A bill to be entitled
An act relating to recycled water; creating s. 403.8531, F.S.; providing legislative findings and intent; providing definitions; providing that recycled water is a water source for public water supply systems; specifying the point of compliance with drinking water standards for water recycling projects; prohibiting water management districts from requiring certain permits for raw water augmentation; providing an exception; providing specified surface water quality protections for water recycling projects; providing that groundwater augmentation, raw water augmentation, and surface water augmentation are alternative water supplies and that projects relating to such augmentation are eligible for alternative water supply funding; prohibiting the exclusion of recycled water use from specified regional water supply planning; directing the Department of Environmental Protection, in coordination with technical working groups, to adopt specified rules; directing the department to review and revise potable reuse and aquifer recharge regulations; specifying requirements for technical working groups to be convened by the department; directing the department and the water management districts to develop and
execute, by a date certain, a memorandum of agreement
for the coordinated review of specified permits;
directing the department to initiate rulemaking by a
date certain; requiring legislative ratification of
the rules; providing that water recycling projects by
private entities are eligible for certain expedited
permitting and tax credits; providing for the creation
of a working group by the Potable Reuse Commission;
providing duties of the department with regard to the
working group; requiring the working group to develop
consensus on specified policies to facilitate
development of water recycling projects; requiring the
working group to submit recommendations to the
Legislature by a date certain; amending s. 403.064,
F.S.; prohibiting domestic wastewater treatment
facilities from disposing of effluent, reclaimed
water, or reuse water by surface water discharge;
providing exceptions; providing an effective date.

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

Section 1. Section 403.8531, Florida Statutes, is created
to read:

403.8531 Water recycling for public water supply.—
(1)(a) The Legislature finds that:
1. Historically, the Floridan Aquifer system has supplied the vast majority of the water in the state.

2. Developing water sources as an alternative to continued reliance on the Floridan Aquifer and surface waters will benefit existing and future water users and natural systems within the state.

3. In 2018, only approximately half of reclaimed water produced in the state is beneficially reused.

4. The recycling of water is a critical component of meeting the state's existing and future water supply needs and is considered to be in the public interest.

5. Recycling water for public water supply purposes may also reduce the state's dependence on withdrawals from the Floridan Aquifer, eliminate ocean outfall discharges, and decrease pollutant loadings to waters of the state, thus improving water quality and benefitting the environment, including coral reef systems and local economies that depend on the state's natural resources.

6. Water recycling projects require significantly more planning and financial investment than nonpotable water supply projects and these projects need incentives to be implemented.

(b) Recognizing that sufficient water supply is imperative to the future of the state, the Legislature intends for the department to adopt rules that:

1. Protect the public health and environment, and where
possible, achieve public health and environmental protection through existing regulatory programs.

2. Avoid the waste or unreasonable use when wastewater is not used for beneficial purposes.

3. Respect existing state and federal permitting programs applicable to potable reuse.


5. Require the treatment of recycled water to drinking water standards at a drinking water treatment facility.

6. Include recycled water as raw water and authorize recycled water as a source for drinking water for public water supply systems under part VI of this chapter.

7. Allow recycled water to be used to the fullest extent possible as a source for public water supply.

8. Ensure that any water recycling projects permitted and operated under new regulations implemented by the department are considered environmentally acceptable and not a threat to public health and safety.

9. Protect the Floridan aquifer and Florida's springs from discharges that would result in violations of state water quality standards.

(2) As used in this section, the term:
(a) "Appropriate treatment technology" means the treatment technology selected by a public water supplier to address emerging constituents and pathogens in reclaimed water as part of a water recycling project.

(b) "Emerging constituents" means any synthetic chemical, naturally occurring chemical, or microorganism that is not commonly monitored in the environment but has the potential to enter the environment and cause known or suspected adverse ecological and human health effects.

(c) "Groundwater augmentation" means the planned delivery or discharge of recycled water to groundwaters for the development of, or supplement to, public water supply and is otherwise known as indirect potable reuse.

(d) "Raw water augmentation" means the planned placement of recycled water directly into a drinking water treatment facility and is otherwise known as direct potable reuse.

(e) "Recycled water" means water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater treatment facility and is otherwise known as reclaimed water.

(f) "Surface water augmentation" means the planned delivery or discharge of recycled water to surface waters for the development of, or to supplement, public water supply and is otherwise known as indirect potable reuse.

(g) "Water recycling project" means the deliberate
application of recycled water, in compliance with department and
water management district rules for public water supply
purposes, and consists of groundwater augmentation, raw water
augmentation, and surface water augmentation.

(3) Recycled water is a water source for public water
supply systems.

(4) The point of compliance with drinking water standards
for water recycling projects is the final discharge point for
finished water from the drinking water treatment facility.

(5) When recycled water is used for raw water
augmentation, a water management district may not require a
permit under part II of chapter 373 for the use of the recycled
water, except that s. 373.250(3) applies when a use includes
surface water or groundwater.

