HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1357 Reclaimed Water
SPONSOR(S): Ponder
TIED BILLS: **IDEN./SIM. BILLS:** SB 1686

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Natural Resources & Public Lands Subcommittee		Moore	Shugar
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

With Florida's population growth the state will see increased demands for water and increased volumes of wastewater generated, that must be managed to prevent pollution. At the same time, many areas of the state are approaching, or have exceeded, the sustainable limits of their traditional ground water supplies. The use of reclaimed water is an important component of both wastewater management and water resource management in Florida. Reclaimed water is water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater treatment facility. Reuse worldwide occurs mainly for agricultural irrigation, but is also used for aquaculture, industry, drinking water, non-potable household uses, landscape irrigation, recreation and aquifer recharge. An additional type of reuse, direct potable reuse (DPR), is implemented in other countries and is receiving increasing attention in the United States as a potentially viable reuse option.

The bill provides that a water management district (WMD) may adopt rules to incentivize water reuse, including limited permit extensions, in order to promote the reuse of reclaimed water during the term of the permit and to produce significant water savings beyond those required in a consumptive use permit.

The bill requires that any project that proposes to beneficially reuse reclaimed water be included in the list of water supply development project options in a regional water supply plan (RWSP). The bill also requires reclaimed water facilities that currently discharge reclaimed water into surface waters located within an area where a RWSP has been developed to submit to the WMD a reclaimed water utilization plan establishing a plan to eliminate the discharge.

The bill requires the Department of Environmental Protection (DEP), by December 31, 2018, to submit to the Governor and Legislature a report with recommendations for criteria for the regulation of DPR. The bill also:

- Defines DPR as the use of reclaimed water that is purified sufficiently to meet or exceed federal and state drinking water standards, is safe for human consumption, and is distributed directly into a potable water supply system;
- Provides the report may include technical information helpful in understanding the treatment processes available to achieve such criteria;
- Requires the report to be developed in coordination with the State Surgeon General, the Department of Health, stakeholders, and the general public, and to include recommendations that protect human health and the environment;
- Requires DEP to hold at least three public meetings on the report, before submitting the report;
- Requires DEP to publish a final draft on its website no later than October 1, 2018, and solicit public comment.

The bill provides that no sooner than July 1, 2019, DEP may initiate rulemaking to adopt criteria for DPR and that if the rule does not require ratification it may not become effective until the conclusion of the next regular session of the Legislature following its adoption.

The bill requires the State Board of Administration (SBA) to include in its annual report to the Legislature a summary of the type and amount of potential water supply investments that will have the effect of increasing water supply on a regional basis. The bill also requires the Office of Program Policy Analysis and Government Accountability to perform an annual analysis of water supply investments made by SBA and submit its findings to SBA, and the Legislature by January 15 of each year. The bill provides that all revenues deposited or appropriated into the Water Protection and Sustainability Program Trust Fund be distributed by DEP solely for the implementation of an alternative water supply program.

The bill appears to have an indeterminate fiscal impact on state, local governments, and the private sector.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

By 2030, Florida's population is estimated to reach 23,609,000, which is nearly a 26 percent increase from 2010. Freshwater demand is projected to reach 7.7 billion gallons per day by 2030, which represents an additional 1.3 billion gallons per day over 2010 water use for the state.[1] With population growth, the state will see increased demands for water and increased volumes of wastewater generated, that must be managed to prevent pollution. At the same time, many areas of the state are approaching, or have exceeded, the sustainable limits of their traditional ground water supplies. The use of reclaimed water is an important component of both wastewater management and water resource management in Florida.[2]

Reclaimed Water

Reclaimed water is water that has received at least secondary treatment[3] and basic disinfection[4] and is reused[5] after flowing out of a domestic wastewater[6] treatment facility.[7] Reclaimed water is not subject to regulation under water shortages,[8] emergency orders, [9] or as a permitted consumptive use of water until it is discharged into waters.[10]

