

1 A bill to be entitled
2 An act relating to reclaimed water; amending s.
3 403.064, F.S.; requiring certain domestic wastewater
4 utilities to submit to the Department of Environmental
5 Protection by a specified date a plan for eliminating
6 nonbeneficial surface water discharge within a
7 specified timeframe; providing requirements for the
8 plan; requiring the department to approve plans that
9 meet certain requirements; requiring the department to
10 make a determination regarding a plan within a
11 specified timeframe; requiring the utilities to
12 implement approved plans by specified dates; providing
13 for administrative and civil penalties; requiring
14 certain utilities to submit updated annual plans until
15 certain conditions are met; requiring domestic
16 wastewater utilities applying for permits for new or
17 expanded surface water discharges to prepare a
18 specified plan for eliminating nonbeneficial
19 discharges as part of its permit application;
20 requiring the department to submit an annual report to
21 the Legislature by a specified date; providing
22 applicability; providing construction; authorizing the
23 department to convene and lead one or more technical
24 advisory groups; providing that potable reuse is an
25 alternative water supply and that projects relating to

26 such reuse are eligible for alternative water supply
27 funding; requiring the department and the water
28 management districts to develop and execute, by a
29 specified date, a memorandum of agreement for the
30 coordinated review of specified permits; providing
31 that potable reuse projects are eligible for certain
32 expedited permitting and priority funding; providing
33 construction; creating s. 403.892, F.S.; defining
34 terms; requiring counties, municipalities, and special
35 districts to authorize graywater technologies under
36 certain circumstances and to provide incentives for
37 the implementation of such technologies; providing
38 requirements for the use of graywater technologies;
39 providing that the installation of residential
40 graywater systems meets certain public utility water
41 conservation measure requirements; providing for the
42 applicability of specified reclaimed water aquifer
43 storage and recovery well requirements; providing a
44 declaration of important state interest; providing an
45 effective date.

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

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49 Section 1. Present subsection (17) of section 403.064,
50 Florida Statutes, is redesignated as subsection (18) and

51 amended, and a new subsection (17) is added to that section, to
52 read:

53 403.064 Reuse of reclaimed water.—

54 (17) By November 1, 2021, domestic wastewater utilities
55 that dispose of effluent, reclaimed water, or reuse water by
56 surface water discharge shall submit to the department for
57 review and approval a plan for eliminating nonbeneficial surface
58 water discharge within 5 years, subject to the requirements of
59 this section. The plan must include the average gallons per day
60 of effluent, reclaimed water, or reuse water which will no
61 longer be discharged into surface waters and the date of such
62 elimination; the average gallons per day of surface water
63 discharge which will continue in accordance with the
64 alternatives provided for in subparagraphs (a)2. and 3., or, if
65 applicable to the utility, under paragraph (b); and the level of
66 treatment which the effluent, reclaimed water, or reuse water
67 will receive before being discharged into a surface water by
68 each alternative.

69 (a) The department shall approve a plan that includes all
70 of the information required under this subsection as meeting the
71 requirements of this section if one or more of the following
72 conditions are met:

73 1. The plan will result in eliminating the surface water
74 discharge.

75 2. The plan will result in meeting the requirements of s.

76 | 403.086(10).

77 | 3. The plan does not provide for a complete elimination of
78 | the surface water discharge but does provide an affirmative
79 | demonstration that any of the following conditions apply to the
80 | remaining discharge:

81 | a. The discharge is associated with an indirect potable
82 | reuse project;

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

85 | c. The discharge is into a stormwater management system
86 | and is subsequently withdrawn by a user for irrigation purposes;

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

92 | e. The discharge provides direct ecological or public
93 | water supply benefits, such as rehydrating wetlands or
94 | implementing the requirements of minimum flows and minimum water
95 | levels or recovery or prevention strategies for a waterbody.

96 | (b) The department shall also approve a plan if a utility
97 | demonstrates that it is technically, economically, or
98 | environmentally infeasible for the utility to meet any of the
99 | conditions provided in paragraph (a) for the discharge within 5
100 | years after submitting the plan to the department; that

101 implementing such alternatives would create a severe undue
102 economic hardship on the community served by the utility, as
103 demonstrated by the impact to utility ratepayers, a lack of a
104 reasonable return on investment, and the unaffordability of
105 implementing any combination of the alternatives; and that the
106 plan provides a means to eliminate the discharge to the extent
107 feasible.

