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LEGISLATIVE ACTION

Senate

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House

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The Committee on Governmental Oversight and Accountability  
(Albritton) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 172 - 398

and insert:

(h) "Reclaimed water" has the same meaning as in s.  
373.019.

(3) To comply with drinking water quality standards,  
reclaimed water is deemed a water source for public water supply  
systems.

(4) Existing water quality protections that prohibit



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11 discharges from causing or contributing to violations of water  
12 quality standards in groundwater and surface water apply to  
13 potable reuse projects. In addition, when reclaimed water is  
14 released or discharged into groundwater or surface water for  
15 potable reuse purposes, there shall be a consideration of  
16 emerging constituents and impacts to other users of such  
17 groundwater or surface water.

18 (5) Potable reuse is an alternative water supply as defined  
19 in s. 373.019, and potable reuse projects are eligible for  
20 alternative water supply funding. The use of potable reuse water  
21 may not be excluded from regional water supply planning under s.  
22 373.709.

23 (6) The department shall:

24 (a) Adopt rules that authorize potable reuse projects that  
25 are consistent with this section.

26 (b) Review existing rules governing reclaimed water and  
27 potable reuse to identify obsolete and inconsistent requirements  
28 and adopt rules that revise existing potable reuse rules to  
29 eliminate such inconsistencies, while maintaining existing  
30 public health and environmental protections.

31 (c) Review aquifer recharge rules and, if revisions are  
32 necessary to ensure continued compliance with existing public  
33 health and environmental protection rules when reclaimed water  
34 is used for aquifer recharge, adopt such rules.

35 (d) Initiate rulemaking by December 31, 2020, and submit  
36 the adopted rules to the President of the Senate and the Speaker  
37 of the House of Representatives by December 12, 2021, for  
38 approval and incorporation into chapter 403 by the Legislature.  
39 Such rules may not be published as administrative rules by the



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40 department.

41 (7) The department and the water management districts shall  
42 develop and execute a memorandum of agreement providing for the  
43 procedural requirements of a coordinated review of all permits  
44 associated with the construction and operation of an indirect  
45 potable reuse project. The memorandum of agreement must provide  
46 that the coordinated review will occur only if requested by a  
47 permittee. The purpose of the coordinated review is to share  
48 information, avoid the redundancy of information requested from  
49 the permittee, and ensure consistency in the permit for the  
50 protection of the public health and the environment. The  
51 department and the water management districts shall develop and  
52 execute the memorandum of agreement by December 31, 2022.

53 (8) To encourage investment in the development of potable  
54 reuse projects by private entities, a potable reuse project  
55 developed as a qualifying project pursuant to s. 255.065 is:

56 (a) Beginning January 1, 2025, eligible for expedited  
57 permitting under s. 403.973.

58 (b) Granted an annual credit against the tax imposed by  
59 chapter 220 in an amount equal to 5 percent of the eligible  
60 capital costs generated by a qualifying project for a period not  
61 to exceed 20 years after the date that project operations begin.  
62 The tax credit applies only to the corporate income tax  
63 liability or the premium tax liability generated by or arising  
64 out of the qualifying project, and the sum of all tax credits  
65 provided pursuant to this section may not exceed 100 percent of  
66 the eligible capital costs as defined in s. 220.191(1)(c). Any  
67 credit granted pursuant to this paragraph may not be carried  
68 forward or backward.



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69 (c) Granted a 3-year extension of any deadlines imposed  
70 under s. 403.064(17).

71 (d) Consistent with s. 373.707, eligible for priority  
72 funding in the same manner as other alternative water supply  
73 projects from the Drinking Water State Revolving Fund, under the  
74 Water Protection and Sustainability Program, and for water  
75 management district cooperative funding.

76 (9) This section is not intended and may not be construed  
77 to supersede s. 373.250(3).

78 Section 3. Section 403.892, Florida Statutes, is created to  
79 read:

80 403.892 Incentives for the use of graywater technologies.-

81 (1) As used in this section, the term:

82 (a) "Developer" has the same meaning as in s. 380.031.

83 (b) "Graywater" has the same meaning as in s.

84 381.0065(2)(e).

85 (2) To promote the beneficial reuse of water in this state,  
86 a county, municipality, or special district shall:

87 (a) Authorize the use of residential graywater technologies  
88 in its jurisdiction which meet the applicable requirements of  
89 subsections (3) through (7), the Florida Building Code, and the  
90 Department of Health and which have received all applicable  
91 regulatory permits or authorizations; and

92 (b) Provide incentives to developers to fully offset the  
93 capital costs of the technology, including the costs of  
94 installation if the developer submits a proof of purchase within  
95 6 months after incurring such costs, to fully realize the  
96 beneficial reuse of water contribution where the developer or  
97 homebuilder installs graywater technology and meets the



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98 requirements of subsections (3) through (7) in at least 25  
99 residential units of a proposed development. Incentives may  
100 include, but need not be limited to, density or intensity bonus  
101 incentives or more air-conditioned and living space.

