A bill to be entitled
An act relating to reclaimed water; amending s.
403.064, F.S.; requiring certain domestic wastewater
utilities to submit plans for eliminating
nonbeneficial surface water discharges to the
Department of Environmental Protection and to
implement such plans by specified dates; providing
plan requirements; requiring the department to approve
plans that meet certain requirements and to make
determinations regarding such plans within a specified
timeframe; requiring certain domestic wastewater
utilities to 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 requirements 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, drinking water, and aquifer recharge rules and revise such rules as necessary; providing applicability of specified reclaimed water aquifer storage and recovery system requirements; providing a directive to the Division of Law Revision; providing a declaration of important state interest; providing an effective date.

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

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

403.064  Reuse of reclaimed water.—

(17) Within 1 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 approved, must be incorporated into the utility's operating permit issued under 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 will 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 that 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)1. 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 under paragraph (c) shall prepare and submit to the department an updated plan within 1 year after 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 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 under 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 the 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 water 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 under 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 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 x 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; and

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 shall require the utility operating a potable reuse project to implement a source control program, and the utility shall 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 shall develop a plan to address or remedy that cause.

4. The utility shall submit to the department its monitoring results, a description of the source and cause of the elevated levels, and any plan developed to address or remedy the cause. 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 does not, and may not be
construed to, supersede s. 373.250(3).

Section 3. 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)(e).
(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 Department of Health and that have received all applicable regulatory permits or authorizations.

(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 governmental 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 detached or multifamily dwellings. This section does not apply to multifamily projects more than 5 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, governmental entity, or research institute that has monitored or measured the residential graywater system that is proposed to be installed for such development must 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 the requirements of subsection (3) have been met, the county, municipality, or special district shall include the incentives provided 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 after the issuance of a certificate of occupancy for such single-family residential home that is detached or less than 5 stories in height.

(5) The installation of residential graywater systems in a county, municipality, or special district pursuant to this section qualifies as a water conservation measure in a public water utility's water conservation plan under s. 373.227. The efficiency of such measure, as projected in paragraph (3)(c), 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 pursuant to 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, 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, to match the definition provided in s. 403.8531, Florida Statutes.

(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, chapter 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 for reclaimed water 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 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 a law.