

By Senator Simmons

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1 A bill to be entitled
2 An act relating to reclaimed water; providing
3 legislative findings; amending s. 215.44, F.S.;
4 revising a report that the Board of Administration
5 must provide to the Legislature to include a summary
6 of certain water supply investments; creating s.
7 215.4745, F.S.; requiring the Office of Program Policy
8 Analysis and Government Accountability to perform an
9 annual review of the board in certain potential water
10 supply projects and submit an annual report to the
11 board and the Legislature; authorizing the office to
12 consult with the board, the Department of
13 Environmental Protection, the water management
14 districts, the Office of Economic and Demographic
15 Research, and other entities as necessary; specifying
16 the components of the annual review; amending s.
17 373.250, F.S.; providing legislative findings;
18 authorizing each water management district to adopt
19 rules providing water reuse incentives; amending s.
20 373.709, F.S.; requiring that any project that
21 proposes to beneficially reuse reclaimed water be
22 included in a list of water supply development project
23 options as part of a regional water supply plan;
24 requiring reclaimed water facilities that currently
25 discharge reclaimed water into surface waters and that
26 are located within an area for which a regional water
27 supply plan has been developed to submit a reclaimed
28 water utilization plan to eliminate certain discharges
29 into surface waters; deleting obsolete language;

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30 amending s. 403.852, F.S.; defining the term "direct
31 potable reuse"; amending s. 403.853, F.S.; requiring
32 the department to submit a report recommending
33 criteria for the regulation of direct potable reuse;
34 requiring that the department develop the report in
35 coordination with certain entities and persons;
36 requiring the department to hold public meetings and
37 publish on its website a draft of the report before
38 submitting it to the Governor and the Legislature;
39 authorizing the department to adopt rules; providing
40 that certain rules may not take effect until a
41 specified time; amending s. 403.890, F.S.; revising
42 the distribution of revenues deposited into or
43 appropriated to the Water Protection and
44 Sustainability Program Trust Fund to allow
45 distribution only for the implementation of an
46 alternative water supply program; providing an
47 effective date.

48
49 Be It Enacted by the Legislature of the State of Florida:

50
51 Section 1. The Legislature finds that sufficient water
52 availability is a paramount concern for existing and future
53 reasonable-beneficial uses and natural systems in this state.
54 The projected population of this state is estimated to exceed 25
55 million by the year 2040, and cooperative efforts between
56 municipalities, counties, utility companies, private landowners,
57 water consumers, water management districts, regional water
58 supply authorities, the Department of Environmental Protection,

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59 and the Department of Agriculture and Consumer Services are
60 necessary in order to meet water needs in a manner that will
61 supply adequate and dependable supplies of water where needed
62 without bringing about adverse effects upon the area from which
63 water is withdrawn. Water supply projects should employ all
64 practical means of obtaining water, including, but not limited
65 to, withdrawals of surface water and groundwater, reclaimed
66 water, and desalination, and properly implementing these
67 projects will require cooperation and well-coordinated
68 activities. Therefore, it is the policy of this state that
69 projects to increase water supply be planned on a regional
70 basis.

71 Section 2. Present paragraph (f) of subsection (5) of
72 section 215.44, Florida Statutes, is redesignated as paragraph
73 (g), and a new paragraph (f) is added to that subsection, to
74 read:

75 215.44 Board of Administration; powers and duties in
76 relation to investment of trust funds.—

77 (5) On or before January 1 of each year, the board shall
78 provide to the Legislature a report including the following
79 items for each fund which, by law, has been entrusted to the
80 board for investment:

81 (f) A summary of the type and amount of potential water
82 supply investments that will have the effect of increasing water
83 supply in the state on a regional basis.

