

## Peace River Manasota Regional Water Supply Authority Legislative Priorities 2021

Issue	Legislative/ Regulatory	Activity
<b>STATE</b>		
State Water Infrastructure Funding <ul style="list-style-type: none"> <li>• Support State funding for Authority water projects that strengthen resiliency of the regional system.</li> <li>• Support State funding for alternative water supply with priority given to regional projects.</li> <li>• Support funding of State trust funds established in existing statutes.               <ul style="list-style-type: none"> <li>○ Water Protection and Sustainability Program; and</li> <li>○ West-Central Florida Water Restoration Action Plan.</li> </ul> </li> </ul>	Legislative	Submit project application for State funding. Monitor and participate in legislative process
Monitor legislation that may be proposed resulting from the framework developed by the Florida Potable Reuse Commission.	Legislative	Monitor legislative process
Monitor legislation that may revise aquifer storage and recovery requirements and support any legislation that would benefit the Authority's ASR program.	Legislative	Monitor legislative process
Monitor legislation that sets or requires DEP to adopt rules setting maximum PFAS standards and remediation/liability requirements.	Legislative	Monitor legislative process
Monitor legislative ratification of Central Florida Water Initiative rules.	Legislative	Monitor legislative process
Support confirmation of Southwest Florida Water Management District Governing Board Member appointments.	Legislative	Support Senate confirmations
Monitor State Local Efficiency Task Force Committee.	Legislative Committee	Monitor process
Support acquisition by the State and SWFWMD of lands to enhance water management and supply.	Multiple Agencies	Participate in process
Monitor Florida's request to assume Administration of a Clean Water Act Section 404 Program.	Multiple Agencies	Monitor process

Contact Information: Patrick Lehman, Executive Director  
 Peace River Manasota Regional Water Supply Authority  
 9415 Town Center Parkway  
 Lakewood Ranch, FL 34202  
 (941) 316-1776  
 plehman@regionalwater.org

## STATE ISSUES

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***'Through cooperation and collaboration, the Authority and its members shall create, maintain and expand a sustainable, interconnected regional water supply system.'***

### **State Water Infrastructure Funding**

- Water Projects that Strengthen Resiliency of the Regional System

The Authority has successfully constructed a regional water system providing drinking water to Charlotte, DeSoto and Sarasota counties. The regional water system is based on alternative water supply in a water critical area designated as the Southern Water Use Caution Area ("SWUCA") by the Southwest Florida Water Management District ("SWFWMD"). The key to the water system is storage by utilizing off-stream reservoirs to capture a small percentage of seasonal high flows from the Peace River. This yields a reliable drinking water supply for the region while preserving the freshwater flow needed to support Charlotte Harbor estuary downstream. An additional off-stream reservoir at the Peace River Facility is needed to support regional economic growth and ensure that the needs of existing and future users are met. The expansion of the regional transmission system to create interconnectivity is also a key component in regional water resiliency. The Authority will submit a State budget water project funding application for inclusion in the State budget.

- Alternative Water Supply Funding

The State budget for FY 2020-2021 appropriated \$40 million to establish a water resource development grant program to help communities plan for and implement conservation, reuse, and other water supply and water resource development projects. Priority funding will be given to regional projects in the areas of greatest need and for projects that provide the greatest benefit. The Department of Environmental Protection ("DEP") is to identify and research all viable alternative water supply resources and provide an assessment of funding needs critical to supporting Florida's growing economy.

- Funding of Trust Funds

State statute currently establishes trust funds through the Water Protection and Sustainability Program (sections 403.890 and 403.891, Florida Statutes ("F.S.)) and West-Central Florida Water Restoration Action Plan (section 373.0363, F.S.) that provide allocation of state funding through the water management districts. The Authority received funding through these trust funds in the past and supports funding for these trust funds in the State budget.

The Authority supports the allocation of State funds for water infrastructure without creating additional bureaucracy by establishing a state water board or council.

### **Potable Reuse Commission**

The Florida Potable Reuse Commission (“PRC”) is a coalition of a diverse group of water resource, industry, agricultural and health professionals. The purpose of the PRC was to create a consensus driven partnership to develop the framework for the implementation of potable reuse in Florida. The PRC published the ‘Framework of the Implementation of Potable Water Reuse in Florida (January 2020). The framework will help advance potable reuse in Florida by augmenting future water supplies and protecting public health. The framework published by the PRC provide information for elected officials and regulatory agencies on statutory and regulatory needs. Recognition of reclaimed water as a source for potable supply and direction to DEP to initiate rulemaking to implement the PRC recommendations became law in 2020 as part of the Clean Waterways Act. Additional legislation may be proposed during the 2021 Session, which Authority staff will monitor.

