

**Peace River Manasota Regional Water Supply Authority
Legislative Priorities 2024**

Issue	Legislative/ Regulatory	Activity
STATE		
State Water Infrastructure Funding <ul style="list-style-type: none"> • Support State funding for Authority water projects that strengthen resiliency of the regional system. • Support State funding for alternative water supply with priority given to regional projects. • Support funding of State trust funds established in existing statutes. <ul style="list-style-type: none"> ○ Water Protection and Sustainability Program; and ○ West-Central Florida Water Restoration Action Plan. 	Legislative	Submit appropriations requests for State funding. Monitor and participate in legislative process
Legislation related to the implementation/ratification of potable reuse rules.	Legislative	Monitor and participate in legislative process
Legislation that may revise aquifer storage and recovery requirements and support any legislation that would benefit the Authority's ASR program.	Legislative	Monitor and participate in legislative process
Legislation that revises Chapter 373, Florida Statutes.	Legislative	Monitor and participate in legislative process
Legislation that may implement Blue Green Algae Task Force or Stormwater Technical Advisory Committee recommendations.	Legislative	Monitor and participate in legislative process
Confirmation of Southwest Florida Water Management District Executive Director and Governing Board Member appointments.	Legislative	Support Senate confirmations
Legislation that impacts how the Authority operates, including impacts to independent special districts.	Legislative	Monitor and participate in legislative process
Support acquisition by the State and SWFWMD of lands to enhance water management and supply.	Multiple Agencies	Monitor and participate in process
Florida's implementation of Florida's assumption of the Clean Water Act Section 404 Program following latest WOTUS ruling.	Multiple Agencies	Monitor process

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Legislative Priorities 2024**

Issue	Legislative/ Regulatory	Activity
FEDERAL		
Continuation of tax-exempt financing and preserve the ability of water systems to use tax-exempt bonds.	Legislative	Monitor & Support
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 & Support
Clean Water Rule: Definition of 'Waters of the United States'.	U.S. EPA	Monitor
U.S. EPA proposed rule changes regarding drinking water parameters including PFSA and PFOA.	U.S. EPA	Monitor
Increased federal funding initiatives for water infrastructure projects.	Legislative and U.S. EPA	Monitor & Support

STATE ISSUES

'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 State appropriation requests for two projects: an appropriation request related to regional transmission projects that will include funding for the Phase 2B and Phase 3C regional transmission pipelines and an appropriation request related to the Surface Water System Expansion Project which includes the Reservoir No. 3 Project and expansion of the Water Treatment Plant. .

- Alternative Water Supply Funding

The State budget for FY 2023-2024 appropriated \$60 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.

- FY2023-24 Water Protection Funds – Resilient Florida Grant Program

The State budget for FY 2023-2024 appropriated \$320 million for resiliency programs. Grant funding is available from the State through the DEP FY 2023-2024 Water Protection Funds – Resilient Florida Grant Program for projects that will improve infrastructure resiliency. Applications for this program are due September 1, 2023. The Authority will submit an application for FY 2023-2024 Water Protection Funds to support the Peace River Reservoir No. 3 Project.

- 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

As part of the 2020 Clean Waterways Act, reclaimed water was recognized as a source for potable supply. In addition, DEP was directed to initiate rulemaking to implement the Potable Reuse Commission’s (a coalition of a diverse stakeholders that created a consensus framework to implement potable reuse in Florida) recommendations. In 2021, Chapter 2021-168, Laws of Florida, declared that potable reuse is an alternative water supply and that potable reuse projects are eligible for alternative water supply funding. The exclusion of the use of potable reuse water from regional water supply planning was prohibited. It also authorizes DEP to convene and lead one or more technical advisory groups to coordinate the rulemaking and review of rules for potable reuse. DEP and the water management districts are also required, by December 31, 2023, to develop and execute a memorandum of agreement providing for the procedural requirements of a coordinated review of all permits associated with the construction and operation of an indirect potable reuse project. DEP initiated rulemaking in December 2021 but the potable reuse rules have not yet been adopted. If the current DEP proposed rules are adopted without additional revisions, DEP will be required to have the rules ratified by the Legislature due to their substantial costs. If the potable reuse rules are completed prior to the thirty day statutory submission deadline, the potable reuse rules may be considered during the 2024 Legislative Session. Additional legislation may be proposed during the 2024 Legislative Session to address any revisions needed arising from DEP rulemaking, which Authority staff will monitor and participate to ensure that the Authority is not negatively impacted.

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 and participate 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.

