

**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.)

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Prepared By: The Professional Staff of the Budget Subcommittee on General Government Appropriations

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BILL: SB 724

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Domestic Wastewater Discharged Through Ocean Outfalls

DATE: January 30, 2012

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Uchino</u>	<u>Yeatman</u>	<u>EP</u>	<b>Favorable</b>
2.	<u>Uchino</u>	<u>Yeatman</u>	<u>CA</u>	<b>Favorable</b>
3.	<u>Pigott</u>	<u>DeLoach</u>	<u>BGA</u>	<b>Favorable</b>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

The bill allows utilities to meet the 60 percent reuse requirement from their entire service areas and extends certain deadlines. It allows utilities to continue to discharge peak flows up to 5 percent of utilities' baseline flows through ocean outfalls. Additionally, the bill requires utilities to include supplemental information on costs and options in their detailed plans necessary to achieve the requirements of subsection 403.086(9), F.S. Finally, the bill requires the utilities, the Department of Environmental Protection (DEP) and the South Florida Water Management District (SFWMD) to evaluate the detailed plans and recommend to the Legislature adjustments, if necessary, to the reuse requirements in this subsection.

The bill substantially amends s. 403.086 of the 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.<sup>1</sup> The ocean outfall providing service to the cities

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<sup>1</sup> 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/dobill/ocean-outfall-2010.pdf> (last visited 12/16/2011).

of Boynton Beach and Delray Beach largely ceased discharges in early 2009.<sup>2</sup> Exceptions for 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.<sup>3</sup>

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,<sup>4</sup> 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, current law requires discharges of wastewater through ocean outfalls after December 31, 2018, must meet advanced wastewater treatment (AWT) standards or equivalent processes.<sup>5</sup>

### **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.<sup>6</sup> 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.<sup>7</sup>

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.<sup>8</sup> The DEP has had discussions with utilities personnel that s. 403.086(9)(c), F.S., does not allow existing

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<sup>2</sup> 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](http://www.palmbeachpost.com/localnews/content/local_news/epaper/2009/03/31/0331_delrayoutfall.html) (last visited 12/16/2011).

<sup>3</sup> Section 403.086(9)(c), F.S.

<sup>4</sup> Ch. 2010-205, s. 38, Laws of Fla.

<sup>5</sup> Section 403.086(9)(b), F.S.

<sup>6</sup> *Supra* note 2.

<sup>7</sup> *See supra* note 2, at 17.

<sup>8</sup> *See supra* note 2, at 18.

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 the amount of new reuse in Southeast Florida.”<sup>9</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 403.086, F.S., to extend compliance deadlines by which ocean outfalls must meet AWT standards from 2018 to 2020. It also extends the date for submission of a plan by the discharging permit holder from 2013 to 2014.

The bill allows utilities to comply with the 60 percent reuse requirement from their entire service areas rather than just from ocean outfalls by 2025. 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. The bill specifies that only facilities which shared a common ocean outfall as of July 1, 2008, are required to meet the 60 percent reuse requirement individually but may contract to share or transfer this responsibility with other utilities.

The bill allows utilities to continue backup discharges through ocean outfalls that are part of a functioning reuse system or other wastewater management system authorized by the DEP.

Utilities may make backup discharges that:

- Do not cumulatively exceed 5 percent of total baseline flows measured as a five-year rolling average;
- Are subject to applicable secondary waste treatment and water-quality-based effluent limitations specified in department rules; and
- Are deemed to meet AWT when in compliance with the effluent limitations.

The bill defines “baseline flow” as “the annual average flow of domestic wastewater discharging through the facility’s ocean outfall, as determined by the department, using monitoring data available for calendar years 2003 through 2007.”

The bill updates the requirements for the detailed plans that utilities must develop by October 2014 instead of July 2013. The new information included in the plan must identify:

- The technical, environmental and economic feasibility of various reuse options;
- An analysis of costs necessary for utilities to meet state and local water quality criteria; and
- A comparative cost estimate of achieving reuse requirements from ocean outfalls and other sources.

The plan must evaluate the demand for reuse in the context of future regional water supply demands, the availability of traditional sources of water, the need for alternative water supplies, the offset reuse will have on potable supplies and other factors contained in the SFWMD’s Lower East Coast Regional Water Supply Plan. The plan is due to the Legislature by October 2014 with an update due by July 2018.

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<sup>9</sup> See *supra* note 2, at 3.

Finally, the bill requires the DEP, the SFWMD and affected utilities to evaluate the detailed plans and recommend to the Legislature adjustments, if necessary, to the reuse requirements in this bill. The report is due to the Legislature by February 2015.

**Section 2** provides an effective date of July 1, 2012.

**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 customers will benefit from the cost saving provisions in this bill for wastewater utilities. While the savings are indeterminate, they will likely be insignificant on an individual basis when spread over time for customers served by their utilities.

C. Government Sector Impact:

Wastewater utilities may see significant cost reductions in implementing the 60 percent reuse requirements for ocean outfalls by utilizing their entire service areas rather than only flows discharged through ocean outfalls. Allowing utilities to continue backup discharges up to five percent of their peak flows will also save costs. Finally, exempting five percent of utilities' peak flows from AWT standards if those discharges meet statutory requirements and the DEP rules on effluent limitations may also result in significant savings. The City of Hollywood, Broward county and Miami-Dade county have estimated that allowing peak flow discharges of 5 percent will save on capital costs of \$142 million, \$600 million, and \$867 million, respectively.

In addition, the two-year extension may allow for more favorable economic conditions and bond markets to develop. However, any benefits and risks of this potential are too remote to calculate.

The bill requires the DEP to submit a report to the Legislature by February 15, 2015, containing recommendations for any necessary changes to the reuse requirements. The DEP has indicated this will not have a fiscal impact on the department.

**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.