### **Aquifer Storage and Recovery (“ASR”)**

The Authority’s ASR system provides an additional 6 billion gallons of storage through its operation of 21 ASR wells, which supplement water supply during the dry season when river withdrawal may be limited. Improvements to the ASR system has the potential to offer considerable cost savings, improve ASR recovery efficiency, and may also provide opportunities to obtain groundwater credits for over-recharging the Floridan Aquifer supporting environmental improvements in SWUCA. Authority staff will monitor legislation to ensure that any proposed legislation does not negatively impact the Authority and will support legislation that may help the Authority achieve desired improvements to its ASR system.

### **Per- and Polyfluoroalkyl Substances (“PFAS”)**

PFAS are a large and complex class of man-made chemicals that have been used in a wide variety of consumer products since the 1940s. These chemicals have been identified as Contaminants of Emerging Concern, which are chemicals that have been recently detected in the environment that may pose public health or ecological risks. In 2016, the U.S. EPA established a lifetime exposure health advisory level of 70 parts per trillion for the combined concentration of perfluorooctanoic acid (“PFOA”) and perfluorooctane sulfonate (“PFOS”) in drinking water. While treatment technology for removing PFAS from water is not well-developed, the more effective methods use technologies that are not conventionally available in existing water treatment plants, so removing these PFAS chemicals from water could require costly investments by local governments and other water suppliers. The U.S. EPA is currently reevaluating its health advisory level for PFAS.

DEP released a Dynamic Plan on July 1, 2020 to provide a coordinated approach to the complex issues associated with PFAS. The Dynamic Plan describes the development of screening and provisional cleanup target levels that are protective of human health and the environmental resources of Florida. It summarizes data and lessons learned from prior and ongoing investigations that will be used to provide for future proactive investigations of potential PFAS contamination of drinking water resources. Future investigations will be based on potential risk of impact and will include a continued coordinated response with the Department of Health to quickly evaluate and address any impacts to drinking water resources.

Legislation could be filed that requires DEP to adopt rules for statewide maximum contaminant levels in soil, groundwater, and drinking water for per- and polyfluoroalkyl substances, with priority given to the establishment of maximum contaminant levels for. In addition, legislation could be filed that sets an arbitrarily low maximum contaminant level. Authority staff will monitor any proposed PFAS legislation to ensure that the Authority is not negatively impacted.

### **Central Florida Water Initiative (“CFWI”) Rules**

CFWI was formed in 2011 to enable the SWFWMD, St. Johns River Water Management District, and South Florida Water Management District, working with utilities and other stakeholders, to develop a unified process to address central Florida’s current and long-term water supply needs, with the CFWI area including Seminole, Orange, Osceola, Polk, and southern Lake Counties. In 2016, the Florida Legislature codified the CFWI by creating section 373.0465, F.S. The creation of a regional water supply plan (“RWSP”), including recovery or prevention strategies and a list of water supply development/water resource projects, and to provide a single hydrologic planning model to assess the availability of groundwater within the CFWI area was mandated. DEP was also required to adopt rules that would apply uniformly within the CFWI area. These rules must include a definition of "harmful to the water resources"; a methodology for calculating and a goal for residential per capita water use; a single permit review process; a consistent process to set minimum flows and levels and water reservations; and an annual conservation goal for each consumptive use permit. The law provided that DEP will adopt the CFWI rules and they will be immediately effective within and applied by the three water management districts without further action.

Based on the draft 2020 CFWI RWSP, water demands or currently permitted allocations will not be met with traditional resources alone without unacceptable environmental impact. Following DEP’s initiation of rulemaking in 2016, there was limited regulatory activity until this this June. The draft rules released this summer contain substantial – and, in some cases, controversial – rules, including a limitation on future withdrawals from the Upper Floridan Aquifer and modification of existing consumptive use permits to restrict withdrawals from the Upper Floridan Aquifer to Demonstrated 2025 Demands once the rules become effective. Uniform conditions for issuance of consumptive use permits are provided and a new variance (waiver) process and the process to set minimum flows and levels (“MFLs”) are created. The applicability of the SWUCA recovery strategy, as required by Florida law, is also included. The Applicant’s Handbook provides substantial requirements needed to be met prior to the issuance of a consumptive use permit. Due to the cost to the regulated industry, the proposed rules may need to be ratified during the 2021 Legislative Session.

