Committee/Subcommittee hearing bill: State Affairs Committee
Representative Maggard offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

Section 1. Subsection (17) is added to section 403.064, Florida Statutes, to read:

> 403.064  Reuse of reclaimed water.—

> (17) Within one year after the effective date of the department rules addressing potable reuse required by s. 403.8531 or by July 1, 2023, whichever is earlier, each domestic wastewater utility that disposes of effluent, reclaimed water, or reuse water by surface water discharge shall submit to the department a plan for eliminating nonbeneficial surface water discharges within 5 years, except as otherwise provided in this subsection. Each plan must be reviewed by the department and, if
amendment approved, must be incorporated into the utility's operating permit issued pursuant to s. 403.087.

(a) The plan must include:

1. The volume of effluent, reclaimed water, or reuse water that will no longer be discharged into surface waters and the date such discharges shall cease;

2. The volume of effluent, reclaimed water, or reuse water that will continue to be discharged into surface waters in accordance with the alternatives provided in subparagraphs (b)2. and 3., and the level of treatment that the effluent, reclaimed water, or reuse water will receive before being discharged into a surface water by each alternative; and

3. As applicable, the volume of effluent, reclaimed water, or reuse water that will continue to be discharged in accordance with paragraph (c) and the level of treatment that the effluent, reclaimed water, or reuse water will receive before being discharged into a surface water.

(b) The department shall approve a plan if one or more of the following conditions are met:

1. The plan eliminates surface water discharges from the utility.

2. The plan will result in the utility's compliance with the requirements of s. 403.086(7)(a) or s. 403.086(9).

3. The plan does not completely eliminate surface water discharges, but provides an affirmative demonstration that:
a. The remaining discharge is associated with an indirect potable reuse project;

b. The remaining discharge is a wet weather discharge that occurs in accordance with an applicable department permit;

c. The remaining discharge flows into a stormwater management system and is subsequently withdrawn by a user for irrigation purposes;

d. The utility operates domestic wastewater treatment facilities with reuse systems that provide a minimum of 90 percent of a facility's annual average flow, as determined by the department using monitoring data for the prior 5 consecutive years, for reuse purposes authorized by the department; or

e. The remaining discharge provides direct ecological or public water supply benefits, such as rehydrating wetlands or implementing the requirements of minimum flows and levels recovery or of a prevention strategy plan.

(c) The department shall also approve a plan which demonstrates that:

1. It is technically, economically, or environmentally infeasible for the utility to meet any of the conditions provided in paragraph (b) within 5 years after submitting the plan to the department;

2. Implementing such alternatives would create a severe undue economic hardship on the community served by the utility, as demonstrated by the impact to utility ratepayers, a lack of a
reasonable return on investment, and the unaffordability of implementing any combination of the alternatives; and

3. The plan provides a means to eliminate the discharge to the extent feasible.

(d) The department shall approve or deny a plan within 9 months after receiving the plan. A utility may modify the plan by amendment to the permit, but the department may not extend the time within which a plan must be implemented.

(e) If the department approves a utility's plan, the utility shall fully implement the approved plan by January 1, 2027. If a plan is not timely submitted by a utility or approved by the department, the utility's domestic wastewater treatment facilities may not dispose of effluent, reclaimed water, or reuse water by surface water discharge after January 1, 2027.

2. If a utility has included a potable reuse project in the plan and has implemented all other components of the plan, the utility has until January 1, 2029, to implement the potable reuse project.

(f) A utility that has had a plan approved by the department pursuant to paragraph (c) shall prepare and submit to the department an updated plan within one year of approval, and annually thereafter until the utility is able to meet one or more of the conditions provided in paragraph (b). The updated annual plan must affirmatively demonstrate that the utility is unable to meet any of the conditions provided in paragraph (b).
The department shall review the updated plans to verify that the utility is unable to meet any of the conditions provided in paragraph (b) and that the utility continues to meet the conditions of paragraph (c). If the department determines that the utility is able to meet any of the conditions provided in paragraph (b) and the utility is no longer eligible for approval under paragraph (c), the utility must submit a plan in accordance with paragraph (b) within 9 months after receiving notice of such a determination from the department, and the utility must fully implement such plan within 5 years after receiving an approval by the department.

