify the method for establishing the quantity of water to be  
126 set aside for use in emergencies or when reclaimed water becomes  
127 unavailable. The amount set aside is subject to periodic review  
128 and revision. The methodology shall take into account the risk  
129 that reclaimed water may not be available in the future, the  
130 risk that other sources may be fully allocated to other uses in  
131 the future, the nature of the uses served with reclaimed water,  
132 the extent to which the applicant intends to rely upon reclaimed  
133 water, and the extent of economic harm which may result if other  
134 sources are not available to replace the reclaimed water. It is  
135 the intent of this paragraph to ensure that users of reclaimed  
136 water have the same access to ground or surface water and will  
137 otherwise be treated in the same manner as other users of the  
138 same class not relying on reclaimed water.

139 ~~(b) A water management district shall not adopt any rule~~  
140 ~~which gives preference to users within any class of use~~

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141 ~~established under s. 373.246 who do not use reclaimed water over~~  
142 ~~users within the same class who use reclaimed water.~~

143 (b)~~(e)~~ Provisions to require permit applicants that are  
144 not reuse utilities to provide, as part of their reclaimed water  
145 feasibility evaluation for a nonpotable use, written  
146 documentation from a reuse utility addressing the availability  
147 of reclaimed water. This requirement shall apply when the  
148 applicant's proposed use is within an area that is or may be  
149 served with reclaimed water by a reuse utility within a 5-year  
150 horizon, as established by the reuse utility and provided to the  
151 district. If the applicable reuse utility fails to respond or  
152 does not provide the information required under paragraph (c)  
153 ~~(d)~~ within 30 days after receipt of the request, the applicant  
154 shall provide to the district a copy of the written request and  
155 a statement that the utility failed to provide the requested  
156 information. The district is not required to adopt, by rule, the  
157 area where written documentation from a reuse utility is  
158 required, but the district shall publish the area, and any  
159 updates thereto, on the district's website. This paragraph may  
160 not be construed to limit the ability of a district to require  
161 the use of reclaimed water or to limit a utility's ability to  
162 plan reclaimed water infrastructure.

163 (c)~~(d)~~ Provisions specifying the content of the  
164 documentation required in paragraph (b) ~~(e)~~, including  
165 sufficient information regarding the availability and costs  
166 associated with the connection to and the use of reclaimed  
167 water, to facilitate the permit applicant's reclaimed water  
168 feasibility evaluation.

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170 A water management district may not adopt any rule that gives  
171 preference to users within any class of use established under s.  
172 373.246 who do not use reclaimed water over users within the  
173 same class who use reclaimed water.

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

178 1. Criteria for the use of a proposed impact offset  
179 derived from the use of reclaimed water when a water management  
180 district evaluates an application for a consumptive use permit.  
181 As used in this subparagraph, the term "impact offset" means the  
182 use of reclaimed water to reduce or eliminate a harmful impact  
183 that has occurred or would otherwise occur as a result of other  
184 surface water or groundwater withdrawals.

185 2. Criteria for the use of substitution credits where a  
186 water management district has adopted rules establishing  
187 withdrawal limits from a specified water resource within a  
188 defined geographic area. As used in this subparagraph, the term  
189 "substitution credit" means the use of reclaimed water to  
190 replace all or a portion of an existing permitted use of  
191 resource-limited surface water or groundwater, allowing a  
192 different user or use to initiate a withdrawal or increase its  
193 withdrawal from the same resource-limited surface water or  
194 groundwater source provided that the withdrawal creates no net  
195 adverse impact on the limited water resource or creates a net

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196 positive impact if required by water management district rule as  
197 part of a strategy to protect or recover a water resource.

198 (b) Within 60 days after the final adoption by the  
199 department of the revisions to the water resource implementation  
200 rule required under paragraph (a), each water management  
201 district shall initiate rulemaking to incorporate those  
202 revisions by reference into the rules of the district.

203 (6)-(4) Reuse utilities and the applicable water management  
204 district or districts are encouraged to periodically coordinate  
205 and share information concerning the status of reclaimed water  
206 distribution system construction, the availability of reclaimed  
207 water supplies, and existing consumptive use permits in areas  
208 served by the reuse utility.

209 (7)-(5) Nothing in This section does not impair or limit  
210 the authority of shall impair a water management district  
211 district's authority to plan for and regulate consumptive uses  
212 of water under this chapter or regulate the use of surface water  
213 or groundwater to supplement a reclaimed water system.

214 (8)-(6) This section applies to applications for new  
215 consumptive use permits and renewals and modifications of  
216 existing consumptive use permits.

217 Section 3. This act shall take effect July 1, 2012.