Although the Authority is not within the CFWI region, many of the proposed rules may ultimately be adopted statewide. In the past, there have been efforts to make all five water management districts rules consistent. Although the past efforts were successful in bringing some consistency among the water management district consumptive use permitting rules, consensus on the more difficult issues, such as MFLs, the definition of harm, and modeling, was never reached. As a result of CFWI, there will be substantial rule consistency among the three large water management districts in a large portion of the State. There could be a future effort to have all of the water management districts implement the CFWI

rules (with the exception of the rules related to the CFWI specific water resource constraints) throughout the state. Authority staff will monitor legislation to ensure that any proposed legislation does not negatively impact the Authority.

### **Confirmation of Southwest Florida Water Management District Governing Board Members**

Water Management District Governing Board members are appointed by the Governor, subject to confirmation by the Senate at the next regular session of the Legislature. The Authority supports the confirmation of the Governing Board members.

### **Local Government Efficiency Task Force (“Efficiency Task Force”)**

Included within the law that implements the 2020-2021 State Budget was a provision that created the Efficiency Task Force within the Legislature. The Efficiency Task Force is required to review the structure and function of local governments, including special districts, and determine whether any changes are necessary to make such governments more efficient. The bill requires the Efficiency Task Force to begin meeting by November 15, 2020, and, thereafter, authorizes the task force to meet as often as necessary to fulfill its responsibilities. By June 1, 2022, the Efficiency Task Force must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The Efficiency Task Force consists of the following members:

- Two members appointed by the Governor;
- Two members appointed by the President of the Senate; and
- Two members appointed by the Speaker of the House of Representatives.

Members of the Efficiency Task Force were to be appointed no later than September 1, 2020, but the first two appointees were just appointed by the Governor. Authority staff will monitor the Efficiency Task Force and its recommendations.

### **Acquisition of Lands to Enhance Water Management and Supply**

Public ownership of specific lands can offer benefits to both regional and local drinking water supply, protect existing water supply infrastructure and operations, and provide opportunities for development of future regional water supply projects on the RV Griffin Reserve to meet future public water supply needs of the region. Acquisition of specific lands in the vicinity of the Peace River Facility and RV Griffin Reserve can provide the opportunity for restoration and mitigation for new reservoir construction along with providing other significant public and environmental benefits in the region, including wildlife habitat connectivity, recreational opportunities, and enhanced flood protection.

### **Florida's Request to Assume Administration of a Clean Water Act Section 404 Program**

The Clean Water Act established the Section 404 program, under which the U.S. Army Corps of Engineers may issue permits. On August 20, 2020, the Environmental Protection Agency received from the Governor of Florida, a complete program submission for the state to regulate the permit process within the jurisdiction of the state. Notice was published in the Federal Register on September 16, 2020 initiating the comment period and approval process and two public meetings were recently held.

**Peace River Manasota Regional Water Supply Authority  
Legislative Priorities 2021**

Issue	Legislative/ Regulatory	Activity
<b>FEDERAL</b>		
Support the continuation of tax-exempt financing and preserve the ability of water systems to use tax-exempt bonds.	Legislative	Monitor
Support the continuation of U.S. EPA as the lead agency for security at drinking water facilities and the explicit prohibition on the disclosure of security program information under federal, state and local information laws.	Legislative and U.S. EPA	Monitor
Support research to impacts of climate change on the viability and sustainability of drinking water supplies.	Legislative and U.S. EPA	Monitor
Monitor the Clean Water Rule: Definition of 'Waters of the United States'.	U.S. EPA	Monitor
Monitor Water Subcabinet Reports.	Multiple Agencies	Monitor

## FEDERAL ISSUES

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### **Tax-Exempt Financing**

The Authority urges Congress to preserve the ability of water systems to use tax-exempt bonds to finance water infrastructure projects. This authority to finance essential governmental services on a tax-exempt basis is vital to the efforts of water utilities to continue to provide high quality, safe and reliable supplies of drinking water at a price that is affordable to ratepayers.