The encouragement and promotion of water conservation and reuse of reclaimed water are state objectives and are in the public interest. The reuse of reclaimed water is a critical component of meeting the state's existing and future water supply needs while sustaining natural systems and is not a threat to public health and safety.[11]

The use of reclaimed water must be balanced with the need of reuse utilities to operate and manage reclaimed water systems in accordance with a variety and range of circumstances, including regulatory and financial considerations, that influence the development and operation of reclaimed water systems across the state.[12] The Legislature encourages the development of incentive-based programs for reuse implementation.[13]

Reuse of Reclaimed Water

[1] DEP, *Sustaining Florida's Water Resources: Annual Report on Regional Water Supply Planning* (Mar. 2010), pg. 11, https://www.dep.state.fl.us/water/waterpolicy/docs/sustaining-our-water-resources.pdf, (last visited Mar. 22, 2017).
[2] *Id.* pg. 14.
[3] *See* rule 62-600.200(56), F.A.C., for the definition of secondary treatment.
[4] *See* rule 62-600.200(18), F.A.C., for the definition of disinfection.
[5] *See* rule 62-600.200(55), F.A.C., for the definition of reuse.
[6] "Domestic wastewater" is wastewater derived principally from dwellings, business buildings, institutions, and the like, commonly referred to as sanitary wastewater or sewage; rule 62-200(21), F.A.C.
[7] Sections 373.019(17), F.S.; rules 62-520.200(16), F.A.C. and 62-600.200(54), F.A.C.
[8] *See* s. 373.175, F.S.
[9] *Id.*
[10] Section 373.019(17), F.S.; s*ee* section 403.031(13), F.S , for the definition of waters.
[11] Sections 373.250(1)(a) and 403.064(1), F.S.
[12] Section 373.250(1)(b), F.S.
[13] Section 403.064(1), F.S.

Reuse worldwide occurs mainly for agricultural irrigation, but is also used for aquaculture, industry, drinking water, non-potable household uses, landscape irrigation, recreation and aquifer recharge.[14] Each type of reuse has its own associated issues and considerations that may affect its potential contribution to expanding the state's beneficial use of reclaimed water. The most feasible or beneficial type of reuse can vary significantly by region or reclaimed water utility depending on the specific geology, hydrology, development patterns, population served, or other factors.[15] In Florida, reclaimed water is used several instances as described below.

Restricted Public Access Areas

Restricted public access reuse involves the use of reclaimed water to irrigate areas that are not intended to be accessible to the public (e.g., pastures and areas used to grow feed, fodder, fiber, or seed crops, and trees, including managed hardwood or softwood plantations). Reclaimed water applied to these land surfaces is treated as it flows through the plant-soil matrix. These systems generally involve the reuse of reclaimed water that has received secondary treatment and basic disinfection.[16]

Public Access Areas

Public access reuse involves reclaimed water that has received high-level disinfection[17] and is used to irrigate areas that are intended to be accessible to the public (e.g., residential lawns, golf courses, cemeteries, parks, landscape areas, and highway medians). Public access areas may include private property that is not open to the public at large, but is intended for frequent use by many persons.[18] Reclaimed water may also be made available for toilet flushing,[19] fire protection,[20] aesthetic purposes, (e.g., decorative ponds or fountains), irrigation of edible crops,[21] dust control on construction sites, and other reuse activities, including water supply for commercial laundries, vehicle washing, flushing of sanitary sewers and reclaimed water lines, mixing of concrete, manufacturing of ice for ice rinks, cleaning roads, sidewalks, and outdoor work areas.[22]

Supplemental Water Supplies

Surface waters,[23] ground waters, stormwater, and drinking water may be used to supplement a reclaimed water supply.[24] A consumptive use permit for the use of surface water or ground water to supplement the reclaimed water supply may be required by the water management district (WMD).[25] Facilities used to connect supplemental water supplies into the reclaimed water distribution system must be located and documented in the record drawings for the reuse system.[26]

Rapid Infiltration Basins and Absorption Fields

Rapid infiltration basins (RIBs) involve reuse of reclaimed water by spreading in a system of basins and percolation ponds which may be underlain with subsurface drains. The percolation area must be

