

20081302e1

1                   A bill to be entitled  
2           An act relating to wastewater disposal; amending s.  
3           373.0361, F.S., relating to regional water supply  
4           planning; requiring the South Florida Water Management  
5           District to include water supply development projects that  
6           promote the elimination of ocean outfalls in its regional  
7           water supply plan; amending s. 373.0831, F.S., relating to  
8           water resource and supply development; providing for  
9           projects that implement reuse as a means of eliminating  
10          ocean outfalls to receive priority funding consideration;  
11          amending s. 373.1961, F.S., relating to funding for water  
12          supply projects; providing priority funding for projects  
13          that implement reuse that assists with the elimination of  
14          ocean outfalls; amending s. 373.250, F.S., relating to the  
15          reuse of reclaimed water; directing the South Florida  
16          Water Management District to require the use of reclaimed  
17          water made available through the elimination of ocean  
18          outfalls under certain conditions; amending s. 403.085,  
19          F.S., relating to waste water treatment; prohibiting the  
20          construction of new ocean outfalls; prohibiting the use of  
21          ocean outfalls as a method of sanitary sewage disposal;  
22          amending s. 403.086, F.S., relating the treatment of  
23          wastewater; providing legislative intent; prohibiting the  
24          new construction of an expanded discharge to ocean  
25          outfalls; defining the term "facility's actual flow on an  
26          annual basis"; requiring that domestic wastewater  
27          discharges to ocean outfalls meet advanced wastewater  
28          treatment and management requirements by a date certain;  
29          providing an exemption from meeting advanced wastewater

20081302e1

30 treatment and management requirements under specific  
31 conditions; providing wastewater reuse requirements for  
32 facilities that discharge through ocean outfalls by a date  
33 certain; providing prohibitions for the discharge of  
34 domestic wastewater through ocean outfalls under specific  
35 conditions by a date certain; providing reporting  
36 requirements for permitted ocean outfall facilities;  
37 providing reporting requirements for the Department of  
38 Environmental Protection; providing a compliance schedule  
39 for facilities discharging through ocean outfalls;  
40 creating s. 403.08601, F.S., establishing the Leah Schad  
41 Memorial Ocean Outfall Program; establishing a funding  
42 mechanism and providing a statutory cross reference;  
43 amending s. 403.1651, F.S.; providing a dedicated account  
44 within the Ecosystem Management and Restoration Trust  
45 Fund; amending s. 403.1835, F.S., relating to water  
46 pollution control financial assistance; providing for the  
47 inclusion of domestic wastewater ocean outfalls in laws  
48 requiring the elimination of discharges to specific water  
49 bodies; providing an effective date.

50  
51 Be It Enacted by the Legislature of the State of Florida:

52  
53 Section 1. Present subsections (4) through (8) of section  
54 373.0361, Florida Statutes, are renumbered as subsections (5)  
55 through (9), respectively, and a new subsection (4) is added to  
56 that section, to read:

57 373.0361 Regional water supply planning.--

58 (4) The South Florida Water Management District shall

20081302e1

59 include in its regional water supply plan water resource and  
60 water supply development projects that promote the elimination of  
61 wastewater ocean outfalls as provided in s. 403.086(9).

62 Section 2. Subsection (4) of section 373.0831, Florida  
63 Statutes, is amended to read:

64 373.0831 Water resource development; water supply  
65 development.--

66 (4) (a) Water supply development projects which are  
67 consistent with the relevant regional water supply plans and  
68 which meet one or more of the following criteria shall receive  
69 priority consideration for state or water management district  
70 funding assistance:

71 1. The project supports establishment of a dependable,  
72 sustainable supply of water which is not otherwise financially  
73 feasible;

74 2. The project provides substantial environmental benefits  
75 by preventing or limiting adverse water resource impacts, but  
76 requires funding assistance to be economically competitive with  
77 other options; or

78 3. The project significantly implements reuse, storage,  
79 recharge, or conservation of water in a manner that contributes  
80 to the sustainability of regional water sources.

