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 Committee on Environment and Natural Resources

BILL:	SB 1228
INTRODUCER:	Senator McClain
SUBJECT:	Spring Restoration
DATE:	March 24, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barriero	Rogers	EN	**Favorable**
2.	Schrader	Imhof	RI	**Favorable**
3.			RC	

I. Summary:

SB 1228 allows a domestic wastewater facility with an approved plan to eliminate nonbeneficial surface water discharges to request to amend the plan to incorporate a reclaimed water project identified in an Outstanding Florida Springs recovery or prevention strategy. The Department of Environmental Protection (DEP) must approve the request within 60 days if the following conditions are met:

- The identified use of reclaimed water will benefit a rural area of opportunity.
- The project will provide at least 35 million gallons per day of reclaimed water to benefit an Outstanding Florida Spring.
- The project involves more than one domestic wastewater treatment facility.
- The project implementation and surface water discharge elimination schedule meets the minimum flows and minimum water levels requirements for Outstanding Florida Springs.

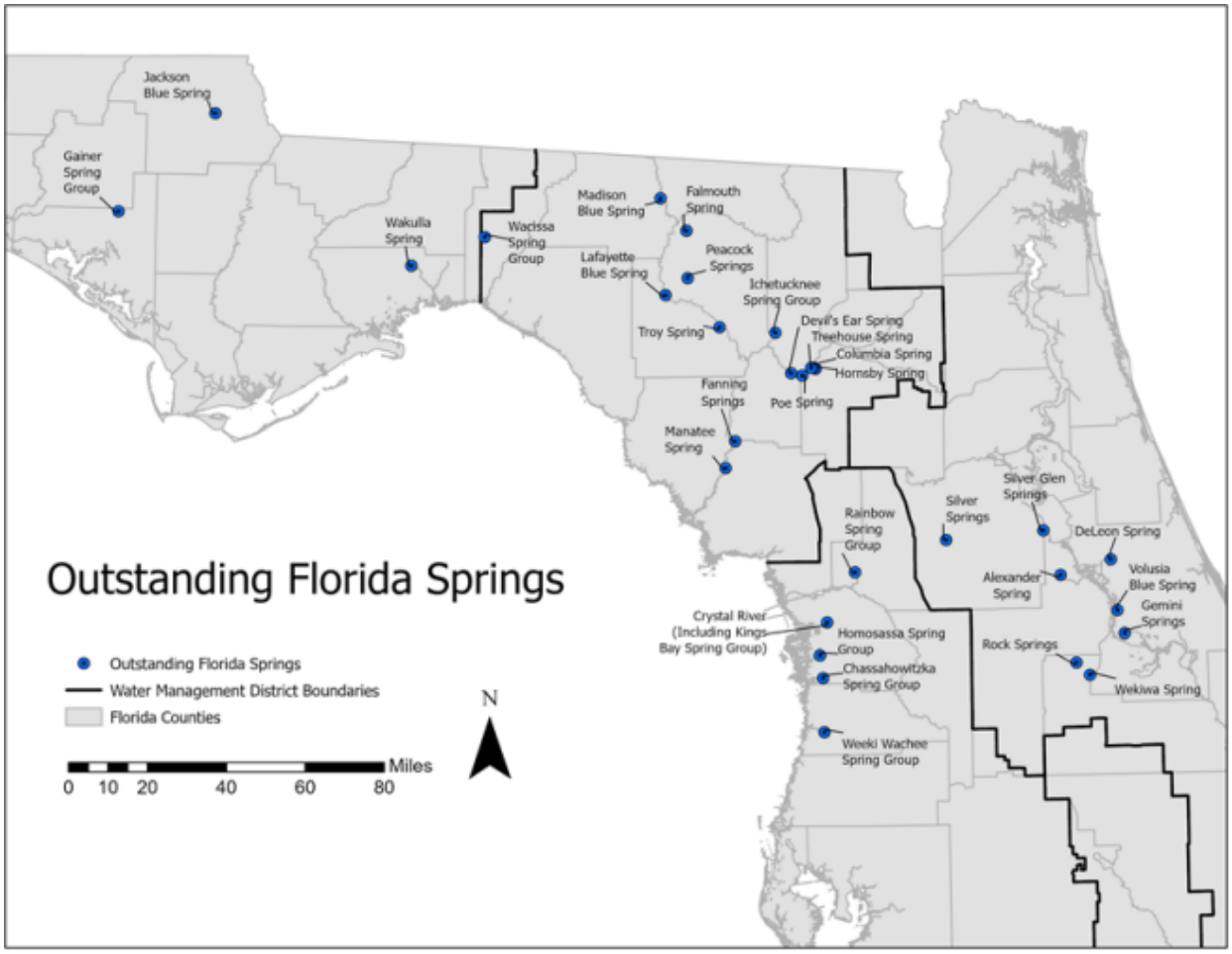
II. Present Situation:

Outstanding Florida Springs

In 2016, the Florida Legislature enacted the Florida Springs and Aquifer Protection Act and identified 30 Outstanding Florida Springs (OFSs) that require additional protections to ensure their conservation and restoration for future generations.[1] These springs are a unique part of the state's scenic beauty, provide critical habitat, and have immeasurable natural, recreational, and economic value.[2] OFSs are defined by statute and include all historic first magnitude springs, including their associated spring runs, as determined by the DEP using the most recent Florida

[1] DEP, *Springs*, https://floridadep.gov/springs/ (last visited Mar. 3, 2025).
[2] DEP, *Protect and Restore Springs*, https://floridadep.gov/springs/protect-restore (last visited Mar. 5, 2025); Ch. 2016-1, s. 22, Laws of Fla.

