

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: February 26, 2008 Consent [] Regular [X]
Public Hearing []

Submitted By: Water Utilities Department
Submitted For: Water Utilities Department

I. EXECUTIVE BRIEF

Motion and title: Staff recommends motion to approve: adding proposed reclaimed water legislation to Palm Beach County, Board of County Commissioners FY 2008 State Legislative Program as a Legislative Priority.

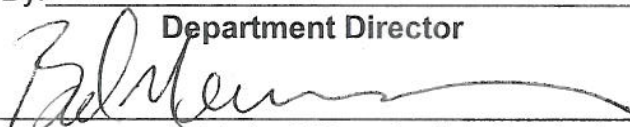
Summary: The proposed legislation provides, that reclaimed water is the preferred water source for non-potable water uses where it is economically, technically, and environmentally feasible. This legislation is a response to problems reclaimed water providers have had finding customers, especially in regions of the state where water management districts issue water use permits for raw water when reclaimed water is available to non-potable uses. The legislation defines reuse of reclaimed water; authorizes the designation of mandatory reclaimed water zones and directs water management districts to require the use of reclaimed water outside of mandatory reclaimed water zones. It also requires that economic feasibility of reclaimed water be measured against the cost of potable water for an equivalent use; directs that water management districts shall not approve a permit for non-potable water use within a mandatory reclaimed water zone unless an applicant proves reclaimed water is not available; requires water management districts to create a rule by January 1, 2009 to assign reclaim water offsets available to reclaimed water providers; and authorizes water management districts to allow supplementation of reclaimed water with surface water, groundwater or storm water. Countywide (MJ)

Background and Justification: During the drought of 2007, Palm Beach County Water Utilities (PBCWUD) was unable to provide reclaimed water to residential developments that requested it due to the lack of infrastructure to meet the demand. In addition, where infrastructure was available to meet the demand, the South Florida Water Management District (SFWMD) chose to issue Consumptive Use Permits (CUP) rather than to require the use of reclaimed water when infrastructure was readily available. Furthermore, Palm Beach County has made significant strides to reduce per capita water consumption beyond that which was required in the County's CUP, at considerable customer expense, without the provision of offset credits for that investment. PBCWUD strongly believes that for alternative water supplies to be successfully addressed by utilities, there needs to be incorporated into the District's enabling legislation, incentives to encourage utilities to make the investment into alternative water supplies like reclaimed water. It has been expressed to the County by the Florida Department of Environmental Protection that this concept has merit for legislative consideration.

Attachments:

- 1. "Proposed Reclaimed Water Legislation"

Recommended By:  2/21/08
Department Director Date

Approved By: 
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match County	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Budget Account No.: Fund Agency Org. Rev Source

Is Item Included in Current Budget? Yes No

Reporting Category N/A

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Department Fiscal Review: Debra M West

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

Jim Omb 2-22-08
 OFMB
 (WD) 1M
 2/22/08 02/22/08
 01/27

Dr. J. Jacoby 2/22/08
 Contract and Development Control

B. Legal Sufficiency:

WLL 2/25/08
 Assistant County Attorney

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.

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2008 PROPOSED LEGISLATION

1 A bill to be entitled
2 An act relating to reclaimed water
3 development; amending s. 373.250, F.S.;
4 providing for establishment of mandatory
5 reclaimed water zones; providing for
6 establishment of reclaimed water credits
7 for reclaimed water providers; providing
8 an effective date.

9 Be It Enacted by the Legislature of the State of Florida:
10 Section 1. Section 373.250, Florida Statutes, is amended to
11 read:

12 373.250 Reuse of reclaimed water.--

13 (1) The encouragement and promotion of water conservation and
14 reuse of reclaimed water, as defined by the department, are state
15 objectives and considered to be in the public interest. The
16 Legislature finds that the use of reclaimed water provided by
17 domestic wastewater treatment plants permitted and operated under a
18 reuse program approved by the department is environmentally
19 acceptable and not a threat to public health and safety.

20 (2)(a) For purposes of this section, "uncommitted" means the
21 average amount of reclaimed water produced during the three lowest-
22 flow months minus the amount of reclaimed water that a reclaimed
23 water provider is contractually obligated to provide to a customer
24 or user.

25 (b) For purposes of this section, "reuse of reclaimed water"
26 includes, but is not limited to, irrigation use, commercial use,
27 industrial use, recreational use, electrical generation use, mining
28 and extractive use, and environmental use.

