

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 plans for eliminating
5 nonbeneficial surface water discharges to the
6 Department of Environmental Protection and to
7 implement such plans by specified dates; providing
8 plan requirements; requiring the department to approve
9 plans that meet certain requirements and to make
10 determinations regarding such plans within a specified
11 timeframe; requiring certain domestic wastewater
12 utilities to submit updated annual plans until certain
13 conditions are met; requiring the department to submit
14 an annual report to the Legislature by a specified
15 date; providing applicability; providing construction;
16 creating s. 403.8531, F.S.; providing legislative
17 intent; providing definitions; requiring the
18 Department of Environmental Protection to adopt
19 specified rules; requiring the department and the
20 water management districts to develop and execute, by
21 a specified date, a memorandum of agreement for the
22 coordinated review of specified permits; providing
23 that potable reuse projects by private entities are
24 eligible for certain expedited permitting and funding
25 priorities; providing construction; creating s.

26 | 403.892; providing definitions; requiring counties,
 27 | municipalities, and special districts to authorize
 28 | graywater technologies under certain circumstances and
 29 | to provide incentives for the implementation of such
 30 | technologies; providing requirements for such
 31 | incentives; requiring the department to convene at
 32 | least one technical advisory group for specified
 33 | purposes; providing for the composition of the
 34 | technical advisory group; requiring the department to
 35 | review reclaimed water, potable reuse, drinking water,
 36 | and aquifer recharge rules and revise such rules as
 37 | necessary; providing applicability of specified
 38 | reclaimed water aquifer storage and recovery system
 39 | requirements; providing a directive to the Division of
 40 | Law Revision; providing a declaration of important
 41 | state interest; providing an effective date.

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

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

47 | 403.064 Reuse of reclaimed water.—

48 | (17) Within 1 year after the effective date of the
 49 | department rules addressing potable reuse required by s.
 50 | 403.8531 or by July 1, 2023, whichever is earlier, each domestic

51 wastewater utility that disposes of effluent, reclaimed water,
52 or reuse water by surface water discharge shall submit to the
53 department a plan for eliminating nonbeneficial surface water
54 discharges within 5 years, except as otherwise provided in this
55 subsection. Each plan must be reviewed by the department and, if
56 approved, must be incorporated into the utility's operating
57 permit issued under s. 403.087.

58 (a) The plan must include:

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

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

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

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

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

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

79 3. The plan does not completely eliminate surface water
 80 discharges, but provides an affirmative demonstration that:

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

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

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

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

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

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

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

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

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

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

114 (e)1. If the department approves a utility's plan, the
115 utility shall fully implement the approved plan by January 1,
116 2027. If a plan is not timely submitted by a utility or approved
117 by the department, the utility's domestic wastewater treatment
118 facilities may not dispose of effluent, reclaimed water, or
119 reuse water by surface water discharge after January 1, 2027.

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

124 (f) A utility that has had a plan approved by the
125 department under paragraph (c) shall prepare and submit to the
126 department an updated plan within 1 year after approval, and
127 annually thereafter until the utility is able to meet one or
128 more of the conditions provided in paragraph (b). The updated
129 annual plan must affirmatively demonstrate that the utility is
130 unable to meet any of the conditions provided in paragraph (b).
131 The department shall review the updated plans to verify that the
132 utility is unable to meet any of the conditions provided in
133 paragraph (b) and that the utility continues to meet the
134 conditions of paragraph (c). If the department determines that
135 the utility is able to meet any of the conditions provided in
136 paragraph (b) and the utility is no longer eligible for approval
137 under paragraph (c), the utility must submit a plan in
138 accordance with paragraph (b) within 9 months after receiving
139 notice of such a determination from the department, and the
140 utility must fully implement such plan within 5 years after
141 receiving approval by the department.

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

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

154 (i) This subsection does not apply to:

155 1. A domestic wastewater treatment facility that is
156 located in a fiscally constrained county as described in s.
157 218.67(1).

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

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

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

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

171 403.8531 Potable reuse.—

172 (1) LEGISLATIVE INTENT.—Recognizing that sufficient water

173 supply is imperative to the future of the state, it is the
174 intent of the Legislature that potable reuse be used as a source
175 of water that may assist in meeting future water supply demands.
176 Further, the Legislature supports the use of reclaimed water for
177 potable reuse purposes so long as such use occurs in a manner
178 that protects the public health and environment.

179 (2) DEFINITIONS.—As used in this section, the term:

180 (a) "Advanced treated reclaimed water" means the water
181 produced from an advanced water treatment process for potable
182 reuse applications.

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

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

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

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

197 (f) "Off-spec reclaimed water" means reclaimed water that

198 does not meet the standards for potable reuse.

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

202 (h) "Reclaimed water" has the same meaning as in s.
203 373.019.