84 Section 3. Section 215.4745, Florida Statutes, is created
85 to read:

86 215.4745 Analyses of water supply investments.—The Office
87 of Program Policy Analysis and Government Accountability shall

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88 perform an annual review of investments made in Florida-based
89 potential water supply projects by the State Board of
90 Administration and submit its findings to the State Board of
91 Administration, the President of the Senate, and the Speaker of
92 the House of Representatives by January 15 of each year. The
93 findings of the analysis of the review may be combined with the
94 findings reported under s. 215.474. The office may consult with
95 the board, the Department of Environmental Protection, the water
96 management districts, the Office of Economic and Demographic
97 Research, and other entities as necessary to obtain and evaluate
98 the information requested. The annual review must include:

99 (1) The dollar amount of potential water supply investments
100 in the state made by the board during the previous year ending
101 June 30 and that investment's percentage share of the system
102 trust fund's current net assets.

103 (2) A list of investments in the state which are identified
104 by the board as potential water supply investments, within each
105 asset class.

106 (3) An estimate of the amount of water that will become
107 available through each potential investment, based on the region
108 of the state.

109 (4) An analysis of the direct and indirect economic
110 benefits to the state resulting from the potential water supply
111 investments.

112 Section 4. Paragraph (c) is added to subsection (1) of
113 section 373.250, Florida Statutes, and subsection (9) is added
114 to that section, to read:

115 373.250 Reuse of reclaimed water.—

116 (1)

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117 (c) The Legislature recognizes that the need to identify
118 sources of potable water is of paramount concern to the state as
119 its population continues to grow. The Legislature further
120 recognizes that direct potable reuse, as defined in s. 403.852,
121 may provide the state with a valuable tool in ensuring that it
122 has the water supply necessary to meet its growing demands.

123 (9) In order to promote the reuse of reclaimed water during
124 the term of the permit and to produce significant water savings
125 beyond those required in a consumptive use permit, a water
126 management district may adopt rules providing water reuse
127 incentives. Such incentives may include limited permit
128 extensions.

129 Section 5. Paragraph (a) of subsection (2) and subsection
130 (9) of section 373.709, Florida Statutes, are amended to read:

131 373.709 Regional water supply planning.—

132 (2) Each regional water supply plan must be based on at
133 least a 20-year planning period and must include, but need not
134 be limited to:

135 (a) A water supply development component for each water
136 supply planning region identified by the district which
137 includes:

138 1. A quantification of the water supply needs for all
139 existing and future reasonable-beneficial uses within the
140 planning horizon. The level-of-certainty planning goal
141 associated with identifying the water supply needs of existing
142 and future reasonable-beneficial uses must be based upon meeting
143 those needs for a 1-in-10-year drought event.

144 a. Population projections used for determining public water
145 supply needs must be based upon the best available data. In

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146 determining the best available data, the district shall consider
147 the University of Florida Bureau of Economic and Business
148 Research (BEBR) medium population projections and population
149 projection data and analysis submitted by a local government
150 pursuant to the public workshop described in subsection (1) if
151 the data and analysis support the local government's
152 comprehensive plan. Any adjustment of or deviation from the BEBR
153 projections must be fully described, and the original BEBR data
154 must be presented along with the adjusted data.

155 b. Agricultural demand projections used for determining the
156 needs of agricultural self-suppliers must be based upon the best
157 available data. In determining the best available data for
158 agricultural self-supplied water needs, the district shall
159 consider the data indicative of future water supply demands
160 provided by the Department of Agriculture and Consumer Services
161 pursuant to s. 570.93 and agricultural demand projection data
162 and analysis submitted by a local government pursuant to the
163 public workshop described in subsection (1), if the data and
164 analysis support the local government's comprehensive plan. Any
165 adjustment of or deviation from the data provided by the
166 Department of Agriculture and Consumer Services must be fully
167 described, and the original data must be presented along with
168 the adjusted data.