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1 ~~(b)~~(c) Reclaimed water ~~may~~ shall be presumed available to a
2 consumptive use permit applicant when a utility exists which
3 provides reclaimed water, which has uncommitted reclaimed water
4 capacity, and which has distribution facilities, which ~~are initially~~
5 provided can be extended to the property of the permit applicant by
6 the utility at its cost., ~~to the site of the affected applicant's~~
7 ~~proposed use.~~

8 ~~(e)~~(d) A water management district ~~may~~ shall require the use
9 of reclaimed water ~~in lieu of surface water or groundwater~~ when the
10 use of uncommitted reclaimed water is environmentally, economically,
11 and technically feasible and of such quality and reliability as is
12 necessary to the user. However, this paragraph does not authorize a
13 water management district to require a provider of reclaimed water
14 to redirect reclaimed water from one user to another or to provide
15 uncommitted reclaimed water to a specific water user or class of
16 water user. ~~if such water is anticipated to be used by the provider,~~
17 ~~or a different user selected by the provider, within a reasonable~~
18 ~~amount of time.~~

19 (e) Use of reclaimed water shall be presumed economically
20 feasible ,if reclaimed water is provided for a charge less than or
21 equal to the customary charge for use of potable water from a
22 central water system for the affected permit applicant's proposed
23 use. If potable water from a central water system is not available
24 for the permit applicant's proposed use, the customary charge for
25 use of potable water for an equivalent use from the closest central
26 water system shall be used to determine the application of this
27 presumption. This paragraph shall not apply to irrigation water for
28 commercial agricultural operations.

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1 (3) The Legislature hereby authorizes the designation of
2 mandatory reclaimed water zones. Use of reclaimed water shall be
3 presumed to be environmentally, economically, and technically
4 feasible for non-potable uses of water located within designated
5 mandatory reclaimed water zones, for which one or more reclaimed
6 water providers have committed to provide reclaimed water.

7 (a) Cities or counties may designate a mandatory reclaimed
8 water zone, either individually or by interlocal agreement pursuant
9 to s. 163.01, where one or more reclaimed water providers have
10 committed to provide reclaimed water to all non-potable water users
11 or to one or more classes of non-potable water users located within
12 the zone.

13 (b) Where a city or county has not designated a mandatory
14 reclaimed water zone, either individually or by interlocal agreement
15 pursuant to s. 163.01, a water management district may designate, by
16 order, a mandatory reclaimed water zone, where one or more reclaimed
17 water providers have committed to provide reclaimed water to all
18 non-potable water users or to one or more classes of non-potable
19 water users located within the zone. A mandatory reclaimed water
20 zone designated pursuant to this paragraph (b) shall remain in
21 effect until rescinded by the water management district or until a
22 mandatory reclaimed water zone is established by a city or a county,
23 either individually or by interlocal agreement pursuant to s.
24 163.01, in all or a portion of the same geographic area.

25 (c) A water management district shall not approve the
26 issuance or modification of a consumptive use permit for a non-
27 potable water use located within a mandatory reclaimed water zone
28 for which one or more reclaimed water providers have committed to
29 provide reclaimed water, unless the permit applicant has provided
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1 written evidence the entity that established the mandatory reclaimed
2 water zone has authorized an exemption from the mandatory reclaimed
3 water zone, or the permit applicant has demonstrated pursuant to
4 paragraph (d) that reclaimed water service has been requested, but
5 reclaimed water is not available.

6 (d) If a permit applicant located within a mandatory
7 reclaimed water zone demonstrates it has requested reclaimed water
8 from the reclaimed water provider, and the reclaimed water provider
9 did not make reclaimed water available within 180 days, a water
10 management district may approve a consumptive use permit without
11 requiring use of reclaimed water.

12 (e) This subsection (3) shall not apply to any new
13 consumptive use permit application, consumptive use permit
14 modification or renewal of an existing consumptive use permit for
15 irrigation water for commercial agricultural operations. This
16 subsection (3) shall also not apply where reclaimed water or
17 seawater is the sole water source for the new or existing non-
18 potable water use.

19 (f) The water management districts, the Department of
20 Environmental Protection, and all other state agencies are
21 prohibited from directly or indirectly making designation of a
22 mandatory reclaimed water zone a condition of any permit, grant,
23 loan, agreement, or other action or approval. However, the water
24 management districts, the Department of Environmental Protection and
25 other state agencies may create incentives to encourage the
26 designation of mandatory reclaimed water zones by cities or
27 counties.