[14] DEP, *Sustaining Florida's Water Resources: Annual Report on Regional Water Supply Planning* (Mar. 2010), pgs. 24-25, https://www.dep.state.fl.us/water/waterpolicy/docs/sustaining-our-water-resources.pdf , (last visited Mar. 22, 2017).
[15] *Id.* pg. 26.
[16] Rules 62-610.400(1), (2), and (4), F.A.C.
[17] S*ee* r. 62-600.440(6), F.A.C., high-level disinfection.
[18] Rule 62-610.450(1), F.A.C.
[19] Rule 62-610.476, F.A.C.
[20] *Id.*
[21] Rule 62-610.475, F.A.C.
[22] Rule 62-610.480(a)-(f), F.A.C.
[23] *See* section 373.019(22), F.S., for the definition of surface water.
[24] Rule 62-610.472(2), F.A.C.
[25] Rule 62-610.472(6), F.A.C.
[26] Rule 62-610.472(7), F.A.C.

divided into two or more basins, RIBs, or percolation ponds to allow for alternate loading and resting.[27] Absorption fields involve high rates of application of reclaimed water and loading to subsurface absorption fields. Facilities must be designed so that portions of the absorption field are isolated for alternate loading and resting without interrupting application of reclaimed water.[28]

Aquifer Recharge

Aquifer recharge involves the use of reclaimed water to augment Class F-I, G-I, or G-II ground waters, that are designated as potable water use.[29] Types of aquifer recharge systems include: injection of reclaimed water into Class F-I, G-I, or G-II ground waters,[30] rapid-rate land application systems,[31] use of reclaimed water to create barriers to the landward or upward migration of salt water within Class F-I, G-I, or G-II ground waters,[32] and discharges to surface waters that are directly connected to Class F-I, G-I, or G-II ground waters.[33]

Overland Flow Systems

This method of land application involves treatment of domestic wastewater to meet effluent limitations for discharge to surface waters. Wastewater is applied by sprinkling or flooding upper reaches of terraced, sloped, vegetated surfaces, such as sod farms, forests, fodder crops, pasture lands, and similar areas. A runoff conveyance system is provided at the ends of the sloped surfaces.[34]

Industrial Uses

Industrial uses of reclaimed water involve the use of reclaimed water for cooling water,[35] wash water, or process water at industrial facilities,[36] including use at a domestic wastewater treatment facility.[37]

Indirect Potable Reuse

Indirect potable reuse (IPR) involves the planned use of reclaimed water to augment surface water resources that are used or will be used for public water supplies. IPR systems include discharges to Class I surface waters,[38] and discharges to other surface waters that are directly or indirectly connected to Class I surface waters.[39]

Direct Potable Reuse

Current Situation

An additional type of reuse, direct potable reuse (DPR), is implemented in other countries and is receiving increasing attention in the United States as a potentially viable reuse option.[40] DPR involves

[27] Rule 62-610.500(1)(a), F.A.C.
[28] Rule 62-610.500(2)(a), F.A.C.
[29] Rules 62-610.550(1)(a), F.A.C. and 62-510.410(1), F.A.C.
[30] Rule 62-610.550(1)(a)1., F.A.C.
[31] Rule 62-610.550(1)(a)2., F.A.C.
[32] Rule 62-610.550(1)(a)3., F.A.C.
[33] Rule 62-610.550(1)(a)4., F.A.C.
[34] Rule 62-610.600, F.A.C.
[35] Rule 62-610.668, F.A.C.
[36] Rule 62-610.650(1), F.A.C.
[37] Rule 62-610.669, F.A.C.
[38] Rule 62-610.550(2)(a), F.A.C.
[39] Rule 62-610.550(2)(b), F.A.C.
[40] DEP, *Report on Expansion of Beneficial Use of Reclaimed Water, Stormwater and Excess Surface Water (Senate Bill 536)* (Dec. 2015), pg. 26, http://www.dep.state.fl.us/water/reuse/docs/sb536/SB536-Report.pdf , (last visited Mar. 15, 2017).