(g) A domestic wastewater utility applying for a permit for a new or expanded surface water discharge shall prepare a plan in accordance with this subsection as part of the permit application. The department may not approve a permit for a new or expanded surface water discharge unless the plan meets one or more of the conditions provided in paragraph (b).

(h) By December 31, 2023, and annually thereafter, the department shall submit a report to the President of the Senate and the Speaker of the House of Representatives that provides the information that must be included in the plan pursuant to paragraph (a) for each utility that submitted a plan pursuant to this subsection during the preceding calendar year.

(i) This subsection does not apply to:
1. A domestic wastewater treatment facility that is located in a fiscally constrained county as described in s. 218.67(1).

2. A domestic wastewater treatment facility that is located in a municipality that is entirely within a rural area of opportunity as designated pursuant to s. 288.0656.

3. A domestic wastewater treatment facility that is located in a municipality that generates less than $10 million in total revenue, as determined by the municipality's most recent annual financial report submitted pursuant to s. 218.32.

(j) This subsection may not be construed to exempt a utility from the requirements of water quality standards for surface waters, including groundwater discharges that flow by interflow and affect water quality in surface waters.

Section 2. Section 403.8531, Florida Statutes, is created to read:

403.8531 Potable reuse.—

(1) LEGISLATIVE INTENT.—Recognizing that sufficient water supply is imperative to the future of this state, it is the intent of the Legislature that potable reuse be used as a source of water that may assist in meeting future water supply demands. Further, the Legislature supports the use of reclaimed water for potable reuse purposes so long as such use occurs in a manner that protects the public health and environment.

(2) DEFINITIONS.—As used in this section, the term:
(a) "Advanced treated reclaimed water" means the water produced from an advanced water treatment process for potable reuse applications.

(b) "Advanced treatment technology" means the treatment technology selected by a utility to address emerging constituents and pathogens in reclaimed water as part of a potable reuse project.

(c) "Direct potable reuse" means the introduction of advanced treated reclaimed water into a raw water supply immediately upstream from a drinking water treatment facility or directly into a potable water supply distribution system.

(d) "Emerging constituents" means pharmaceuticals, personal care products, and other chemicals not regulated as part of drinking water quality standards.

(e) "Indirect potable reuse" means the planned delivery or discharge of reclaimed water to groundwater or surface waters for the development of, or to supplement, the potable water supply.

(f) "Off-spec reclaimed water" means reclaimed water that does not meet the standards for potable reuse.

(g) "Potable reuse" means the augmentation of a drinking water supply with advanced treated reclaimed water from a domestic wastewater treatment facility.

(h) "Reclaimed water" has the same meaning as in s. 373.019.
(3) RULEMAKING.—The department shall initiate rulemaking by December 31, 2020, to adopt rules to create and implement a potable reuse program. Such rules may not take effect until ratified by the Legislature. The rules shall:


(b) Require potable reuse projects to meet federal and state drinking water and water quality standards, including, but not limited to, the Clean Water Act, the Safe Drinking Water Act, and water quality standards pursuant to chapter 403.

(c) Require potable reuse projects to be designed and operated to ensure compliance with groundwater quality standards.

(d) Require the point of compliance with drinking water standards for potable reuse projects to be the final discharge point for finished water from the water treatment facility.

(e) Create a public water supply permit application that authorizes potable reuse. The permit shall:

1. Include the implementation of a log reduction credit system using advanced treatment technology to meet pathogen treatment requirements.

2. Require a public water supplier to submit an engineering report as part of its public water supply permit.
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application for authorization of potable reuse that provides an approach to meet the required pathogen treatment requirements.

3. Require a public water supplier to provide a level of treatment or proposed approach to achieving log reduction targets based on source water characterization that is sufficient for a pathogen risk of infection which meets the national drinking water criteria of less than $1 \times 10^{-4}$ annually.

(f) Provide a process for the use of appropriate treatment technology to address emerging constituents in potable reuse projects, as determined by the department. If a project requires the use of advanced treatment technology, the required treatment shall:

1. Be technically and economically feasible.

2. Provide flexibility in the specific treatment processes employed to recognize different project scenarios, emerging constituent concentrations, desired finished water quality, and the treatment capability of the facility.

3. Be authorized for pathogen removal or reduction.

(g) Require appropriate monitoring to evaluate advanced treatment technology performance, including the monitoring of surrogate parameters and controls. Such monitoring may, as determined by the department, occur before or after the advanced treatment process, or both before and after, as appropriate.