81 (b) Water supply development projects that ~~which~~ meet the  
82 criteria in paragraph (a) and that meet one or more of the  
83 following additional criteria ~~also bring about replacement of~~  
84 ~~existing sources in order to help implement a minimum flow or~~  
85 ~~level~~ shall be given first consideration for state or water  
86 management district funding assistance:--

87 1. The project brings about replacement of existing sources

20081302e1

88 in order to help implement a minimum flow or level; or  
89 2. The project implements reuse that assists in the  
90 elimination of domestic wastewater ocean outfalls as provided in  
91 s. 403.086(9).

92 Section 3. Paragraph (f) of subsection (3) of section  
93 373.1961, Florida Statutes, is amended to read:

94 373.1961 Water production; general powers and duties;  
95 identification of needs; funding criteria; economic incentives;  
96 reuse funding.--

97 (3) FUNDING.--

98 (f) The governing boards shall determine those projects  
99 that will be selected for financial assistance. The governing  
100 boards may establish factors to determine project funding;  
101 however, significant weight shall be given to the following  
102 factors:

103 1. Whether the project provides substantial environmental  
104 benefits by preventing or limiting adverse water resource  
105 impacts.

106 2. Whether the project reduces competition for water  
107 supplies.

108 3. Whether the project brings about replacement of  
109 traditional sources in order to help implement a minimum flow or  
110 level or a reservation.

111 4. Whether the project will be implemented by a consumptive  
112 use permittee that has achieved the targets contained in a goal-  
113 based water conservation program approved pursuant to s. 373.227.

114 5. The quantity of water supplied by the project as  
115 compared to its cost.

116 6. Projects in which the construction and delivery to end

20081302e1

117 users of reuse water is a major component.

118 7. Whether the project will be implemented by a  
119 multijurisdictional water supply entity or regional water supply  
120 authority.

121 8. Whether the project implements reuse that assists in the  
122 elimination of domestic wastewater ocean outfalls as provided in  
123 s. 403.086(9).

124 Section 4. Subsection (2) of section 373.250, Florida  
125 Statutes, is amended to read:

126 373.250 Reuse of reclaimed water.--

127 (2)(a) For purposes of this section, "uncommitted" means  
128 the average amount of reclaimed water produced during the three  
129 lowest-flow months minus the amount of reclaimed water that a  
130 reclaimed water provider is contractually obligated to provide to  
131 a customer or user.

132 (b) Reclaimed water may be presumed available to a  
133 consumptive use permit applicant when a utility exists which  
134 provides reclaimed water, which has uncommitted reclaimed water  
135 capacity, and which has distribution facilities, which are  
136 initially provided by the utility at its cost, to the site of the  
137 affected applicant's proposed use.

138 (c) A water management district may require the use of  
139 reclaimed water in lieu of surface water or groundwater when the  
140 use of uncommitted reclaimed water is environmentally,  
141 economically, and technically feasible and of such quality and  
142 reliability as is necessary to the user. However, this paragraph  
143 does not authorize a water management district to require a  
144 provider of reclaimed water to redirect reclaimed water from one  
145 user to another or to provide uncommitted water to a specific

20081302e1

146 user if such water is anticipated to be used by the provider, or  
147 a different user selected by the provider, within a reasonable  
148 amount of time.

149 (d) The South Florida Water Management District shall  
150 require the use of reclaimed water made available by the  
151 elimination of wastewater ocean outfall discharges as provided  
152 for in s. 403.086(9) in lieu of surface water or ground water  
153 when the use of uncommitted reclaimed water is environmentally,  
154 economically, and technically feasible and of such quality and  
155 reliability as is necessary to the user. Such reclaimed water may  
156 also be required in lieu of other alternative sources. In  
157 determining whether or not to require such reclaimed water in  
158 lieu of other alternative sources, the water management district  
159 shall consider existing infrastructure investments in place or  
160 obligated to be constructed by an executed contract or similar  
161 binding agreement as of July 1, 2011, for the development of  
162 other alternative sources.

163 Section 5. Section 403.085, Florida Statutes, is amended to  
164 read:

165 403.085 Sanitary sewage disposal units; advanced and  
166 secondary waste treatment; industrial waste, ~~ocean outfall,~~  
167 ~~inland outfall, or disposal well waste treatment.--~~

168 (1) Neither the Department of Health nor any other state  
169 agency, county, special district, or municipality shall approve  
170 construction of any ~~ocean outfall or~~ disposal well for sanitary  
171 sewage disposal which does not provide for secondary waste  
172 treatment and, in addition thereto, advanced waste treatment as  
173 deemed necessary and ordered by the department.