the process of treating reclaimed water to state and federal drinking water standards so that it can be recycled for potable water supply.[41]

The first DPR system was brought on-line in the late 1960s in the city of Windhoek, Namibia.[42] Four notable DPR projects that are in operation or under construction include the Singapore NEWATER Project, the Colorado River Municipal Water District's Big Spring Project in Big Spring, Texas, the Wichita Falls DPR Project, in Wichita Falls, Texas, and the Cloudcroft DPR Facility, in Cloudcroft, New Mexico. The Singapore project resulted from their desire to reduce their water dependency on Malaysia, and the projects in Texas and New Mexico resulted from the desire to alleviate water conditions resulting from droughts. All of these DPR projects supply various sources of water needs, including potable water supply.[43]

Because DPR is still a developing technology in the United States, permitting and regulating these new facilities presented some challenges. Texas, not unlike other states, including Florida, does not have regulations and rules for DPR. As a result, considerable coordination was required with the state regulatory agency to develop guidelines.[44] In its report on expansion of beneficial uses of reclaimed water, DEP recommended adoption of rules to establish clear procedures and criteria for implementing DPR, including wastewater treatment plant operator requirements that will produce water for DPR.[45]

Although DPR is not currently being implemented in Florida and no regulatory framework exists, there are several planned IPR projects that are anticipated to be valuable foundations for future DPR projects. The largest opportunities for DPR in Florida are in locations where utilities exist with large uncommitted reclaimed water supplies, and where traditional water sources are limited. The nexus of these two circumstances occurs within Miami-Dade, Broward, Palm Beach, Hillsborough, Duval, and Pinellas counties. These counties account for more than 80 percent of the excess reclaimed water disposed of into surface waters and deep injection wells. If DPR development is maximized within these six counties, it would approximately double Florida's total statewide reclaimed water use.[46]

Deep Injection Well, Ocean Outfall and Surface Water Discharges

Current Situation

Before the mid-1980s, Florida had limited reuse activity and very little institutional framework related to reclaimed water. Wastewater management was dominated by the practice of effluent disposal into surface water discharges, ocean outfalls, and deep well injection disposal.[47] In the late 1980s, laws were established to encourage and promote reuse.[48] Mandatory consideration of reuse became part of the wastewater regulatory program. The reuse program was initiated; comprehensive rules governing reuse were established; and Florida began to experience rapid growth in use of reclaimed water. This growth continues today.[49] As of 2013, Florida disposed of over 960 million gallons per day (MGD) of wastewater using deep injection wells, ocean outfalls and surface water discharges. More than 883 MGD of reclaimed water was disposed of primarily into surface waters or deep injection wells.[50]

Regional Water Supply Planning

[41] *Id.* pg. 218
[42] *Id.* pgs. 24-25
[43] *Id.* pgs. 224-225
[44] *Id.*
[45] *Id.* pgs. 37 and 146.
[46] *Id.* pgs. 217-219.
[47] *Id.* pg. 16.
[48] *See* Ch. 403, F.S.
[49] *Id.*
[50] DEP, *Report on Expansion of Beneficial Use of Reclaimed Water, Stormwater and Excess Surface Water (Senate Bill 536)* (Dec. 2015), pg. 15, 219, http://www.dep.state.fl.us/water/reuse/docs/sb536/SB536-Report.pdf (last visited Mar. 15, 2017).

