

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: SB 796

INTRODUCER: Senators Diaz de la Portilla and Sobel

SUBJECT: Domestic Wastewater Discharged/Ocean Outfalls

DATE: March 14, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Uchino	Yeatman	EP	Pre-meeting
2.			CA	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill extends compliance deadlines five years related to utilities that operate domestic wastewater ocean outfalls. It also exempts 10 percent of utilities' peak flows from both the advanced wastewater treatment (AWT) standards¹ of discharges through ocean outfalls and the prohibition on discharges through ocean outfalls entirely. Additionally, the bill will allow utilities to meet the 60-percent reuse requirement for discharges through ocean outfalls from their entire service areas, rather than solely from the discharges through ocean outfalls.

This bill substantially amends s. 403.086, Florida Statutes.

II. Present Situation:

Eliminating Ocean Outfalls and Reuse Requirements

There are six domestic wastewater facilities in Palm Beach, Broward, and Miami-Dade Counties discharging approximately 300 million gallons per day of treated domestic wastewater directly into the Atlantic Ocean through ocean outfalls.² The ocean outfall providing service to the cities of Boynton Beach and Delray Beach largely ceased discharges in early 2009.³ Exceptions for

¹ See s. 403.086(4), F.S.

² Florida Dep't of Environmental Protection, *Implementation of Chapter 2008-232, Laws of Florida Domestic Wastewater Ocean Outfalls* (June 2010), available at <http://www.dep.state.fl.us/water/wastewater/docs/ocean-outfall-2010.pdf> (last visited 03/14/2011).

³ Christine Stapleton, *Delray Beach to stop dumping wastewater in ocean*, The Palm Beach Post, Mar. 31, 2009, available at http://www.palmbeachpost.com/localnews/content/local_news/epaper/2009/03/31/0331_delrayoutfall.html (last visited 03/14/2011).

this facility are allowed to handle peak wet weather flows, during integrity testing of deep well injection and for emergencies.

Chapter 2008-232, Laws of Florida, prohibits construction of new ocean outfalls and requires that all six ocean outfalls in Florida cease discharging wastewater by December 31, 2025. In addition, wastewater facilities that discharged wastewater through an ocean outfall on July 1, 2008 are required to install a reuse system no later than December 31, 2025. The reuse systems must be capable of providing a minimum of 60 percent of the wastewater facilities actual annual flow for beneficial reuse. The actual annual flow is calculated using the annual average flow through a wastewater facility's ocean outfall from 2003 through 2007.⁴

Wastewater facilities operating ocean outfalls may receive a significant portion of their annual average flow from other wastewater facilities located outside their direct service areas. SB 550, passed during the 2010 Regular Session,⁵ addressed the possibility of certain facilities not being able to comply with the 60 percent reuse requirement of s. 403.086(9)(c), F.S. The potential existed that flow received from outside their service areas could be diverted to other wastewater facilities that do not discharge through ocean outfalls, and therefore, diverting facilities would not have to comply with the 60-percent beneficial reuse requirement for ocean outfalls. In addition, discharges of wastewater through ocean outfalls after December 31, 2018, must meet AWT standards or equivalent processes.⁶

Implementation Issues

The first progress report from the DEP was presented to the Governor, President of the Florida Senate and Speaker of the Florida House of Representatives in June 2010.⁷ Although there is general understanding of the existing requirements, some confusion remains about what current and future reuse projects count towards the 60-percent reuse threshold. The DEP reports:

The City of Hollywood and Broward County Office of Environmental Services assumed that reuse projects that were in use during 2003 through 2007 can be applied to the 60 percent reuse requirement. The Department has informed all ocean outfall permit holders that such existing reuse projects do not count toward meeting the reuse requirement.⁸

In addition, the Miami-Dade Water and Sewer Department is planning to divert flows from its two ocean outfalls to other facilities to support reuse projects located near those sites.⁹ The DEP has had discussions with utilities' personnel that s. 403.086(c), F.S., does not allow existing reuse projects to count towards meeting the 60-percent reuse requirement, "since one of the primary goals of the Act is to beneficially reuse wastewater flows that are discharged through the outfalls and therefore increase of amount of new reuse in Southeast Florida."¹⁰

⁴ Section 403.086(9)(c), F.S.

⁵ Ch. 2010-205, s. 38, Laws of Fla.

⁶ Section 403.086(9)(b), F.S.

⁷ *Supra* note 2.

⁸ See *supra* note 2, at 17.

⁹ See *supra* note 2, at 18.

¹⁰ See *supra* note 2, at 3.

III. Effect of Proposed Changes:

Section 1 amends s. 403.086, F.S., to extend all compliance deadlines five years related to:

- Treating wastewater discharged through ocean outfalls to AWT standards by December 31, 2018,
- Achieving the 60-percent reuse requirement for discharges through ocean outfalls by December 31, 2025,
- Eliminating ocean outfalls by December 31, 2025, and
- Utility submission of detailed plans on how to achieve the requirements of s. 403.086(9), F.S., by July 1, 2013, with updates by July 1, 2016.

The bill exempts cumulative peak flows that do not exceed 10 percent of total annual flows from meeting AWT standards or equivalent processes. It allows utilities to comply with the 60-percent reuse requirement by demonstrating they have functioning reuse systems capable of treating 60 percent of their total domestic wastewater flows, not just those from ocean outfalls. This provision will allow utilities the flexibility to find the most cost-effective method to achieve a 60-percent reuse for their service areas. However, it may also reduce the percentage of reuse derived from ocean outfalls. Finally, the bill exempts cumulative peak flows that do not exceed 10 percent of total annual flows from the prohibition on discharging wastewater flows through ocean outfalls.

This section contains technical changes as well.

Section 2 provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Water utility consumers will benefit from the cost saving provisions for wastewater

utilities in this bill. While the cost savings are indeterminate, they will likely be insignificant on an individual basis.

C. Government Sector Impact:

First, wastewater utilities may see significant cost reductions in implementing the 60-percent reuse requirements for ocean outfalls by utilizing their entire service areas. Second, exempting 10 percent of their peak flows from AWT standards and the prohibition against ocean outfall discharges will also yield significant cost savings. Last, extending compliance deadlines may allow utilities time to access more favorable bond market conditions due to the economic recovery and recovering tax revenues. Although significant, the impact cannot be determined at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.