102 (3) The residential graywater technologies must be wholly  
103 located on an individual residential lot or structure and used  
104 solely to reuse graywater for use in toilets located within the  
105 residential lot or structure. The quality of the water  
106 discharged by the system for reuse must meet the NSF 350  
107 standard for toilet flushing.

108 (4) The developer shall provide to the applicable  
109 governmental entity, as part of its application for development  
110 approval for the proposed residential properties, a  
111 manufacturer's warranty or data providing reasonable assurance  
112 that the proposed residential graywater system will function as  
113 designed, including an estimate of anticipated potable water  
114 savings for each system. A submittal of the manufacturer's  
115 warranty or data from a building code official or governmental  
116 entity that has monitored or measured the residential graywater  
117 system is acceptable as reasonable assurance.

118 (5) The developer shall provide to the applicable  
119 governmental entity, as part of the developer's application for  
120 development approval for the proposed residential units,  
121 documentation that the individual graywater system will be  
122 maintained for the life of the system in accordance with the  
123 manufacturer's or installer's recommendations.

124 (6) The residential property owner, homeowners'  
125 association, or manufacturer is responsible for the maintenance  
126 of the system.



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127       (7) The developer shall provide an operation and  
128 maintenance manual for the system to the initial residential  
129 property owner. The manual must provide a method of contacting  
130 the installer or manufacturer and must include directions to the  
131 owner or occupant that the manual must remain with the residence  
132 throughout the life cycle of the system.

133       (8) The installation of residential graywater systems in a  
134 county or municipality in accordance with this section shall  
135 qualify as a water conservation measure in a public water  
136 utility's water conservation plan pursuant to s. 373.227. The  
137 efficiency of the conservation measure must be commensurate with  
138 the amount of potable water savings estimated for each system  
139 provided by the developer pursuant to subsection (4).

140       Section 4. (1) In implementing s. 403.8531, Florida  
141 Statutes, as created by this act, the Department of  
142 Environmental Protection, in coordination with one or more  
143 technical working groups pursuant to subsection (2), shall adopt  
144 rules for the implementation of potable reuse projects. The  
145 department shall:

146       (a) Revise the appropriate chapters in the Florida  
147 Administrative Code, including chapter 62-610, Florida  
148 Administrative Code, to ensure that all rules implementing  
149 potable reuse are in the Florida Administrative Code division 62  
150 governing drinking water regulation.

151       (b) Revise existing drinking water rules to include  
152 reclaimed water as a source water for the public water supply  
153 and require such treatment of the water as is necessary to meet  
154 existing drinking water rules, including rules for pathogens.  
155 The potable reuse rules must include the implementation of a log



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156 reduction credit system using advanced treatment technology to  
157 meet pathogen treatment requirements, and must require a public  
158 water supplier to provide an approach to meet the pathogen  
159 treatment requirements in an engineering report as part of its  
160 public water supply permit application for authorization of  
161 potable reuse. To ensure protection of the public health, as  
162 part of the public water supply permit application to authorize  
163 potable reuse, a public water supplier shall provide a  
164 department-specified level of treatment or propose an approach  
165 to achieving the log reduction targets based on source water  
166 characterization that is sufficient for a pathogen risk of  
167 infection which meets the national drinking water criteria of  
168 less than 1 x 10<sup>-4</sup> annually.

169 (c) Prescribe the means for using appropriate treatment  
170 technology to address emerging constituents in potable reuse  
171 projects. The advanced treatment technology must be technically  
172 and economically feasible and must provide for flexibility in  
173 the specific treatment processes employed to recognize different  
174 project scenarios, emerging constituent concentrations, desired  
175 finished water quality, and the treatment capability of the  
176 facility. The advanced treatment technology may also be used for  
177 pathogen removal or reduction.

178 1. The rules must require appropriate monitoring to  
179 evaluate the performance of the advanced treatment technology,  
180 including the monitoring of surrogate parameters and controls,  
181 which monitoring must occur either before or after the advanced  
182 treatment technology process, or both, as appropriate.

183 2. For direct potable reuse projects, the rules must  
184 require reclaimed water to be included in the source water



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185 characterization for a drinking water treatment facility and, if  
186 that source water characterization indicates the presence of  
187 emerging constituents at levels of public health interest, must  
188 specify how appropriate treatment technology will be used to  
189 address those emerging constituents.