174 (2) Sanitary sewage disposal treatment plants which

20081302e1

175 discharge effluent through ~~ocean outfalls or~~ disposal wells shall  
176 provide for secondary waste treatment and, in addition thereto,  
177 advanced waste treatment as deemed necessary and ordered by the  
178 ~~former~~ Department of Environmental Protection Regulation. Failure  
179 to conform shall be punishable by a fine of \$500 for each 24-hour  
180 day or fraction thereof that such failure is allowed to continue  
181 thereafter.

182 (3) Neither the Department of Health nor any other state  
183 agency, county, special district, or municipality shall approve  
184 construction of any ocean outfall, inland outfall, or disposal  
185 well for the discharge of industrial waste of any kind which does  
186 not provide for secondary waste treatment or such other treatment  
187 as is deemed necessary and ordered by the department.

188 (4) Industrial plants or facilities which discharge  
189 industrial waste of any kind through ocean outfalls, inland  
190 outfalls, or disposal wells shall provide for secondary waste  
191 treatment or such other waste treatment as deemed necessary and  
192 ordered by the former Department of Environmental Regulation.  
193 Failure to conform shall be punishable as provided in s.  
194 403.161(2).

195 Section 6. Subsection (9) is added to section 403.086,  
196 Florida Statutes, to read:

197 403.086 Sewage disposal facilities; advanced and secondary  
198 waste treatment.--

199 (9) The Legislature finds that the discharge of domestic  
200 wastewater through ocean outfalls wastes valuable water supplies  
201 that should be reclaimed for beneficial purposes to meet public  
202 and natural systems demands. The Legislature also finds that  
203 discharge of domestic wastewater through ocean outfalls

20081302e1

204 compromises the coastal environment, quality of life, and local  
205 economies that depend on those resources. The Legislature  
206 declares that more stringent treatment and management  
207 requirements for such domestic wastewater and the subsequent,  
208 timely elimination of ocean outfalls as a primary means of  
209 domestic wastewater discharge are in the public interest.

210 (a) The construction of new ocean outfalls for domestic  
211 wastewater discharge and the expansion of existing ocean outfalls  
212 for this purpose, along with associated pumping and piping  
213 systems, are prohibited. Each domestic wastewater ocean outfall  
214 shall be limited to the discharge capacity specified in the  
215 department permit authorizing the outfall in effect on July 1,  
216 2008, which discharge capacity shall not be increased.

217 Maintenance of existing, department-authorized domestic  
218 wastewater ocean outfalls and associated pumping and piping  
219 systems is allowed, subject to the requirements of this section.  
220 The department is directed to work with the United States  
221 Environmental Protection Agency to ensure that the requirements  
222 of this subsection are implemented consistently for all domestic  
223 wastewater facilities in Florida which discharge through ocean  
224 outfalls.

225 (b) The discharge of domestic wastewater through ocean  
226 outfalls shall meet advanced wastewater treatment and management  
227 requirements no later than December 31, 2018. For purposes of  
228 this subsection, the term "advanced wastewater treatment and  
229 management requirements" means the advanced waste treatment  
230 requirements set forth in subsection (4), a reduction in outfall  
231 baseline loadings of total nitrogen and total phosphorus which is  
232 equivalent to that which would be achieved by the advanced waste



20081302e1

233 treatment requirements in subsection (4), or a reduction in  
234 cumulative outfall loadings of total nitrogen and total  
235 phosphorus occurring between December 31, 2008, and December 31,  
236 2025, which is equivalent to that which would be achieved if the  
237 advanced waste treatment requirements in subsection (4) were  
238 fully implemented beginning December 31, 2018, and continued  
239 through December 31, 2025. The department shall establish the  
240 average baseline loadings of total nitrogen and total phosphorus  
241 for each outfall using monitoring data available for calendar  
242 years 2003 through 2007 and shall establish required loading  
243 reductions based on this baseline. The baseline loadings and  
244 required loading reductions of total nitrogen and total  
245 phosphorus shall be expressed as an average annual daily loading  
246 value. The advanced wastewater treatment and management  
247 requirements of this paragraph shall be deemed to be met for any  
248 domestic wastewater facility discharging through an ocean outfall  
249 on July 1, 2008, which has installed no later than December 31,  
250 2018, a fully operational reuse system comprising 100 percent of  
251 the facility's annual average daily flow for reuse activities  
252 authorized by the department.