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

(i) Provide industrial pretreatment requirements for potable reuse projects, which must match the industrial pretreatment requirements contained in chapter 62-625, Florida Administrative Code, as of the effective date of this act. If necessary, the department must require the utility operating a potable reuse project to implement a source control program, and the utility must identify the sources that need to be addressed.

(j) For direct potable reuse projects, require reclaimed water to be included in the source water characterization for a drinking water treatment facility and, if that source water characterization indicates the presence of emerging constituents at levels of public health interest, require appropriate treatment technology to be used to address those emerging constituents.

(k) For indirect potable reuse projects, require the utility responsible for the project to select one or more representative emerging constituents for monitoring and develop an emerging constituent monitoring protocol that identifies action levels associated with such emerging constituents.

1. If elevated levels of the representative emerging constituent are detected, the utility shall report the elevated
detection to the department and investigate the source and cause
of such elevated emerging constituent.

2. The utility shall submit the monitoring protocol to the
department for review and approval and shall implement the
monitoring protocol as approved by the department.

3. If the monitoring protocol detects an elevated emerging
constituent, and if the utility's investigation indicates that
the use of reclaimed water is the cause of such elevated
emerging constituent, the utility must develop a plan to address
or remedy that cause.

4. The utility must submit its monitoring results, a
description of the source and cause of the elevated levels, and
any plan developed to address or remedy the cause to the
department. The department shall develop a process for the
review and approval of such plans.

(4) MEMORANDUM OF AGREEMENT.—By December 31, 2022, the
department and the water management districts shall develop and
execute a memorandum of agreement providing for the procedural
requirements of a coordinated review of all permits associated
with the construction and operation of an indirect potable reuse
project. The memorandum of agreement must provide that the
coordinated review will occur only if requested by a permittee.

(5) POTABLE REUSE PROJECT INCENTIVES.—To encourage
investment in the development of potable reuse projects by
private entities, a potable reuse project developed as a qualifying project pursuant to s. 255.065 is:

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

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

(6) CONSTRUCTION.—This section is not intended and may not be construed to supersede s. 373.250(3).

Section 2. Section 403.892, Florida Statutes, is created to read:

403.892  Incentives for the use of graywater technologies.—

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

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

(b) "Graywater" has the same meaning as in s. 381.0065(2).

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

(a) Authorize the use of residential graywater technologies in their respective jurisdictions that meet the requirements of this section, the Florida Building Code, and applicable requirements of the Florida Department of Health and that have received all applicable regulatory permits or authorizations; and
(b) Provide density or intensity bonuses to the developer or homebuilder to fully offset the capital costs of the technology and installation costs. If density or intensity bonuses have already been provided to the developer or homebuilder, then more air-conditioned, living floor space of residential homes shall be provided to fully offset the capital costs of the technology and installation costs.

(3) To qualify for the incentives, the developer or homebuilder must certify to the applicable government entity as part of its application for development approval or amendment of a development order that:

(a) The proposed development has at least 25 single-family residential homes that are either detached or multifamily dwellings. This section does not apply to multifamily projects over five stories in height.

(b) Each single-family residential home or residence will have its own residential graywater system.

(c) It has submitted a manufacturer's warranty or data providing reasonable assurance that the residential graywater system will function as designed and includes an estimate of anticipated potable water savings for each system. A submittal of the manufacturer's warranty or data from a building code official, government entity, or research institute that has monitored or measured the residential graywater system that is proposed to be installed for such development shall be accepted.
as reasonable assurance and no further information or assurance is needed.

(d) The required maintenance of the graywater system will be the responsibility of the single-family residential homeowner or manufacturer.

(e) An operation and maintenance manual for the graywater system will be supplied to the initial homeowner of each single-family home. The manual must provide a method of contacting the installer or manufacturer and must include directions to the residential homeowner that the manual must remain with the residence throughout the life cycle of the system.

(4) If subsection (3) has been met, the county or municipality must include the incentives provided for in subsection (2) when it approves the development or amendment of a development order. The approval must also provide the process the developer or homebuilder must follow to verify that such systems have been purchased. Proof of purchase must be provided within 180 days from the issuance of a certificate of occupancy for such single-family residential home that is either detached or under five stories.