169 2. A list of water supply development project options,
170 including traditional and alternative water supply project
171 options that are technically and financially feasible, from
172 which local government, government-owned and privately owned
173 utilities, regional water supply authorities,
174 multijurisdictional water supply entities, self-suppliers, and

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175 others may choose for water supply development. In addition to
176 projects listed by the district, such users may propose specific
177 projects for inclusion in the list of alternative water supply
178 projects. If such users propose a project to be listed as an
179 alternative water supply project, the district shall determine
180 whether it meets the goals of the plan, and, if so, it shall be
181 included in the list. Any project that proposes beneficially
182 reusing reclaimed water shall be included in the list. The total
183 capacity of the projects included in the plan must exceed the
184 needs identified in subparagraph 1. and take into account water
185 conservation and other demand management measures, as well as
186 water resources constraints, including adopted minimum flows and
187 minimum water levels and water reservations. Where the district
188 determines it is appropriate, the plan should specifically
189 identify the need for multijurisdictional approaches to project
190 options that, based on planning level analysis, are appropriate
191 to supply the intended uses and that, based on such analysis,
192 appear to be permittable and financially and technically
193 feasible. The list of water supply development options must
194 contain provisions that recognize that alternative water supply
195 options for agricultural self-suppliers are limited.

196 3. For each project option identified in subparagraph 2.,
197 the following must be provided:

198 a. An estimate of the amount of water to become available
199 through the project.

200 b. The timeframe in which the project option should be
201 implemented and the estimated planning-level costs for capital
202 investment and operating and maintaining the project.

203 c. An analysis of funding needs and sources of possible

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204 funding options. For alternative water supply projects, the
205 water management districts shall provide funding assistance
206 pursuant to s. 373.707(8).

207 d. Identification of the entity that should implement each
208 project option and the current status of project implementation.

209 (9) Notwithstanding any other provision of this chapter or
210 chapter 403, reclaimed water facilities that currently discharge
211 reclaimed water into surface waters and that are located within
212 an area for which a regional water supply plan has been
213 developed shall submit to the applicable water management
214 district a reclaimed water utilization plan establishing a plan
215 to eliminate discharges of reclaimed water into surface waters
216 ~~For any regional water supply plan that is scheduled to be~~
217 ~~updated before December 31, 2005, the deadline for such update~~
218 ~~shall be extended by 1 year.~~

219 Section 6. Section 403.852, Florida Statutes, is reordered
220 and amended to read:

221 403.852 Definitions; ss. 403.850-403.864.—As used in ss.
222 403.850-403.864:

223 (4)~~(1)~~ "Department" means the Department of Environmental
224 Protection, which is charged with the primary responsibility for
225 the administration and implementation of the Florida Safe
226 Drinking Water Act.

227 (5) "Direct potable reuse" refers to the use of reclaimed
228 water that is purified sufficiently to meet or exceed federal
229 and state drinking water standards, is safe for human
230 consumption, and is distributed directly into a potable water
231 supply distribution system.

232 (15)~~(2)~~ "Public water system" means a system for the

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233 provision to the public of water for human consumption through
234 pipes or other constructed conveyances if such system has at
235 least 15 service connections or regularly serves at least 25
236 individuals daily at least 60 days out of the year. A public
237 water system is either a community water system or a
238 noncommunity water system. The term "public water system"
239 includes:

240 (a) Any collection, treatment, storage, and distribution
241 facility or facilities under control of the operator of such
242 system and used primarily in connection with such system.

243 (b) Any collection or pretreatment storage facility or
244 facilities not under control of the operator of such system but
245 used primarily in connection with such system.

246 (2)~~(3)~~ "Community water system" means a public water system
247 which serves at least 15 service connections used by year-round
248 residents or regularly serves at least 25 year-round residents.

249 (11)~~(4)~~ "Noncommunity water system" means a public water
250 system that is not a community water system. A noncommunity
251 water system is either a nontransient noncommunity water system
252 or a transient noncommunity water system.

253 (13)~~(5)~~ "Person" means an individual, public or private
254 corporation, company, association, partnership, municipality,
255 agency of the state, district, federal agency, or any other
256 legal entity, or its legal representative, agent, or assigns.