Chapter 373, Florida Statutes

Chapter 373, F.S., was reorganized in 2010 by Chapter 2010-225, Laws of Florida, which created a part VII relating to water supply policy, planning, production, and funding. In addition, statutory provisions related to regional water supply authorities and alternative water supplies were moved into this new part. Due to concerns regarding water planning and availability in certain parts of the state as well as the significant costs to meet Florida's future water demands, there is discussion regarding revising Chapter 373, F.S. during the 2024 Legislative Session. Authority staff will monitor and participate to ensure any proposed Chapter 373, F.S., legislation does not negatively impact the Authority.

Blue-Green Algae Task Force and Stormwater Technical Advisory Committee Recommendations

In January of 2019, Governor DeSantis issued Executive Order Number 19-12, which directed the DEP to establish a Blue-Green Algae Task Force charged with expediting progress towards reducing nutrient pollution and the impacts of blue-green algae (cyanobacteria) blooms in the state. The task force's responsibilities included identifying priority projects for funding and making recommendations for regulatory changes. The five-person task force issued its first consensus document on October 11, 2019 and continue to meet to discuss other issues such as reclaimed water and stormwater.

In 2020, the Florida Legislature passed the Clean Waterways Act, which directed DEP and Florida's water management districts to update stormwater design and operation regulations under Part IV, Chapter 373, F.S., using the latest scientific information. DEP has created the Clean Waterways Act Stormwater TAC to provide a public forum for identifying and constructively outlining recommendations to DEP and water management districts for strengthening the stormwater design and operation regulations implemented under Part IV, Chapter 373, F.S., including updates to the Environmental Resource Permit Applicant's Handbook. Stormwater-related pollution represents one of the largest potential contributors of nutrients throughout the state. DEP has proposed sweeping changes to the stormwater rules, which because of the substantial cost, DEP is required to have the rules ratified by the Legislature. DEP attempted to seek ratification during the 2023 Legislative Session but DEP was unable to meet the statutory deadline for consideration. It is anticipated that these rules will be considered for ratification during the 2024 Legislative Session.

Each year since the Clean Waterways Act, legislation to implement the remaining recommendations of the Blue-Green Algae Task Force has been unsuccessful. Authority staff will monitor and participate to ensure that any proposed legislation does not negatively impact the Authority.

Confirmation of Southwest Florida Water Management District Executive Director and Governing Board Members

Southwest Florida 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 SWFWMD Governing Board members.

Water management districts executive directors are appointed by their governing board, are subject to approval by the Governor, and must be initially confirmed by the Senate. In addition, executive directors must be confirmed or reconfirmed by the Senate during the second regular session of the Legislature following a gubernatorial election. The Authority supports the confirmation of the Southwest Florida Water Management District's Executive Director.

Local Government Operations

Every year, the Florida Legislature considers and passes laws that impact how the Authority operates, such as revisions to purchasing, contracting, auditing, Florida Sunshine Laws, public records, websites, and noticing requirements. Authority staff will monitor and participate to ensure that any proposed local government legislation does not negatively impact the Authority.

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 ("CWA") established the Section 404 program, under which the U.S. Army Corps of Engineers ("Corps") may issue permits. On August 20, 2020, the U.S. Environmental Protection Agency ("U.S. EPA") 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 and on December 22, 2020, the U.S. EPA published their approval of Florida's State 404 Program in the Federal Register. DEP began administering the State 404 Program on that date and now processes applications under Section 404 of the CWA within state-assumed waters, with the Corps processing Section 404 applications within retained waters. Based on the recent court decision related to the Waters of the United States ("WOTUS") Rule, there may be additional revisions to this program as DEP must follow the rules related to WOTUS under the agreement with the Corps.

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 (“ppt”) for the combined concentration of perfluorooctanoic acid (“PFOA”) and perfluorooctane sulfonate (“PFOS”) in drinking water.

In June 2022, the U.S. EPA released updated health advisory levels for PFAS and PFOA which are well below the advisory levels established in 2016 and in fact are below modern detection limits. 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 evaluating establishment of maximum contaminant levels for PFAS and PFOA compounds. On March 14, 2023, the U.S. EPA announced its first-ever proposed national drinking water standard for six PFAS: PFOA, PFOS, PFHxS, GenX Chemicals, PFNA, and PFBS. This proposed regulation could become enforceable within the next year and it includes proposed Maximum Contaminant Levels (“MCLs”): PFOA at 4 ppt and PFOS at 4 ppt. Monitoring of the U.S. EPA MCL process for PFAS and PFOA is recommended.