108 (c) The department shall approve or deny a plan within 9
109 months after receiving the plan and, if a plan is approved, must
110 incorporate it in the utility's operating permit issued under s.
111 403.087. Any applicable environmental and public health
112 protection requirements provided by law or department rule
113 governing the implementation of the plan must also be
114 incorporated into the permit. A utility may modify the plan by
115 amendment to the permit; however, the plan may not be modified
116 such that the requirements of this subsection are not met, and
117 the department may not extend the time within which a plan will
118 be implemented.

119 (d) Upon approval of a plan by the department, a utility
120 shall fully implement the approved plan by January 1, 2028;
121 however, if the utility proposes to implement a potable reuse
122 project, provided that the utility has implemented all other
123 components of the plan, the utility has until January 1, 2030,
124 to implement the potable reuse project component of the plan.

125 (e) If a plan is not timely submitted by a utility or

126 approved by the department, the utility's domestic wastewater
127 treatment facilities may not dispose of effluent, reclaimed
128 water, or reuse water by surface water discharge after January
129 1, 2028. A violation of this paragraph is subject to
130 administrative and civil penalties pursuant to ss. 403.121,
131 403.131, and 403.141.

132 (f) A utility that has had a plan approved by the
133 department pursuant to paragraph (b) shall update the plan
134 annually until the utility is able to meet one or more of the
135 conditions provided in paragraph (a). The updated annual plan
136 must affirmatively demonstrate that the utility continues to be
137 unable to meet any of the conditions provided in paragraph (a)
138 because it is infeasible to do so and a severe undue economic
139 hardship still exists as provided in paragraph (b). The
140 department shall review the updated plans to verify that the
141 utility is unable to meet any of the conditions provided in
142 paragraph (a) and that the utility continues to meet the
143 conditions of paragraph (b). If the department determines that
144 the utility is able to meet any of the conditions and the
145 utility is no longer eligible for approval under paragraph (b),
146 the utility must submit a plan in accordance with paragraph (a)
147 within 9 months after receiving notice of such a determination
148 from the department, and the utility must fully implement such
149 plan within 5 years after receiving an approval by the
150 department.

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

157 (h) By December 31, 2021, and annually thereafter, the
158 department shall submit a report to the President of the Senate
159 and the Speaker of the House of Representatives which provides
160 the average gallons per day of effluent, reclaimed water, or
161 reuse water which will no longer be discharged into surface
162 waters by the utility and the dates of such elimination; the
163 average gallons per day of surface water discharges which will
164 continue in accordance with the alternatives provided in
165 subparagraphs (a)2. and 3., and the level of treatment which the
166 effluent, reclaimed water, or reuse water will receive before
167 being discharged into a surface water by each alternative and
168 utility; the average gallons per day of effluent, reclaimed
169 water, or reuse water which is proposed to continue to be
170 discharged under paragraph (b) and the level of treatment which
171 the effluent, reclaimed water, or reuse water will receive
172 before being discharged into a surface water by the utility; and
173 any modified or new plans submitted by a utility since the last
174 report.

175 (i) This subsection does not apply to any of the

176 following:

177 1. A domestic wastewater treatment facility that is
178 located in a fiscally constrained county as described in s.
179 218.67(1).

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

183 3. A domestic wastewater treatment facility that is
184 located in a municipality that has less than \$10 million in
185 total revenue, as determined by the municipality's most recent
186 annual financial report submitted to the Department of Financial
187 Services in accordance with s. 218.32.

188 (j) This subsection does not prohibit the inclusion of a
189 plan for backup discharges pursuant to s. 403.086(8) (a).

190 (k) This subsection may not be deemed to exempt a utility
191 from requirements that prohibit the causing of or contributing
192 to violations of water quality standards in surface waters,
193 including groundwater discharges that affect water quality in
194 surface waters.

195 (18) (a) ~~(17)~~ By December 31, 2020, the department shall
196 initiate rule revisions based on the recommendations of the
197 Potable Reuse Commission's 2020 report "Advancing Potable Reuse
198 in Florida: Framework for the Implementation of Potable Reuse in
199 Florida." Rules for potable reuse projects must address
200 contaminants of emerging concern and meet or exceed federal and

201 state drinking water quality standards and other applicable
202 water quality standards. Reclaimed water is deemed a water
203 source for public water supply systems.

204 (b) The Legislature recognizes that sufficient water
205 supply is imperative to the future of this state and that
206 potable reuse is a source of water which may assist in meeting
207 future demand for water supply.