204 (3) RULEMAKING.—The department shall initiate rulemaking
205 by December 31, 2020, to adopt rules to create and implement a
206 potable reuse program. Such rules may not take effect until
207 ratified by the Legislature. The rules shall:

208 (a) Implement the recommendations in the Potable Reuse
209 Commission's 2020 report entitled "Advancing Potable Reuse in
210 Florida: Framework for the Implementation of Potable Reuse in
211 Florida."

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

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

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

222 (e) Create a public water supply permit application that

223 authorizes potable reuse. The permit shall:

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

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

231 3. Require a public water supplier to provide a level of
232 treatment or proposed approach to achieving log reduction
233 targets based on source water characterization that is
234 sufficient for a pathogen risk of infection which meets the
235 national drinking water criteria of less than 1 x 10⁻⁴ annually.

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

241 1. Be technically and economically feasible;

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

246 3. Be authorized for pathogen removal or reduction.

247 (g) Require appropriate monitoring to evaluate advanced

248 treatment technology performance, including the monitoring of
249 surrogate parameters and controls. Such monitoring may, as
250 determined by the department, occur before or after the advanced
251 treatment process, or both before and after, as appropriate.

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

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

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

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

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

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

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

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

295 (4) MEMORANDUM OF AGREEMENT.—By December 31, 2022, the
296 department and the water management districts shall develop and
297 execute a memorandum of agreement providing for the procedural

298 requirements of a coordinated review of all permits associated
299 with the construction and operation of an indirect potable reuse
300 project. The memorandum of agreement must provide that the
301 coordinated review will occur only if requested by a permittee.

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

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

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

313 (6) CONSTRUCTION.—This section does not, and may not be
314 construed to, supersede s. 373.250(3).

315 Section 3. Section 403.892, Florida Statutes, is created
316 to read:

317 403.892 Incentives for the use of graywater technologies.—

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

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

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

321 381.0065(2)(e).

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

324 (a) Authorize the use of residential graywater
325 technologies in their respective jurisdictions that meet the
326 requirements of this section, the Florida Building Code, and
327 applicable requirements of the Department of Health and that
328 have received all applicable regulatory permits or
329 authorizations.

330 (b) Provide density or intensity bonuses to the developer
331 or homebuilder to fully offset the capital costs of the
332 technology and installation costs. If density or intensity
333 bonuses have already been provided to the developer or
334 homebuilder, then more air-conditioned, living floor space of
335 residential homes shall be provided to fully offset the capital
336 costs of the technology and installation costs.

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

341 (a) The proposed development has at least 25 single-family
342 residential homes that are detached or multifamily dwellings.
343 This section does not apply to multifamily projects more than 5
344 stories in height.

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

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

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

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

366 (4) If the requirements of subsection (3) have been met,
367 the county, municipality, or special district shall include the
368 incentives provided in subsection (2) when it approves the
369 development or amendment of a development order. The approval
370 must also provide the process the developer or homebuilder must
371 follow to verify that such systems have been purchased. Proof of

372 purchase must be provided within 180 days after the issuance of
373 a certificate of occupancy for such single-family residential
374 home that is detached or less than 5 stories in height.

375 (5) The installation of residential graywater systems in a
376 county, municipality, or special district pursuant to this
377 section qualifies as a water conservation measure in a public
378 water utility's water conservation plan under s. 373.227. The
379 efficiency of such measure, as projected in paragraph (3) (c),
380 must be commensurate with the amount of potable water savings
381 estimated for each system provided by the developer or
382 homebuilder pursuant to paragraph (3) (c).

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

394 (2) In implementing s. 403.8531, Florida Statutes, the
395 Department of Environmental Protection, in coordination with the
396 technical advisory groups, shall:

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

402 (b) Revise the definition of the term "indirect potable
403 reuse" provided in chapter 62-610, Florida Administrative Code,
404 to match the definition provided in s. 403.8531, Florida
405 Statutes.

406 (c) Revise existing drinking water rules to include
407 reclaimed water as a source water for the public water supply
408 and require such treatment of the water as is necessary to meet
409 existing drinking water rules, including rules for pathogens.

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

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

417 Section 5. To further promote the reuse of reclaimed water
418 for irrigation purposes, the rules that apply when reclaimed
419 water is injected into a receiving groundwater that has 1,000 to
420 3,000 mg/L total dissolved solids are applicable to reclaimed
421 water aquifer storage and recovery wells injecting into a

422 receiving groundwater of less than 1,000 mg/L total dissolved
423 solids if the applicant demonstrates that it is injecting into a
424 confined aquifer, that there are no public supply wells within
425 3,500 feet of the aquifer storage and recovery wells, and that
426 it has implemented institutional controls to prevent the future
427 construction of public supply wells within 3,500 feet of the
428 aquifer storage and recovery wells. This section does not exempt
429 the reclaimed water aquifer storage and recovery wells from
430 requirements that prohibit causing or contributing to violations
431 of water quality standards in surface water, including
432 groundwater discharges that flow by interflow and affect water
433 quality in surface water.

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

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

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