

1 A bill to be entitled
2 An act relating to recycled water; creating s.
3 403.8531, F.S.; providing legislative findings and
4 intent; providing definitions; providing that recycled
5 water is a water source for public water supply
6 systems; specifying the point of compliance with
7 drinking water standards for water recycling projects;
8 prohibiting water management districts from requiring
9 certain permits for raw water augmentation; providing
10 an exception; providing specified surface water
11 quality protections for water recycling projects;
12 providing that groundwater augmentation, raw water
13 augmentation, and surface water augmentation are
14 alternative water supplies and that projects relating
15 to such augmentation are eligible for alternative
16 water supply funding; prohibiting the exclusion of
17 recycled water use from specified regional water
18 supply planning; directing the Department of
19 Environmental Protection, in coordination with
20 technical working groups, to adopt specified rules;
21 directing the department to review and revise potable
22 reuse and aquifer recharge regulations; specifying
23 requirements for technical working groups to be
24 convened by the department; directing the department
25 and the water management districts to develop and

26 execute, by a date certain, a memorandum of agreement
27 for the coordinated review of specified permits;
28 directing the department to initiate rulemaking by a
29 date certain; requiring legislative ratification of
30 the rules; providing that water recycling projects by
31 private entities are eligible for certain expedited
32 permitting and tax credits; providing for the creation
33 of a working group by the Potable Reuse Commission;
34 providing duties of the department with regard to the
35 working group; requiring the working group to develop
36 consensus on specified policies to facilitate
37 development of water recycling projects; requiring the
38 working group to submit recommendations to the
39 Legislature by a date certain; amending s. 403.064,
40 F.S.; prohibiting domestic wastewater treatment
41 facilities from disposing of effluent, reclaimed
42 water, or reuse water by surface water discharge;
43 providing exceptions; providing an effective date.

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

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

49 403.8531 Water recycling for public water supply.-

50 (1) (a) The Legislature finds that:

51 1. Historically, the Floridan Aquifer system has supplied
52 the vast majority of the water in the state.

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

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

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

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

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

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

75 1. Protect the public health and environment, and where

76 possible, achieve public health and environmental protection
77 through existing regulatory programs.

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

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

82 4. Build upon the guiding principles and goals set forth
83 in the Potable Reuse Commission's 2019 report "Advancing Potable
84 Reuse in Florida: Framework for the Implementation of Potable
85 Reuse in Florida".

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

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

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

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

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

100 (2) As used in this section, the term:

101 (a) "Appropriate treatment technology" means the treatment
102 technology selected by a public water supplier to address
103 emerging constituents and pathogens in reclaimed water as part
104 of a water recycling project.

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

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

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

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

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

125 (g) "Water recycling project" means the deliberate

126 application of recycled water, in compliance with department and
127 water management district rules for public water supply
128 purposes, and consists of groundwater augmentation, raw water
129 augmentation, and surface water augmentation.

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

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

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

140 (6) To ensure that groundwater augmentation and surface
141 water augmentation projects do not cause harm to the state's
142 aquifer and surface waters, including springs, existing surface
143 water quality protections that prohibit projects from causing or
144 contributing to violations of water quality standards in surface
145 waters apply to water recycling projects. In addition, when
146 recycled water is released or discharged into groundwater or
147 surface waters, consideration of emerging constituents may be
148 required due to existing regulatory requirements such as
149 antidegradation and discharge standards, as well as impacts to
150 other users of such groundwater or surface water.

151 (7) Groundwater augmentation, raw water augmentation, and
152 surface water augmentation are alternative water supplies as
153 defined in s. 373.019 and projects associated with water
154 recycling are eligible for alternative water supply funding. The
155 use of recycled water may not be excluded from regional water
156 supply planning under s. 373.709.

157 (8) The department shall adopt, in coordination with one
158 or more technical working groups pursuant to subsection (11),
159 rules for the implementation of water recycling projects that:

160 (a) Revise existing potable reuse specific regulations for
161 indirect potable reuse to provide for raw water augmentation,
162 groundwater augmentation, and surface water augmentation.

163 (b) Revise existing drinking water regulations to include
164 recycled water as a raw water source for public water supply.

165 (c) Revise existing drinking water regulations to require
166 treatment for pathogens as necessary to meet drinking water
167 requirements for raw water augmentation, groundwater
168 augmentation, and surface water augmentation. The regulations
169 must require the assessment of Cryptosporidium and Giardia virus
170 concentrations in the source water and the implementation of a
171 log reduction credit system using the appropriate treatment
172 technology, and must require a public water supplier to provide
173 an approach for meeting the required pathogen treatment
174 requirements in an engineering report as part of its public
175 water supply permit application. To ensure protection of the

176 public health, a public water supplier shall provide a
177 department-specified level of treatment or propose an approach
178 to achieving the log reduction targets based on source water
179 characterization sufficient for a pathogen risk of infection
180 that meets the national drinking water criteria of less than 1 x
181 10⁻⁴ annually.