208 (c) The department may convene and lead one or more
209 technical advisory groups to coordinate the rulemaking and
210 review of rules for potable reuse as required under this
211 section. The technical advisory group, which shall assist in the
212 development of such rules, must be composed of knowledgeable
213 representatives of a broad group of interested stakeholders,
214 including, but not limited to, representatives from the water
215 management districts, the wastewater utility industry, the water
216 utility industry, the environmental community, the business
217 community, the public health community, the agricultural
218 community, and the consumers.

219 (d) Potable reuse is an alternative water supply as
220 defined in s. 373.019, and potable reuse projects are eligible
221 for alternative water supply funding. The use of potable reuse
222 water may not be excluded from regional water supply planning
223 under s. 373.709.

224 (e) The department and the water management districts
225 shall develop and execute, by December 31, 2023, a memorandum of

226 agreement providing for the procedural requirements of a
227 coordinated review of all permits associated with the
228 construction and operation of an indirect potable reuse project.
229 The memorandum of agreement must provide that the coordinated
230 review will occur only if requested by a permittee. The purpose
231 of the coordinated review is to share information, avoid the
232 redundancy of information requested from the permittee, and
233 ensure consistency in the permit for the protection of the
234 public health and the environment.

235 (f) To encourage investment in the development of potable
236 reuse projects by private entities, a potable reuse project
237 developed as a qualifying project pursuant to s. 255.065 is:

238 1. Beginning January 1, 2026, eligible for expedited
239 permitting under s. 403.973.

240 2. Consistent with s. 373.707, eligible for priority
241 funding in the same manner as other alternative water supply
242 projects from the Drinking Water State Revolving Fund, under the
243 Water Protection and Sustainability Program, and for water
244 management district cooperative funding.

245 (g) This subsection is not intended and may not be
246 construed to supersede s. 373.250(3).

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

249 403.892 Incentives for the use of graywater technologies.—

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

251 (a) "Developer" has the same meaning as in s. 380.031(2).

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

253 381.0065(2)(e).

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

256 (a) Authorize the use of residential graywater
257 technologies in their respective jurisdictions which meet the
258 requirements of this section, the Florida Building Code, and
259 applicable requirements of the Florida Department of Health and
260 have received all applicable regulatory permits or
261 authorizations; and

262 (b) Provide density or intensity bonuses to the developer
263 or homebuilder to fully offset the capital costs of the
264 technology and installation costs.

265 (3) To qualify for the incentives, the developer or
266 homebuilder must certify to the applicable government entity as
267 part of its application for development approval or amendment of
268 a development order that all of the following conditions are
269 met:

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

274 (b) Each single-family residential home or residence will
275 have its own residential graywater system that is dedicated for

276 its use.

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

287 (d) The required maintenance of the graywater system will
288 be the responsibility of the residential homeowner or
289 manufacturer.

290 (e) An operation and maintenance manual for the graywater
291 system will be supplied to the initial homeowner of each home.
292 The manual shall provide a method of contacting the installer or
293 manufacturer and shall include directions to the residential
294 homeowner that the manual shall remain with the residence
295 throughout the life cycle of the system.

296 (4) If the requirements of subsection (3) have been met,
297 the county or municipality must include the incentives provided
298 for in subsection (2) when it approves the development or
299 amendment of a development order. The approval must also provide
300 for the process that the developer or homebuilder will follow to

301 verify that such systems have been purchased. Proof of purchase
302 must be provided within 180 days from the issuance of a
303 certificate of occupancy for single-family residential homes
304 that are either detached or multifamily projects under five
305 stories.

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

314 Section 3. To further promote the reuse of reclaimed water
315 for irrigation purposes, the rules that apply when reclaimed
316 water is injected into a receiving groundwater that has 1,000 to
317 3,000 mg/L total dissolved solids are applicable to reclaimed
318 water aquifer storage and recovery wells injecting into a
319 receiving groundwater of less than 1,000 mg/L total dissolved
320 solids if the applicant demonstrates that it is injecting into a
321 confined aquifer, that there are no potable water supply wells
322 within 3,500 feet of the aquifer storage and recovery wells, and
323 that it has implemented institutional controls to prevent the
324 future construction of potable water supply wells within 3,500
325 feet of the aquifer storage and recovery wells. This section may

326 | not be construed to exempt the reclaimed water aquifer storage
327 | and recovery wells from requirements that prohibit the causing
328 | of or contribution to violations of water quality standards in
329 | surface waters, including groundwater discharges that flow by
330 | interflow and affect water quality in surface waters.

331 | Section 4. The Legislature determines and declares that
332 | this act fulfills an important state interest.

333 | Section 5. This act shall take effect upon becoming a law.