257 (8)~~(6)~~ "Municipality" means a city, town, or other public
258 body created by or pursuant to state law or an Indian tribal
259 organization authorized by law.

260 (7) "Federal agency" means any department, agency, or
261 instrumentality of the United States Government.

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262 ~~(18)(8)~~ "Supplier of water" means any person who owns or
263 operates a public water system.

264 ~~(3)(9)~~ "Contaminant" means any physical, chemical,
265 biological, or radiological substance or matter in water.

266 ~~(1)(10)~~ "Administrator" means the administrator of the
267 United States Environmental Protection Agency.

268 ~~(6)(11)~~ "Federal act" means the Safe Drinking Water Act,
269 Pub. L. No. 93-523.

270 ~~(14)(12)~~ "Primary drinking water regulation" means a rule
271 which:

272 (a) Applies to public water systems;

273 (b) Specifies contaminants which, in the judgment of the
274 department, after consultation with the Department of Health,
275 may have an adverse effect on the health of the public;

276 (c) Specifies for each such contaminant either:

277 1. A maximum contaminant level if, in the judgment of the
278 department, it is economically and technologically feasible to
279 ascertain the level of such contaminant in water in public water
280 systems; or

281 2. Each treatment technique known to the department which
282 leads to a reduction in the level of the contaminant sufficient
283 to satisfy the requirements of s. 403.853 if, in the judgment of
284 the department, it is not economically or technologically
285 feasible to ascertain the level of such contaminant; and

286 (d) Contains criteria and procedures to assure a supply of
287 drinking water which dependably complies with such maximum
288 contaminant levels, including quality control and testing
289 procedures to assure compliance with such levels and to ensure
290 proper operation and maintenance of the system, and which

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291 contains requirements as to:

292 1. The minimum quality of water which may be taken into the
293 system; and

294 2. Siting for new facilities for public water systems.

295 (17) ~~(13)~~ "Secondary drinking water regulation" means a rule
296 which:

297 (a) Applies to public water systems; and

298 (b) Specifies the maximum contaminant levels which, in the
299 judgment of the department after public hearings, are requisite
300 to protect the public welfare. Such regulation may apply to any
301 contaminant in drinking water:

302 1. Which may adversely affect the odor or appearance of
303 such water and consequently may cause a substantial number of
304 the persons served by the public water system providing such
305 water to discontinue its use; or

306 2. Which may otherwise adversely affect the public welfare.

307

308 Such regulations may vary according to geographic and other
309 circumstances.

310 (9) ~~(14)~~ "National primary drinking water regulations" means
311 primary drinking water regulations promulgated by the
312 administrator pursuant to the federal act.

313 (10) ~~(15)~~ "National secondary drinking water regulations"
314 means secondary drinking water regulations promulgated by the
315 administrator pursuant to the federal act.

316 (16) "Sanitary survey" means an onsite review of the water
317 source, facilities, equipment, operation, and maintenance of a
318 public water system for the purpose of evaluating the adequacy
319 of such source, facilities, equipment, operation, and

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320 maintenance for producing and distributing safe drinking water.

321 ~~(12)(17)~~ "Nontransient noncommunity water system" means a
322 noncommunity water system that regularly serves at least 25 of
323 the same persons over 6 months per year.

324 ~~(19)(18)~~ "Transient noncommunity water system" means a
325 noncommunity water system that has at least 15 service
326 connections or regularly serves at least 25 persons daily at
327 least 60 days out of the year but that does not regularly serve
328 25 or more of the same persons for more than 6 months per year.