190 3. For indirect potable reuse projects, the department  
191 shall amend the existing monitoring requirements contained  
192 within part V of chapter 62-610, Florida Administrative Code, to  
193 require monitoring for one or more representative emerging  
194 constituents. The utility responsible for the indirect potable  
195 reuse project shall develop an emerging constituent monitoring  
196 protocol consisting of the selection of one or more  
197 representative emerging constituents for monitoring and the  
198 identification of action levels associated with such emerging  
199 constituents. The monitoring protocol must provide that, if  
200 elevated levels of the representative emerging constituent are  
201 detected, the utility must report the elevated detection to the  
202 department and investigate the source and cause of such elevated  
203 emerging constituent. The utility shall submit the monitoring  
204 protocol to the department for review and approval and shall  
205 implement the monitoring protocol as approved by the department.  
206 If the monitoring protocol detects an elevated emerging  
207 constituent, and if the utility's investigation indicates that  
208 the use of the reclaimed water is the cause of such elevated  
209 emerging constituent, the utility must develop a plan to address  
210 or remedy that cause. The utility's monitoring results,  
211 investigation of any detected elevated emerging constituent  
212 levels, determination of cause, and any plan developed to  
213 address or remedy the cause must be submitted to the department





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214 for review and approval.

215 (d) Specify industrial pretreatment requirements for  
216 potable reuse projects. These industrial pretreatment  
217 requirements must match the industrial pretreatment requirements  
218 contained in chapter 62-625, Florida Administrative Code, as of  
219 the effective date of this act. If necessary, the department  
220 also must require the utility operating a potable reuse project  
221 to implement a source control program, and the utility shall  
222 identify the sources that need to be addressed.

223 (e) Provide off-spec reclaimed water requirements for  
224 potable reuse projects which include the immediate disposal,  
225 temporary storage, alternative nonpotable reuse, or retreatment  
226 or disposal of off-spec reclaimed water based on operating  
227 protocols established by the public water supplier and approved  
228 by the department.

229 (f) Revise existing rules to specify the point of  
230 compliance with drinking water standards for potable reuse  
231 projects as the point where the finished water is finally  
232 discharged from the drinking water treatment facility to the  
233 water distribution system.

234 (g) Ensure that, as rules for potable reuse projects are  
235 implemented, chapter 62-610.850, Florida Administrative Code, is  
236 applicable.

237 (h) Revise the definition of the term "indirect potable  
238 reuse" provided in chapter 62-610, Florida Administrative Code,  
239 to match the definition provided in s. 403.8531, Florida  
240 Statutes.

241 (2) The department shall convene and lead one or more  
242 technical advisory groups to coordinate the rulemaking and



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243 review of rules required by s. 403.8531, Florida Statutes. The  
244 technical advisory committees, which shall assist in the  
245 development of such rules, must be composed of knowledgeable  
246 representatives of a broad group of interested stakeholders,  
247 including, but not limited to, representatives from the water  
248 management districts, the wastewater utility industry, the water  
249 utility industry, the environmental community, the business  
250 community, the public health community, and the agricultural  
251 community, and consumers.

252       Section 5. To further promote the reuse of reclaimed water  
253 for irrigation purposes, the rules that apply when reclaimed  
254 water is injected into a receiving groundwater that has 1,000 to  
255 3,000 mg/L total dissolved solids are applicable to reclaimed  
256 water aquifer storage and recovery wells injecting into a  
257 receiving groundwater of less than 1,000 mg/L total dissolved  
258 solids if the applicant demonstrates that it is injecting into a  
259 confined aquifer, that there are no public supply wells within  
260 3,500 feet of the aquifer storage and recovery wells, and that  
261 it has implemented institutional controls to prevent the future  
262 construction of public supply wells within 3,500 feet of the  
263 aquifer storage and recovery wells. This section may not be  
264 construed to exempt the reclaimed water aquifer storage and  
265 recovery wells from requirements that prohibit the causing or  
266 contribution to violations of water quality standards in surface  
267 water, including groundwater discharges that flow by interflow  
268 and affect water quality in surface water.

269  
270 ===== T I T L E   A M E N D M E N T =====

271 And the title is amended as follows:



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272 Delete lines 22 - 35  
273 and insert:  
274 Legislature for approval by specified dates; providing  
275 that such rules are only effective upon approval and  
276 incorporation into the Florida Statutes by the  
277 Legislature; requiring the department and the water  
278 management districts to develop and execute, by a  
279 specified date, a memorandum of agreement for the  
280 coordinated review of specified permits; providing  
281 that potable reuse projects are eligible for certain  
282 expedited permitting and tax credits; providing  
283 construction; creating s. 403.892, F.S.; defining  
284 terms; requiring counties, municipalities, and special  
285 districts to authorize graywater technologies under  
286 certain circumstances and to provide incentives for  
287 the implementation of such technologies; providing  
288 requirements for the use of graywater technologies;  
289 requiring the department to