(5) The installation of residential graywater systems in a county or municipality in accordance with this section shall qualify as a water conservation measure in a public water utility's water conservation plan pursuant to s. 373.227. The efficiency of such measure, as projected in paragraph (3)(c)
above, must be commensurate with the amount of potable water
savings estimated for each system provided by the developer or
homebuilder pursuant to paragraph (3)(c).

Section 4. (1) The department shall convene and lead one
or more technical advisory groups to coordinate the rulemaking
and review of rules required by s. 403.8531, Florida Statutes.
The technical advisory groups, which shall assist in the
development of such rules, must be composed of knowledgeable
representatives of a broad group of interested stakeholders,
including, but not limited to, representatives from the water
management districts, the wastewater utility industry, the water
utility industry, the environmental community, the business
community, the public health community, the agricultural
community, and consumers.

(2) In implementing s. 403.8531, Florida Statutes, as
created by this act, the Department of Environmental Protection,
in coordination with the technical advisory groups, shall:

(a) Revise the appropriate chapters in the Florida
Administrative Code, including chapter 62-610, Florida
Administrative Code, to ensure that all rules implementing
potable reuse are included in the drinking water regulations of
the Florida Administrative Code.

(b) Revise the definition of the term "indirect potable
reuse" provided in chapter 62-610, Florida Administrative Code,
(c) Revise existing drinking water rules to include reclaimed water as a source water for the public water supply and require such treatment of the water as is necessary to meet existing drinking water rules, including rules for pathogens.

(d) Ensure that, as rules for potable reuse projects are implemented, r. 62-610.850, Florida Administrative Code, is applicable.

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

Section 5. To further promote the reuse of reclaimed water for irrigation purposes, the rules that apply when reclaimed water is injected into a receiving groundwater that has 1,000 to 3,000 mg/L total dissolved solids are applicable to reclaimed water aquifer storage and recovery wells injecting into a receiving groundwater of less than 1,000 mg/L total dissolved solids if the applicant demonstrates that it is injecting into a confined aquifer, that there are no public supply wells within 3,500 feet of the aquifer storage and recovery wells, and that it has implemented institutional controls to prevent the future construction of public supply wells within 3,500 feet of the aquifer storage and recovery wells. This section does not exempt
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the reclaimed water aquifer storage and recovery wells from
requirements that prohibit causing or contributing to violations
of water quality standards in surface water, including
groundwater discharges that flow by interflow and affect water
quality in surface water.

Section 6. The Division of Law Revision is directed to
replace the phrase "the effective date of this act" wherever it
occurs in this act with the date the act becomes a law.

Section 7. The Legislature determines and declares that
this act fulfills an important state interest.

Section 8. This act shall take effect upon becoming law.

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T I T L E  A M E N D M E N T

Remove everything before the enacting clause and insert:
An act relating to reclaimed water; amending s. 403.064,
F.S.; requiring certain domestic wastewater utilities to
submit to the Department of Environmental Protection by a
specified date a plan for eliminating nonbeneficial surface
water discharge within a specified timeframe; providing
requirements for the plan; requiring the department to
approve plans that meet certain requirements; requiring the
department to make a determination regarding a plan within
a specified timeframe; requiring the utilities to implement
plans by specified dates; requiring certain utilities to

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submit updated annual plans until certain conditions are met; requiring the department to submit an annual report to the Legislature by a specified date; providing applicability; providing construction; creating s. 403.8531, F.S.; providing legislative intent; providing definitions; requiring the Department of Environmental Protection to adopt specified rules; requiring the department and the water management districts to develop and execute, by a specified date, a memorandum of agreement for the coordinated review of specified permits; providing that potable reuse projects by private entities are eligible for certain expedited permitting and funding priorities; providing construction; creating s. 403.892; providing definitions; requiring counties, municipalities, and special districts to authorize graywater technologies under certain circumstances and to provide incentives for the implementation of such technologies; providing qualifications for such incentives; requiring the department to convene at least one technical advisory group for specified purposes; providing for the composition of the technical advisory group; requiring the department to review reclaimed water, potable reuse, and drinking water rules and revise them as necessary; requiring the department to review aquifer recharge rules and revise them as necessary; providing for the applicability of specified
reclaimed water aquifer storage and recovery system
requirements; providing a directive to the Division of Law
Revision; providing a determination and declaration of
important state interest; providing an effective date.