(6) To ensure that groundwater augmentation and surface
water augmentation projects do not cause harm to the state's
aquifer and surface waters, including springs, existing surface
water quality protections that prohibit projects from causing or
contributing to violations of water quality standards in surface
waters apply to water recycling projects. In addition, when
recycled water is released or discharged into groundwater or
surface waters, consideration of emerging constituents may be
required due to existing regulatory requirements such as
antidegradation and discharge standards, as well as impacts to
other users of such groundwater or surface water.
(7) Groundwater augmentation, raw water augmentation, and surface water augmentation are alternative water supplies as defined in s. 373.019 and projects associated with water recycling are eligible for alternative water supply funding. The use of recycled water may not be excluded from regional water supply planning under s. 373.709.

(8) The department shall adopt, in coordination with one or more technical working groups pursuant to subsection (11), rules for the implementation of water recycling projects that:
   (a) Revise existing potable reuse specific regulations for indirect potable reuse to provide for raw water augmentation, groundwater augmentation, and surface water augmentation.
   (b) Revise existing drinking water regulations to include recycled water as a raw water source for public water supply.
   (c) Revise existing drinking water regulations to require treatment for pathogens as necessary to meet drinking water requirements for raw water augmentation, groundwater augmentation, and surface water augmentation. The regulations must require the assessment of Cryptosporidium and Giardia virus concentrations in the source water and the implementation of a log reduction credit system using the appropriate treatment technology, and must require a public water supplier to provide an approach for meeting the required pathogen treatment requirements in an engineering report as part of its public water supply permit application. To ensure protection of the source water.
public health, a public water supplier shall provide a
department-specified level of treatment or propose an approach
to achieving the log reduction targets based on source water
characterization sufficient for a pathogen risk of infection
that meets the national drinking water criteria of less than 1 x
10^-4 annually.

(d) Require the use of appropriate treatment technology
for water recycling projects to reduce the concentrations of
emerging constituents that may be found at trace levels in
recycled water, as well as pathogen removal or reduction. The
regulations must:

1. Provide for flexibility to reflect the type of water
recycling project, the emerging constituent concentration,
desired finished water quality, and the treatment capability of
the drinking water treatment facility.

2. Require appropriate monitoring to evaluate treatment
performance that focuses on surrogate parameters and controls,
with such monitoring occurring before and after the appropriate
treatment technology process.

3. Require that if the surrogate monitoring detects water
that does not meet the desired treatment goals, the water must
be disposed of, temporarily stored for retreatment, or reused
for nonpotable purposes.

4. Require that recycled water used for raw water
augmentation be included as part of a public water supplier's
source water characterization. The source water characterization must consider the nature and level of emerging constituents in the recycled water and the extent that other water is mixed with the recycled water and potentially reducing the concentrations of the emerging constituents, and, if the source water characterization indicates the presence of emerging constituents at levels of public health interest, appropriate treatment technology to address those emerging constituents must be used, with the level of treatment and surrogate monitoring for the emerging constituents directing the appropriate treatment technology.

5. Require that when recycled water is used for groundwater augmentation or surface water augmentation, a public water supplier must:

a. Include a representative emerging constituent monitoring protocol and appropriate treatment technology, determined by the source water characterization, for the reclaimed water as determined necessary by the monitoring results.

b. Select the representative emerging constituents to monitor, identify action levels associated with those emerging constituents, and submit the information to the department for approval.

c. Notify the department if elevated levels of the approved monitoring plan's representative emerging constituents
are detected and investigate the source and cause of the elevated level of the representative emerging constituents. If the cause of the elevated level of the representative emerging constituent is identified, the public water supplier must develop a plan to address the cause and submit the plan to the department for approval.

6. Provide for appropriate treatment technology for emerging constituents to be performed as part of the public water supply treatment as determined necessary by a source water characterization that considers the nature of the surface or groundwater into which the recycled water was released, the distance between the point of recycled water release and withdrawal point for the drinking water treatment plant, and the rate and extent to which the released recycled water could potentially migrate to the public water supplier's water withdrawal point.

7. Require the engineering report accompanying the source water characterization to provide the surrogate monitoring used to determine appropriate treatment technology effectiveness.

(e) Revise existing industrial pretreatment regulations to include water recycling projects and require a wastewater utility involved in a water recycling project to implement a source control program for sources identified by the wastewater utility.

(f) Provide off-specification recycled water regulations
for water recycling projects that require disposal, temporary storage, alternative nonpotable reuse, or retreatment of off-specification recycled water based on operating protocols established by the public water supplier and approved by the department and that the recycled water quality meets applicable regulatory requirements.

(g) Revise existing regulations to require that compliance with drinking water standards for water recycling projects are measured at the final discharge point for finished water from a public water supplier's facility.

(h) Ensure that as water recycling project regulations are implemented, projects that cause or contribute to violations of water quality standards in surface waters are prohibited.