329 Section 7. Subsections (8) and (9) are added to section
330 403.853, Florida Statutes, to read:

331 403.853 Drinking water standards.—

332 (8) By December 31, 2018, the department shall submit to
333 the Governor, the President of the Senate, and the Speaker of
334 the House of Representatives a report with recommendations for
335 criteria for the regulation of direct potable reuse. The report
336 may also include technical information helpful in understanding
337 the treatment processes available to achieve such criteria. The
338 report shall be developed in coordination with the State Surgeon
339 General, the Department of Health, stakeholders, and the general
340 public, and must include recommendations that are protective of
341 human health and the environment. Before submitting the report,
342 the department must hold at least three public meetings on the
343 report. Additionally, the department must publish a final draft
344 on its website no later than October 1, 2018, and solicit public
345 comment on the recommendations.

346 (9) No sooner than July 1, 2019, the department may
347 initiate rulemaking to adopt criteria for direct potable reuse.
348 If the rule does not require ratification pursuant to s.

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349 120.541(3), it may not become effective until the conclusion of
350 the next regular session of the Legislature following its
351 adoption.

352 Section 8. Section 403.890, Florida Statutes, is amended to
353 read:

354 403.890 Water Protection and Sustainability Program.—
355 Revenues deposited into or appropriated to the Water Protection
356 and Sustainability Program Trust Fund shall be distributed by
357 the Department of Environmental Protection ~~in the following~~
358 ~~manner:~~

359 ~~(1) Sixty five percent to the Department of Environmental~~
360 ~~Protection for the implementation of an alternative water supply~~
361 ~~program as provided in s. 373.707.~~

362 ~~(2) Twenty two and five tenths percent for the~~
363 ~~implementation of best management practices and capital project~~
364 ~~expenditures necessary for the implementation of the goals of~~
365 ~~the total maximum daily load program established in s. 403.067.~~
366 ~~Of these funds, 83.33 percent shall be transferred to the credit~~
367 ~~of the Department of Environmental Protection Water Quality~~
368 ~~Assurance Trust Fund to address water quality impacts associated~~
369 ~~with nonagricultural nonpoint sources. Sixteen and sixty seven~~
370 ~~hundredths percent of these funds shall be transferred to the~~
371 ~~Department of Agriculture and Consumer Services General~~
372 ~~Inspection Trust Fund to address water quality impacts~~
373 ~~associated with agricultural nonpoint sources. These funds shall~~
374 ~~be used for research, development, demonstration, and~~
375 ~~implementation of the total maximum daily load program under s.~~
376 ~~403.067, suitable best management practices or other measures~~
377 ~~used to achieve water quality standards in surface waters and~~

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378 ~~water segments identified pursuant to s. 303(d) of the Clean~~
379 ~~Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.~~
380 ~~Implementation of best management practices and other measures~~
381 ~~may include cost share grants, technical assistance,~~
382 ~~implementation tracking, and conservation leases or other~~
383 ~~agreements for water quality improvement. The Department of~~
384 ~~Environmental Protection and the Department of Agriculture and~~
385 ~~Consumer Services may adopt rules governing the distribution of~~
386 ~~funds for implementation of capital projects, best management~~
387 ~~practices, and other measures. These funds shall not be used to~~
388 ~~abrogate the financial responsibility of those point and~~
389 ~~nonpoint sources that have contributed to the degradation of~~
390 ~~water or land areas. Increased priority shall be given by the~~
391 ~~department and the water management district governing boards to~~
392 ~~those projects that have secured a cost sharing agreement~~
393 ~~allocating responsibility for the cleanup of point and nonpoint~~
394 ~~sources.~~

395 ~~(3) Twelve and five tenths percent to the Department of~~
396 ~~Environmental Protection for the Disadvantaged Small Community~~
397 ~~Wastewater Grant Program as provided in s. 403.1838.~~

398 ~~(4) On June 30, 2009, and every 24 months thereafter, the~~
399 ~~Department of Environmental Protection shall request the return~~
400 ~~of all unencumbered funds distributed pursuant to this section.~~
401 ~~These funds shall be deposited into the Water Protection and~~
402 ~~Sustainability Program Trust Fund and redistributed pursuant to~~
403 ~~the provisions of this section.~~

404 Section 9. This act shall take effect July 1, 2017.