Current Situation

As part of a WMD's water management plan, a districtwide water supply assessment is conducted to determine whether water supplies will be adequate to satisfy water demands and maintain healthy conditions of the natural systems.[51] If a water supply assessment reveals that existing sources of water are inadequate to supply water for all existing and future reasonable beneficial uses and to sustain the water resources and related natural systems for the 20 year planning period, the WMD must develop a regional water supply plan (RWSP).[52] Currently, the St. Johns River WMD, the Southwest Florida WMD and the South Florida WMD developed RWSPs for all regions under their jurisdiction. The Northwest Florida WMD developed two RWSPs, and the Suwannee River WMD is developing a joint plan with St. Johns River WMD.[53]

Effect of Proposed Changes

The bill provides that the Legislature finds that sufficient water availability is a paramount concern for existing and future reasonable-beneficial uses and natural systems in this state. The projected population of this state is estimated to exceed 25 million by the year 2040, and cooperative efforts between municipalities, counties, utility companies, private landowners, water consumers, WMDs, regional water supply authorities, the DEP, and the Department of Agriculture and Consumer Services are necessary in order to meet water needs in a manner that will supply adequate and dependable supplies of water where needed without bringing about adverse effects upon the area from which water is withdrawn. Water supply projects should employ all practical means of obtaining water, including, but not limited to, withdrawals of surface water and ground water, reclaimed water, and desalination, and properly implementing these projects will require cooperation and well-coordinated activities. Therefore, it is the policy of this state that projects to increase water supply be planned on a regional basis.

The bill amends s. 373.250, F.S., regarding the reuse of reclaimed water, providing that the Legislature recognizes that the need to identify sources of potable water is of paramount concern to the state as its population continues to grow and further recognizes that DPR may provide the state with a valuable tool in ensuring that it has the water supply necessary to meet its growing demands. The bill provides that in order to promote the reuse of reclaimed water during the term of the permit and to produce significant water savings beyond those required in a consumptive use permit, a WMD may adopt rules providing water reuse incentives, including limited permit extensions.

The bill amends s. 373.709, F.S., regarding regional water supply planning, to require any project that proposes to beneficially reuse reclaimed water be included in the list of water supply development project options included in a RWSP. The bill also requires reclaimed water facilities that currently discharge reclaimed water into surface waters that are located within an area for which a RWSP has been developed to submit to the applicable WMD a reclaimed water utilization plan establishing a plan to eliminate the discharge.

The bill amends s. 403.852, F.S., to define DPR as the use of reclaimed water that is purified sufficiently to meet or exceed federal and state drinking water standards, is safe for human consumption, and is distributed directly into a potable water supply distribution system.

The bill amends s. 403.853, F.S., regarding drinking water standards, to require DEP, by December 31, 2018, to submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report with recommendations for criteria for the regulation of DPR. The report may also include technical information helpful in understanding the treatment processes available to achieve such criteria. The report must be developed in coordination with the State Surgeon General, the

[51] Section 373.036(2)(b)4., F.S.
[52] Section 373.709(1), F.S.
[53] DEP, *Regional Water Supply Planning Fact Sheet*, http://www.dep.state.fl.us/water/waterpolicy/docs/factsheets/wrfss-regional-water-supply-planning.pdf (last visited Mar. 5, 2017).

Department of Health, stakeholders, and the general public, and must include recommendations that are protective of human health and the environment. DEP must hold at least three public meetings on the report before submitting the report. Additionally, DEP must publish a final draft on its website no later than October 1, 2018, and solicit public comment on the recommendations. No sooner than July 1, 2019, DEP may initiate rulemaking to adopt criteria for DPR. If the rule does not require ratification pursuant to s. 120.541(3), F.S., it may not become effective until the conclusion of the next regular session of the Legislature following its adoption.

Water Protection and Sustainability Program

Current Situation

To help diversify the state's water supply sources, the Legislature created the Water Protection and Sustainability Program and the Water Protection and Sustainability Program Trust Fund in 2005.[54] Revenues deposited into or appropriated to the Water Protection and Sustainability Program Trust Fund must be distributed by DEP as follows: 65 percent for the implementation of an alternative water supply[55] program,[56] 22.5 percent for the implementation of best management practices and capital project expenditures necessary for the implementation of the goals of the total maximum daily load program,[57] and 12.5 percent for the Disadvantaged Small Community Wastewater Grant Program.[58] On June 30, 2009, and every 24 months thereafter, DEP must request the return of all unencumbered funds. The unencumbered funds must then be deposited into the Water Protection and Sustainability Program Trust Fund and redistributed.[59]