In addition, on September 6, 2022, the U.S. EPA published a proposed rule that designates PFOA and PFOS as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known as Superfund. The rulemaking would require entities to immediately report releases of PFOA and PFOS that meet or exceed the reportable quantity to the National Response Center, the State of Florida, and local emergency responders. Entities would not be required to report past releases of PFOA or PFOS as they were not yet listed as hazardous substances. On April 13, 2023, the U.S. EPA issued an Advanced Notice of Proposed Rulemaking requesting public input related to designating PFAS as a hazardous waste under CERCLA. The request for input and information has been extended to August 11, 2023. Monitoring of this rulemaking is recommended.

In June 2023, Senators Tom Carper (D-DE) and Shelley Moore Capito (R-WV), Chair and Ranking Member of the Senate Environment and Public Works (EPW) Committee, released a bipartisan discussion draft of legislation to address PFAS contamination. The bill focuses on research and development and provides some resources to support communities. It does not include a key local government priority of liability protection for local governments. Many associations and stakeholders have submitted comments requesting that liability protection for local governments, including for independent special districts, is included. Monitoring of this legislation is recommended.

Although DEP has a Dynamic Plan to provide a coordinated approach to the complex issues associated with PFAS, which describes the development of screening and provisional cleanup target levels that are protective of human health and the environmental resources of Florida, DEP will not be adopting rules related to PFAS until at least 2025. Chapter 2022-203, Laws of Florida, requires DEP to adopt by rule statewide cleanup target levels for PFAS in drinking water, groundwater, and soil using specified statutory criteria, with priority given to PFOA and PFOS, if the U.S. EPA does not finalize its standards for PFAS in drinking water, groundwater, and soil by January 1, 2025. Any DEP rules are required to be ratified by the Legislature in order to take effect. In addition, until DEP's rule has been ratified by the Legislature, a governmental entity or private water supplier may not be subject to any administrative or judicial action brought by any state or local governmental entity to compel or enjoin site rehabilitation, to require payment for the cost of rehabilitation of environmental contamination, or to require payment of any fines or penalties regarding rehabilitation based on the presence of that particular PFAS constituent.

Authority staff will monitor and participate to ensure that any proposed PFAS legislation does not negatively impact the Authority.

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. 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 U.S. 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 U.S. Supreme Court on May 25, 2023, issued its opinion in Sackett v. Environmental Protection Agency, which addresses the definition of "Waters of the United States" pursuant to the CWA. The definition of WOTUS defines the geographic reach of the Corps and the U.S. EPA authority in regulating streams, wetlands, and other water bodies under the CWA. There have been multiple legal decisions and dueling regulatory definitions over the past several years concerning the proper standard for how to determine whether a wetland or stream that is not navigable in fact is properly considered a WOTUS. The Sackett decision provides a clear standard that substantially restricts the agencies' ability to regulate certain types of wetlands and streams. Specifically, wetlands that do not have a continuous surface connection with a navigable water are not federally jurisdictional. This is the current law within the United States.

According to the U.S. EPA's website, the Corps and U.S. EPA are in receipt of the U.S. Supreme Court's May 25, 2023, decision in the case of Sackett v. Environmental Protection Agency. In light of this decision, the agencies are interpreting the phrase "waters of the United States" consistent with the Supreme Court's decision in Sackett. The agencies are developing a rule to amend the final "Revised Definition of 'Waters of the United States'" rule, published in the Federal Register on January 18, 2023, consistent with the U.S. Supreme Court's Sackett decision.

Federal Funding for Water Infrastructure Projects

The U.S. Infrastructure Investment and Jobs Act became law on November 15, 2021, which includes \$50 billion to the U.S. EPA to improve drinking water, wastewater, and stormwater infrastructure in the U.S., with a significant portion of the water infrastructure dollars being used for the Clean Water and Drinking Water State Revolving Funds ("SRFs"). The law provides \$5 billion through the SRFs to reduce people's exposure to PFAS and other emerging contaminants through their drinking water and to help address discharges through wastewater and, potentially, nonpoint sources.

In June 2022, the U.S. EPA announced the funding availability for the agency's Water Infrastructure Finance and Innovation Act ("WIFIA") program and the State Infrastructure Financing Authority WIFIA ("SWIFIA") program. This year's funding will provide up to \$6.5 billion in total funding to support water infrastructure projects. The notices of funding availability include \$5.5 billion for the WIFIA program and an additional \$1 billion for the SWIFIA program. This round of funding will prioritize funding in economically stressed communities; lead service line replacement; addressing PFAS and emerging contaminants; and supporting one water innovation and resilience.