As Congress considers comprehensive tax reform, it must keep in mind that any new tax revenue collected from investors by limiting or eliminating tax-exempt municipal bonds would be offset by increased interest costs that would be borne by local water system ratepayers. Limiting or eliminating the exemption would therefore represent a de-facto tax hike on local communities while encumbering public agencies efforts to raise needed capital to address water supply needs.

### **Drinking Water Security and Treatment Mandates**

The Authority recognizes that water utilities protect their critical facilities from acts of terrorism and other hazards. Drinking water utilities first responsibility is to protect public health by providing potable drinking water.

The Authority supports that the U.S. Environmental Protection Agency (“EPA”) should continue to be the lead federal agency for security regulations at drinking water and wastewater facilities. Having more than one federal agency with oversight of water security could not only be inefficient, but would also impair the ability of drinking water systems to properly and efficiently treat their water supplies. It also could result in making simultaneous compliance with multiple standards or guidelines that will be difficult or even impossible to satisfy. If contradictory or duplicative security measures were recommended by different federal agencies, water systems would face difficulties in assuring compliance and could incur substantial costs with no real improvement in security.

Some water security programs include the collection of data from water providers. Given the sensitive nature of water security information, the Authority believes that Congress should continue the explicit prohibition on the disclosure of such information under federal, state, and local public information laws. Likewise, federal, state, and local agencies must take all internal precautions to prevent the inappropriate disclosure of water system information.

Any new federal security requirements should be accompanied by federal funding assistance. Such assistance could be targeted to help utilities update existing vulnerability assessments or implement other physical security without compromising public health. Otherwise, new security requirements will amount to unfunded federal mandates on local governments at a time when water treatment facilities are facing hundreds of billions of dollars in other priority infrastructure projects.



## **Climate Change**

The Authority supports federal action to research and respond to the impacts of global climate change upon the nation's drinking water supplies. The long-term viability and sustainability of the nation's water supply is integral to a viable regional, state, and national economy and therefore a comprehensive, unified, and coordinated federal research program is essential for developing decision support tools, adaptation and mitigation strategies, and for helping local utility managers access better information on the regional impacts of climate change on drinking water quality and quantity. The EPA, the National Oceanic and Atmospheric Administration, and other federal departments and agencies currently conducting climate change research must increase their efforts to develop reliable modeling systems and regional projections of freshwater quality and quantity changes and offer clear guidance on how water utilities may prepare for changing climate conditions over the next several decades.

Climate change legislation must recognize that water resources and infrastructure in much of the United States are significantly threatened by changing hydrological conditions. Therefore, increased assistance and investment are necessary to help water systems adapt to changing climate conditions and deliver uninterrupted water service to rapidly growing service populations.

## **Waters of the United States**

The EPA and the U.S. Army Corps of Engineers ("Corps") signed the final rule for repealing the 2015 Waters of the United States rule ("WOTUS") on September 12, 2019. The EPA provided notice of a revised WOTUS in April 2020, with the rule streamlining the definition of "waters of the U.S.", providing clear exclusions, and providing additional definitions for terms used in WOTUS. The final rule became final on June 22, 2020. Apart from Colorado, due to a pending lawsuit and stay, WOTUS is being implemented.

## **Water Subcabinet**

President Trump issued an executive order related to water supplies, water quality, flood risk, and infrastructure in mid-October. He created an interagency Water Policy Committee (the "Water Subcabinet") that is tasked with studying a variety of issues and providing recommendations including actions to:

- Increase water storage and supply reliability (including drought resiliency) through developing additional storage capacity; coordination during permit reviews; and developing water based BMPs.
- Improve water quality, source water protection, and nutrients.
- Improve water systems including drinking water and water reuse through implementing new lead and copper rule revisions and the National Water Reuse Action Plan.
- Improve water data management and modeling.

The report is required to be submitted within 120 days and an annual update is required.

The Executive Order requires the Water Subcabinet, within 150 days, to identify and recommend actions and priorities that support integrated planning and coordination among agencies to maintain and modernize water infrastructure, including for drinking water, desalination, water reuse, wastewater, irrigation, flood control, and water storage and conveyance. It also requires the Water Subcabinet, within 150 days, to identify actions and develop recommendations to improve interagency coordination and provide assistance and technical support to State and local governments in order to enhance the recruitment, training, and retention of water professionals within drinking water, desalination, water reuse, wastewater, flood control, hydropower, and delivery and storage sectors. Authority staff will monitor and review the final report and recommendations.