In 2005, the Legislature appropriated $100 million to the Water Protection and Sustainability Program. These funds, along with matching WMD funds, were awarded as grants to local water suppliers. Funding was reduced in subsequent years until 2009, when no funding was appropriated. During the four years of the Water Protection and Sustainability Program, the WMDs provided funding assistance to local water suppliers for the construction of 327 projects. Approximately 63 percent of the projects funded were reclaimed water projects.[60] Reclaimed water is an alternative water supply and is eligible for alternative water supply funding.[61]

Effect of Proposed Changes

The bill provides that all revenues deposited or appropriated into the Water Protection and Sustainability Program Trust Fund be distributed by DEP solely for the implementation of an alternative water supply program.

The State Board of Administration

Current Situation

[54] Sections 403.890, F.S., and 403.891, F.S.
[55] *See* section 373.019(1), F.S., for the definition of alternative water supplies.
[56] Sections 403.890(1), F.S.; *See* section 373.707, F.S., for alternative water supply development.
[57] Section 403.890(2), F.S.; *See* section 403.067, F.S., for implementation of total maximum daily loads.
[58] Section 403.890(3), F.S.; *See* section 403.1838, F.S., for the Small Community Sewer Construction Assistance Act.
[59] Sections 403.890(4), F.S. and 403.891(2), F.S.
[60] DEP, *Sustaining Florida's Water Resources: Annual Report on Regional Water Supply Planning* (Mar. 2010), pgs. 14-15, https://www.dep.state.fl.us/water/waterpolicy/docs/sustaining-our-water-resources.pdf , (last visited Mar. 22, 2017).
[61] Section 373.250(2), F.S.

The State Board of Administration (SBA) was created by the Florida Constitution and is governed by a three-member board of trustees, comprised of the Governor as Chair, the Chief Financial Officer and the Attorney General. The SBA is required to invest funds to the fullest extent that is consistent with the cash requirements, trust agreement, and investment objectives of the respective fund.[62] Types of funds the SBA manages include the Florida Retirement System Pension Plan and Investment Plan, Florida PRIME, Florida Hurricane Catastrophe Fund, and Debt Service.[63]

SBA must provide the Legislature with a report on each fund entrusted to the SBA for investment, annually on or before January 1. The report must include: a schedule of the annual beginning and ending asset values and changes and sources of changes in the asset value of each fund, and each asset class and portfolio within the Florida Retirement System Trust Fund; a description of the investment policy for each fund, and changes in investment policy for each fund since the previous annual report; a description of compliance with investment strategy for each fund and risks inherent in investing in financial instruments of the major asset classes held in the fund; and a summary of the type and amount of technology and growth investments held by each fund and other information deemed of interest by the SBA.[64]

Effect of Proposed Changes

The bill requires SBA to include in its annual report to the Legislature a summary of the type and amount of potential water supply investments that will have the effect of increasing water supply on a regional basis.

The Office of Program Policy Analysis and Government Accountability

Current Situation

The Office of Program Policy Analysis and Government Accountability (OPPAGA) was created by the Legislature in 1994 to help improve the performance and accountability of state government.[65] OPPAGA provides data, evaluative research, and objective analyses to assist legislative budget and policy deliberations. OPPAGA conducts research as directed by state law, the presiding officers, or the Joint Legislative Auditing Committee.[66] OPPAGA must examine SBA's management of investments every two years and submit such reports to SBA and the Legislature.[67]

Effect of Proposed Changes

The bill creates s. 215.4745, F.S., requiring analyses of water supply investments. The bill requires OPPAGA to perform an annual review of investments made in Florida-based potential water supply projects by SBA and submit its findings to SBA, the President of the Senate, and the Speaker of the House of Representatives by January 15 of each year. The bill allows OPPAGA's findings to be combined with another annual report submitted under s. 215.474, F.S.,[68] and allows OPPAGA to consult with SBA, DEP, WMDs, the Office of Economic and Demographic Research, and other entities as necessary to obtain and evaluate the information requested.