253 (c) Each domestic wastewater facility that discharges  
254 through an ocean outfall on July 1, 2008, shall install a  
255 functioning reuse system no later than December 31, 2025. For  
256 purposes of this subsection, a "functioning reuse system" means  
257 an environmentally, economically, and technically feasible system  
258 that provides a minimum of 60 percent of the facility's actual  
259 flow on an annual basis for irrigation of public access areas,  
260 residential properties, or agricultural crops; aquifer recharge;  
261 groundwater recharge; industrial cooling; or other acceptable

20081302e1

262 reuse purposes authorized by the department. For purposes of this  
263 subsection, the term "facility's actual flow on an annual basis"  
264 means the annual average flow of domestic wastewater discharging  
265 through the facility's ocean outfall, as determined by the  
266 department, using monitoring data available for calendar years  
267 2003 through 2007. Diversion of flows from these facilities to  
268 other facilities that provide 100 percent reuse of the diverted  
269 flows prior to December 31, 2025, shall be considered to  
270 contribute to meeting the 60-percent reuse requirement. For  
271 utilities operating more than one outfall, the reuse requirement  
272 can be met if the combined actual reuse flows from facilities  
273 served by the outfalls is at least 60 percent of the sum of the  
274 total actual flows from these facilities, including flows  
275 diverted to other facilities for 100 percent reuse prior to  
276 December 31, 2025. In the event treatment in addition to the  
277 advanced wastewater treatment and management requirements  
278 described in paragraph (b) is needed in order to support a  
279 functioning reuse system, such treatment shall be fully  
280 operational no later than December 31, 2025.

281 (d) The discharge of domestic wastewater through ocean  
282 outfalls is prohibited after December 31, 2025, except as a  
283 backup discharge that is part of a functioning reuse system  
284 authorized by the department as provided for in paragraph (c). A  
285 backup discharge may occur only during periods of reduced demand  
286 for reclaimed water in the reuse system, such as periods of wet  
287 weather, and shall comply with the advanced wastewater treatment  
288 and management requirements of paragraph (b).

289 (e) The holder of a department permit authorizing the  
290 discharge of domestic wastewater through an ocean outfall as of

20081302e1

291 July 1, 2008, shall submit to the secretary of the department the  
292 following:

293 1. A detailed plan to meet the requirements of this  
294 subsection, including an identification of all land acquisition  
295 and facilities necessary to provide for reuse of the domestic  
296 wastewater; an analysis of the costs to meet the requirements;  
297 and a financing plan for meeting the requirements, including  
298 identifying any actions necessary to implement the financing  
299 plan, such as bond issuance or other borrowing, assessments, rate  
300 increases, fees, other charges, or other financing mechanisms.  
301 The plan shall include a detailed schedule for the completion of  
302 all necessary actions and shall be accompanied by supporting data  
303 and other documentation. The plan shall be submitted no later  
304 than July 1, 2013.

305 2. No later than July 1, 2016, an update of the plan  
306 required in subparagraph 1. documenting any refinements or  
307 changes in the costs, actions, or financing necessary to  
308 eliminate the ocean outfall discharge in accordance with this  
309 subsection or a written statement that the plan is current and  
310 accurate.

311 (f) By December 31, 2009, and by December 31 every 5 years  
312 thereafter, the holder of a department permit authorizing the  
313 discharge of domestic wastewater through an ocean outfall shall  
314 submit to the secretary of the department a report summarizing  
315 the actions accomplished to date and the actions remaining and  
316 proposed to meet the requirements of this subsection, including  
317 progress toward meeting the specific deadlines set forth in  
318 paragraphs (b) through (e). The report shall include the detailed  
319 schedule for and status of the evaluation of reuse and disposal

20081302e1

320 options, preparation of preliminary design reports, preparation  
321 and submittal of permit applications, construction initiation,  
322 construction progress milestones, construction completion,  
323 initiation of operation, and continuing operation and  
324 maintenance.