(9) In addition to the rulemaking requirements under subsection (8), the department shall review existing potable reuse regulations to identify obsolete and inconsistent requirements, revise the regulations to eliminate the inconsistencies, and implement the identified revisions, including the terms and provisions used in this section.

(10) The Legislature recognizes that there are other uses of recycled water besides public water supply, including, but not limited to, aquifer recharge. The department shall review, and, if revisions are identified, revise the current aquifer recharge regulations not related to public water supply pursuant to subsection (8), to ensure continued protection of the public
health and environment when recycled water is used for aquifer
recharge.

(11) The department shall convene and lead one or more
technical advisory committees to coordinate all rule review and
rulemaking required by this section. The technical advisory
committees shall consist of knowledgeable and interested
stakeholders that represent a broad group of interests to assist
in the development of these regulations, 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 health
community, the general public, and the agricultural community.

(12) 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 any
permits associated with a groundwater augmentation and surface
water augmentation project. The memorandum of agreement must
provide that the coordinated review will occur only if requested
by a permittee to avoid an overly burdensome process for minor
permit changes. The goal of the coordinated review is to share
information, to avoid the redundancy of information requested
from the permittee, and to ensure consistency in the permit for
the protection of the public health and environment. The
department and the water management districts shall develop and
execute the memorandum of agreement by December 31, 2022.
(13) The department shall initiate rulemaking for subsections (8), (9), and (10) by December 31, 2020. The department shall submit the rules to the President of the Senate and Speaker of the House of Representatives by December 12, 2022. The rules are only effective upon ratification by the Legislature.

(14) To encourage investment in the development of water recycling projects by private entities, a water recycling project developed as a qualifying project pursuant to s. 255.065 is:

(a) Eligible for expedited permitting under s. 403.973.
(b) Granted an annual credit against the tax imposed by chapter 220 in an amount equal to 5 percent of the eligible capital costs generated by a qualifying project for a period not to exceed 20 years after that date project operations begin. The tax credit shall be granted against only the corporate income tax liability or the premium tax liability generated by or arising out of the qualifying project, and the sum of all tax credits provided pursuant to this section may not exceed 100 percent of the eligible capital costs as defined in s. 220.191(1)(c). Any credit granted pursuant to this paragraph may not be carried forward or backward with respect to a subsequent or previous year.

Section 2. (1) An examination of existing consumptive use permitting regulations and rules was performed by the Potable
Reuse Commission, a diverse-related stakeholder commission for recycled water for public water supply implementation, to determine further protection of utility investments while also preserving the tenets of state water regulations. Through this examination, the commission determined that existing rules and regulations required revision in two areas and that two areas warranted further investigation.

(2)(a) Upon creation of a working group by the Potable Reuse Commission, the Department of Environmental Protection shall participate and ensure that the working group consists of diverse stakeholders, including, but not limited to, members of the commission and representatives from the department, water management districts, water and wastewater utilities, agricultural organizations, environmental organizations, and other interested parties. The department shall notice the meetings and ensure that they are open to the public.

(b) At a minimum, the goal of the working group is to develop consensus for:

1. Allowing utilities to propose impact offsets derived from the use of recycled water for water recycling projects.

2. Extending permit durations for groundwater augmentation and surface water augmentation projects.

3. Additional consumptive use permitting incentives that would facilitate the development of recycled water for public water supply projects.
4. Leveraging water management district cost-share funding programs to facilitate development of water recycling projects.

(c) If the working group reaches consensus on any proposed regulatory or rule revisions, the working group shall submit such recommendations to the President of the Senate and the Speaker of the House of Representatives by December 31, 2020.

Section 3. Subsection (15) of section 403.064, Florida Statutes, is amended to read:

403.064  Reuse of reclaimed water.—

(15) After conducting a feasibility study under subsection (2), domestic wastewater treatment facilities that dispose of effluent by surface water discharges or by land application methods must implement reuse to the degree that reuse is feasible, based upon the applicant's reuse feasibility study. This subsection does not apply to surface water discharges or land application systems which are currently categorized as reuse under department rules. Applicable permits issued by the department shall be consistent with the requirements of this subsection.

(a) This subsection does not limit the use of a surface water discharge or land application facility as backup for a reclaimed water reuse system.

(b) This subsection applies only to domestic wastewater treatment facilities located within, serving a population located within, or discharging within a water resource caution
Notwithstanding this subsection, beginning January 1, 2026, domestic wastewater treatment facilities are prohibited from disposing of effluent, reclaimed water, or reuse water by surface water discharge, except that this prohibition does not apply to surface water augmentation projects permitted in accordance with s. 403.8531; domestic wastewater treatment facility wet weather discharges that occur in accordance with the applicable department permit; domestic wastewater treatment facilities located in fiscally constrained counties as defined in s. 218.67(1); or domestic wastewater treatment facilities located in municipalities that are entirely within a rural area of opportunity as designated pursuant to s. 288.0656.

Section 4. This act shall take effect upon becoming a law.