The bill requires the annual review to include: the dollar amount of potential water supply investments in the state made by SBA during the previous year ending June 30 and that investment's percentage

[62] Section 215.44(1), F.S.
[63] SBA, *Funds We Manage*, https://www.sbafla.com/fsb/FundsWeManage.aspx (last visited Mar. 22, 2017).
[64] Section 215.44(5)(a)-(f), F.S.
[65] Section 11.51, F.S.; OPPAGA, *What We Do*, http://www.oppaga.state.fl.us/shell.aspx?pagepath=about/whatwedo.htm (last visited Mar. 22, 2017).
[66] OPPAGA, *About OPPAGA*, http://www.oppaga.state.fl.us/shell.aspx?pagepath=about/about.htm (last visited Mar. 22, 2017); OPPAGA, *What We Do*, http://www.oppaga.state.fl.us/shell.aspx?pagepath=about/whatwedo.htm (last visited Mar. 22, 2017).
[67] Section 215.44(6), F.S.
[68] OPPAGA's analyses of technology and growth investments.

share of the system trust fund's current net assets; a list of investments in the state which are identified by SBA as potential water supply investments, within each asset class; an estimate of the amount of water that will become available through each potential investment, based on the region of the state; and an analysis of the direct and indirect economic benefits to the state resulting from the potential water supply investments.

B. SECTION DIRECTORY:

Section 1. Provides an unnumbered section of law with findings.

Section 2. Amends s. 215.44, F.S., regarding the duties of the SBA.

Section 3. Creates s. 215.4745, F.S., establishing an analysis of water supply investments.

Section 4. Amends s. 373.250, F.S., regarding reuse of reclaimed water.

Section 5. Amends s. 373.709, F.S., regarding regional water supply planning.

Section 6. Amends s. 403.852, F.S., providing a definition of "direct potable reuse."

Section 7. Amends s. 403.853, F.S., regarding drinking water standards.

Section 8. Amends s. 403.890, F.S., regarding the Water Protection and Sustainability Program.

Section 9. Provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill may have an indeterminate negative fiscal impact on DEP by requiring DEP to generate and provide a report to the Governor and Legislature on recommendations for criteria for the regulation of DPR, as well as rulemaking, to the degree these duties are not offset with existing agency resources. WMDs may also be negatively impacted should existing resources not cover the costs of rulemaking required under the bill. The bill may have an indeterminate negative fiscal impact on SBA by requiring SBA to report on water supply investments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   The bill may have a negative fiscal impact on local governments if required to implement reuse projects to the degree funding under the Water Protection and Sustainability Program Trust Fund is not allocated.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate negative fiscal impact on the private sector if utility rates increase due to requirements to further implement reuse. Private utilities required to implement reuse projects may have a negative fiscal impact to the degree funding under the Water Protection and Sustainability Program Trust Fund is not allocated.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill grants WMDs the authority to adopt rules promoting the reuse of reclaimed water by providing water reuse incentives and DEP the authority to initiate rulemaking, no sooner than July 1, 2019, to adopt criteria for DPR.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Discharges of reclaimed water to surface waters may serve to protect environment resources through aquifer recharge and IPR projects. The requirement in the bill to establish a plan for elimination of these surface water discharges in areas where a RWSP is developed may impede discharges of reclaimed water that serve to replenish natural resources. Reduction of discharges of reclaimed water through ocean outfalls and deep well injection may serve to accomplish further reuse while protecting natural systems.

The SBA does not appear to manage funds in the Water Protection and Sustainability Program Trust Fund or other funds for water supply projects. As such, requiring SBA to report on water supply investments and requiring OPPAGA to complete an analysis of water supply investments made by the SBA seem implausible.[69]

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

[69] *See* The Florida Senate Bill Analysis and Fiscal Impact Statement, prepared by the Committee on Environmental Preservation and Conservation, for SB 1686 (March 21, 2017).