325 (g) No later than July 1, 2010, and by July 1 every 5 years  
326 thereafter, the department shall submit a report to the Governor,  
327 the President of the Senate, and the Speaker of the House of  
328 Representatives on the implementation of this subsection. The  
329 report shall summarize progress to date, including the increased  
330 amount of reclaimed water provided and potable water offsets  
331 achieved, and identify any obstacles to continued progress,  
332 including all instances of substantial noncompliance.

333 (h) The renewal of each permit that authorizes the  
334 discharge of domestic wastewater through an ocean outfall as of  
335 July 1, 2008, shall be accompanied by an order in accordance with  
336 s. 403.088(2) (e) and (f) which establishes an enforceable  
337 compliance schedule consistent with the requirements of this  
338 subsection.

339 Section 7. Section 403.08601, Florida Statutes, is created  
340 to read:

341 403.08601 Leah Schad Memorial Ocean Outfall Program.--The  
342 Legislature declares that as funds become available the state may  
343 assist the local governments and agencies responsible for  
344 implementing the Leah Schad Memorial Ocean Outfall Program  
345 pursuant to s. 403.086 (9). Funds received from other sources  
346 provided for in law, the General Appropriations Act, from gifts  
347 designated for implementation of the plan from individuals,  
348 corporations, or other entities, or federal funds appropriated by

20081302e1

349 Congress for implementation of the plan, may be deposited into an  
350 account of the Ecosystem Management and Restoration Trust Fund  
351 created pursuant to s. 403.1651.

352 Section 8. Subsection (1) of section 403.1651, Florida  
353 Statutes, is amended to read:

354 403.1651 Ecosystem Management and Restoration Trust Fund.--

355 (1) There is created the Ecosystem Management and  
356 Restoration Trust Fund to be administered by the Department of  
357 Environmental Protection for the purposes of:

358 (a) Funding the detailed planning for and implementation of  
359 programs for the management and restoration of ecosystems.

360 (b) Funding the development and implementation of surface  
361 water improvement and management plans and programs under ss.  
362 373.451-373.4595.

363 (c) Funding activities to restore polluted areas of the  
364 state, as defined by the department, to their condition before  
365 pollution occurred or to otherwise enhance pollution control  
366 activities.

367 (d) Funding activities to restore or rehabilitate injured  
368 or destroyed coral reefs.

369 (e) Funding activities by the department to recover moneys  
370 as a result of actions against any person for a violation of  
371 chapter 373.

372 (f) Funding activities authorized for the implementation of  
373 the Leah Schad Memorial Ocean Outfall Program implemented in s.  
374 403.086(9).

375 Section 9. Subsection (7) of section 403.1835, Florida  
376 Statutes, is amended to read:

377 403.1835 Water pollution control financial assistance.--

20081302e1

378 (7) Eligible projects must be given priority according to  
379 the extent each project is intended to remove, mitigate, or  
380 prevent adverse effects on surface or ground water quality and  
381 public health. The relative costs of achieving environmental and  
382 public health benefits must be taken into consideration during  
383 the department's assignment of project priorities. The department  
384 shall adopt a priority system by rule. In developing the priority  
385 system, the department shall give priority to projects that:

386 (a) Eliminate public health hazards;

387 (b) Enable compliance with laws requiring the elimination  
388 of discharges to specific water bodies, including the  
389 requirements of s. 403.086(9) regarding domestic wastewater ocean  
390 outfalls;

391 (c) Assist in the implementation of total maximum daily  
392 loads adopted under s. 403.067;

393 (d) Enable compliance with other pollution control  
394 requirements, including, but not limited to, toxics control,  
395 wastewater residuals management, and reduction of nutrients and  
396 bacteria;

397 (e) Assist in the implementation of surface water  
398 improvement and management plans and pollutant load reduction  
399 goals developed under state water policy;

400 (f) Promote reclaimed water reuse;

401 (g) Eliminate failing onsite sewage treatment and disposal  
402 systems or those that are causing environmental damage; or

403 (h) Reduce pollutants to and otherwise promote the  
404 restoration of Florida's surface and ground waters.

405 Section 10. This act shall take effect July 1, 2008.