28 (4) In areas of the state where new or increased water
29 withdrawals have been limited by law, including but not limited to
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1 minimum flows and levels established pursuant to ss. 373.042 and
2 373.0421 or water reservations created pursuant s. 373.223, the
3 water management district(s) with jurisdiction over the area shall
4 create a program by rule to assign to the reclaimed water provider
5 any offset created by the substitution of reclaimed water supplied
6 by the provider for existing water withdrawals, which would allow
7 the reclaimed water provider the ability to obtain a consumptive use
8 permit authorizing a new or increased water withdrawal. For
9 existing areas, where new or increased water withdrawals have been
10 limited by law, this rule shall be adopted no later than January 1,
11 2009. For all other areas, the rule shall be adopted no later than
12 one year following the date new or increased water withdrawals are
13 limited by law. In areas located within more than one water
14 management district, the same rule shall be jointly adopted by the
15 affected water management districts by the specified deadline. The
16 Lower East Coast, as defined in the rules of the South Florida Water
17 Management District, shall be considered an area where new or
18 increased water withdrawals have been limited by law and for which
19 this program shall be adopted by rule no later than January 1, 2009.

20 (5) Any rule adopted pursuant to paragraph (4) shall provide
21 for the following:

22 (a) The process to be used to determine how offsets are
23 generated, quantified and validated;

24 (b) The timing and duration of the offset, provided however,
25 the reclaimed water provider shall at a minimum be entitled to the
26 offset as long it continues to supply the reclaimed water that was
27 substituted for the existing water withdrawal;

28 (c) a mechanism that would allow a reclaimed water user to
29 recapture the offset assigned to the reclaimed water provider should
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1 the provider permanently cease to supply reclaimed water to the
2 user; and

3 (d) a procedure to allow reclaimed water providers to
4 collaborate to combine their reclaimed water supplies and to assign
5 all or part of any offset recognized by the water management
6 district to any or all of the collaborating reclaimed water
7 providers.

8 ~~(3)~~(6) The water management district shall, in consultation
9 with the department, adopt rules to implement this section. Such
10 rules shall include, but not be limited to:

11 (a) Provisions to permit use of water from other sources in
12 emergency situations or if reclaimed water becomes unavailable, for
13 the duration of the emergency or the unavailability of reclaimed
14 water. These provisions shall also specify the method for
15 establishing the quantity of water to be set aside for use in
16 emergencies or when reclaimed water becomes unavailable. The amount
17 set aside is subject to periodic review and revision. The
18 methodology shall take into account the risk that reclaimed water
19 may not be available in the future, the risk that other sources may
20 be fully allocated to other uses in the future, the nature of the
21 uses served with reclaimed water, the extent to which the applicant
22 intends to rely upon reclaimed water and the extent of economic harm
23 which may result if other sources are not available to replace the
24 reclaimed water. It is the intent of this paragraph to ensure that
25 users of reclaimed water have the same access to ground or surface
26 water and will otherwise be treated in the same manner as other
27 users of the same class not relying on reclaimed water.

28 (b) Provisions to authorize the supplementation of reclaimed
29 water with surface water, groundwater or stormwater. Such rules
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1 shall recognize that available flows of reclaimed water change
2 seasonally and permitting the supplementation of reclaimed water
3 with other water sources during periods of low flow will extend the
4 reclaimed water supply for greater beneficial reuse. Such rules
5 shall authorize the use of surface water, groundwater or stormwater
6 to supplement reclaimed water supply even in areas of the state
7 where new or increased water withdrawals have otherwise been limited
8 by law.

9 ~~(b)~~(c) A water management district shall not adopt any rule
10 which gives preference to users within any class of use established
11 under s. 373.246 who do not use reclaimed water over users within
12 the same class who use reclaimed water.

13 ~~(4)~~(7) Nothing in this section shall impair a water management
14 district's authority to plan for and regulate consumptive uses of
15 water under this chapter, except that regulation of reclaimed water
16 use by water management districts shall be consistent with the
17 provisions of this section.

18 ~~(5)~~(8) This section applies to new consumptive use permits,
19 modification of existing consumptive use permits and renewals of
20 existing consumptive use permits.

21 Section 2. This act shall take effect upon becoming a
22 law.