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

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

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

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

199 4. Require that recycled water used for raw water
200 augmentation be included as part of a public water supplier's

201 source water characterization. The source water characterization
202 must consider the nature and level of emerging constituents in
203 the recycled water and the extent that other water is mixed with
204 the recycled water and potentially reducing the concentrations
205 of the emerging constituents, and, if the source water
206 characterization indicates the presence of emerging constituents
207 at levels of public health interest, appropriate treatment
208 technology to address those emerging constituents must be used,
209 with the level of treatment and surrogate monitoring for the
210 emerging constituents directing the appropriate treatment
211 technology.

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

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

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

224 c. Notify the department if elevated levels of the
225 approved monitoring plan's representative emerging constituents

226 are detected and investigate the source and cause of the
227 elevated level of the representative emerging constituents. If
228 the cause of the elevated level of the representative emerging
229 constituent is identified, the public water supplier must
230 develop a plan to address the cause and submit the plan to the
231 department for approval.

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

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

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

250 (f) Provide off-specification recycled water regulations

251 for water recycling projects that require disposal, temporary
252 storage, alternative nonpotable reuse, or retreatment of off-
253 specification recycled water based on operating protocols
254 established by the public water supplier and approved by the
255 department and that the recycled water quality meets applicable
256 regulatory requirements.

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

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

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

270 (10) The Legislature recognizes that there are other uses
271 of recycled water besides public water supply, including, but
272 not limited to, aquifer recharge. The department shall review,
273 and, if revisions are identified, revise the current aquifer
274 recharge regulations not related to public water supply pursuant
275 to subsection (8), to ensure continued protection of the public

276 health and environment when recycled water is used for aquifer
277 recharge.

278 (11) The department shall convene and lead one or more
279 technical advisory committees to coordinate all rule review and
280 rulemaking required by this section. The technical advisory
281 committees shall consist of knowledgeable and interested
282 stakeholders that represent a broad group of interests to assist
283 in the development of these regulations, including, but not
284 limited to, representatives from the water management districts,
285 the wastewater utility industry, the water utility industry, the
286 environmental community, the business community, the health
287 community, the general public, and the agricultural community.

288 (12) The department and the water management districts
289 shall develop and execute a memorandum of agreement providing
290 for the procedural requirements of a coordinated review of any
291 permits associated with a groundwater augmentation and surface
292 water augmentation project. The memorandum of agreement must
293 provide that the coordinated review will occur only if requested
294 by a permittee to avoid an overly burdensome process for minor
295 permit changes. The goal of the coordinated review is to share
296 information, to avoid the redundancy of information requested
297 from the permittee, and to ensure consistency in the permit for
298 the protection of the public health and environment. The
299 department and the water management districts shall develop and
300 execute the memorandum of agreement by December 31, 2022.

301 (13) The department shall initiate rulemaking for
302 subsections (8), (9), and (10) by December 31, 2020. The
303 department shall submit the rules to the President of the Senate
304 and Speaker of the House of Representatives by December 12,
305 2022. The rules are only effective upon ratification by the
306 Legislature.

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

311 (a) Eligible for expedited permitting under s. 403.973.

312 (b) Granted an annual credit against the tax imposed by
313 chapter 220 in an amount equal to 5 percent of the eligible
314 capital costs generated by a qualifying project for a period not
315 to exceed 20 years after that date project operations begin. The
316 tax credit shall be granted against only the corporate income
317 tax liability or the premium tax liability generated by or
318 arising out of the qualifying project, and the sum of all tax
319 credits provided pursuant to this section may not exceed 100
320 percent of the eligible capital costs as defined in s.
321 220.191(1)(c). Any credit granted pursuant to this paragraph may
322 not be carried forward or backward with respect to a subsequent
323 or previous year.

324 Section 2. (1) An examination of existing consumptive use
325 permitting regulations and rules was performed by the Potable

326 Reuse Commission, a diverse-related stakeholder commission for
327 recycled water for public water supply implementation, to
328 determine further protection of utility investments while also
329 preserving the tenets of state water regulations. Through this
330 examination, the commission determined that existing rules and
331 regulations required revision in two areas and that two areas
332 warranted further investigation.

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

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

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

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

348 3. Additional consumptive use permitting incentives that
349 would facilitate the development of recycled water for public
350 water supply projects.

351 4. Leveraging water management district cost-share funding
352 programs to facilitate development of water recycling projects.

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

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

359 403.064 Reuse of reclaimed water.—

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

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

373 (b) This subsection applies only to domestic wastewater
374 treatment facilities located within, serving a population
375 located within, or discharging within a water resource caution

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376 area.

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378 Notwithstanding this subsection, beginning January 1, 2026,
379 domestic wastewater treatment facilities are prohibited from
380 disposing of effluent, reclaimed water, or reuse water by
381 surface water discharge, except that this prohibition does not
382 apply to surface water augmentation projects permitted in
383 accordance with s. 403.8531; domestic wastewater treatment
384 facility wet weather discharges that occur in accordance with
385 the applicable department permit; domestic wastewater treatment
386 facilities located in fiscally constrained counties as defined
387 in s. 218.67(1); or domestic wastewater treatment facilities
388 located in municipalities that are entirely within a rural area
389 of opportunity as designated pursuant to s. 288.0656.

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