Geological Survey springs bulletin, and several additional enumerated springs.[3] There are 30 OFSs, including 24 historic first magnitude springs and six named additional springs.[4]



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The water quality for each OFS must be assessed and a minimum flow or minimum water level (MFL) must be established.[6]

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[3] Section 373.802(4), F.S.

[4] DEP, *Outstanding Florida Springs*, https://geodata.dep.state.fl.us/datasets/outstanding-florida-springs-ofs/about?layer=1 (last visited Mar. 22, 2025). The 30 OFSs are Alexander Spring, Chassahowitzka Springs Group, Columbia Spring, Crystal River, DeLeon Spring, Devil's Ear Spring, Falmouth Spring, Fanning Springs, Gainer Spring Group, Gemini Springs, Homasassa Spring Group, Hornsby Spring, Ichetucknee Spring Group, Jackson Blue Spring, Lafayette Blue Spring, Madison Blue Spring, Manatee Spring, Peacock Springs, Poe Spring, Rainbow Spring Group, Rock Springs, Silver Glen Springs, Silver Springs, Treehouse Spring, Troy Spring, Volusia Blue Spring, Wacissa Spring Group, Wakulla Spring, Weeki Wachee Springs Group, and Wekiwa Spring. DEP, *62-41.400-403, F.A.C. Outstanding Florida Springs Rule Development Workshop*, 5 (2023), *available at* https://floridadep.gov/sites/default/files/OFS_Workshop_Aug-28-2023_0.pdf (showing map of OFSs).

[5] DEP, *62-41.400-403, F.A.C. Outstanding Florida Springs Rule Development Workshop*, *supra* note 4 at pg. 4.

[6] *See* ch. 2016-1, s. 5, Laws of Fla.; s. 373.042(2)(a), F.S. *See also* DEP, *Protect and Restore Springs*, https://floridadep.gov/springs/protect-restore; DEP, *Minimum Flows and Minimum Water Levels and Reservations*, https://floridadep.gov/water-policy/water-policy/content/minimum-flows-and-minimum-water-levels-and-reservations#Minimum%20Flows%20and%20Minimum%20Water%20Levels%20(MFLs) (last visited Mar. 5, 2025).

Minimum Flow and Minimum Water Levels (MFLs)

MFLs are established for waterbodies to prevent significant harm to the water resources or ecology of an area as a result of water withdrawals.[7] MFLs are typically determined based on evaluations of natural seasonal fluctuations in water flows or levels, nonconsumptive uses, and environmental values associated with coastal, estuarine, riverine, spring, aquatic, wetlands ecology, and other pertinent information associated with the water resource.[8]

While the DEP has the authority to adopt MFLs, the state's five water management districts have the primary responsibility for MFL adoption. Water management districts submit annual MFL priority lists and schedules to the DEP for the establishment of MFLs for surface watercourses, aquifers, and surface waters within the district.[9] MFLs are calculated using the best information available[10] and are considered rules by the water management districts, which are subject to administrative challenges pursuant to ch. 120, F.S..[11] MFLs are subject to independent scientific peer review at the election of the DEP, a water management district, or, if requested, by a third party.[12]

MFLs must be established for each OFS.[13] If the water management district or the DEP fails to do so, it must adopt an MFL by emergency rule pursuant to s. 120.54(4), F.S.[14] For OFSs identified on a water management district's priority list which have the potential to be affected by withdrawals in an adjacent district, the adjacent district and the DEP must collaboratively develop and implement a recovery or prevention strategy for an OFS not meeting an adopted MFL.[15]

For OFSs that fall below the adopted MFL, or are projected to fall below the MFL within 20 years, the DEP or water management districts must implement a recovery or prevention strategy to ensure the MFL is maintained over the long-term.[16] The recovery or prevention strategy must include:

- A listing of all specific projects identified for implementation of the plan;
- A priority listing of each project;
- The estimated cost and date of completion for each listed project;
- The source and amount of financial assistance to be made available by the water management district for each listed project, which may not be less than 25 percent of the total project cost

[7] *See* s. 373.042, F.S.; *see also* DEP, *Minimum Flows and Minimum Water Levels and Reservations*, *supra* note 6.
[8] Fla. Admin. Code R. 62-40.473(1).
[9] Section 373.042(3), F.S.
[10] Section 373.042(1), F.S.
[11] Section 373.042(5) and (7), F.S.
[12] Section 373.042(6)(a), F.S.
[13] Section 373.042(2), F.S.
[14] *Id*.
[15] Section 373.042(2)(b), F.S.
[16] DEP, *Minimum Flows and Minimum Water Levels and Reservations*, https://floridadep.gov/owper/water-policy/content/minimum-flows-and-minimum-water-levels-and-reservations#Minimum%20Flows%20and%20Minimum%20Water%20Levels%20(MFLs) (last visited Mar. 22, 2025); section 373.805(1), F.S.

unless a specific funding source or sources are identified which will provide more than 75 percent of the total project cost;[17]
- An estimate of each listed project's benefit to an OFS; and
- An implementation plan designed with a target to achieve the adopted MFL no more than 20 years after the adoption of the recovery or prevention strategy.[18]

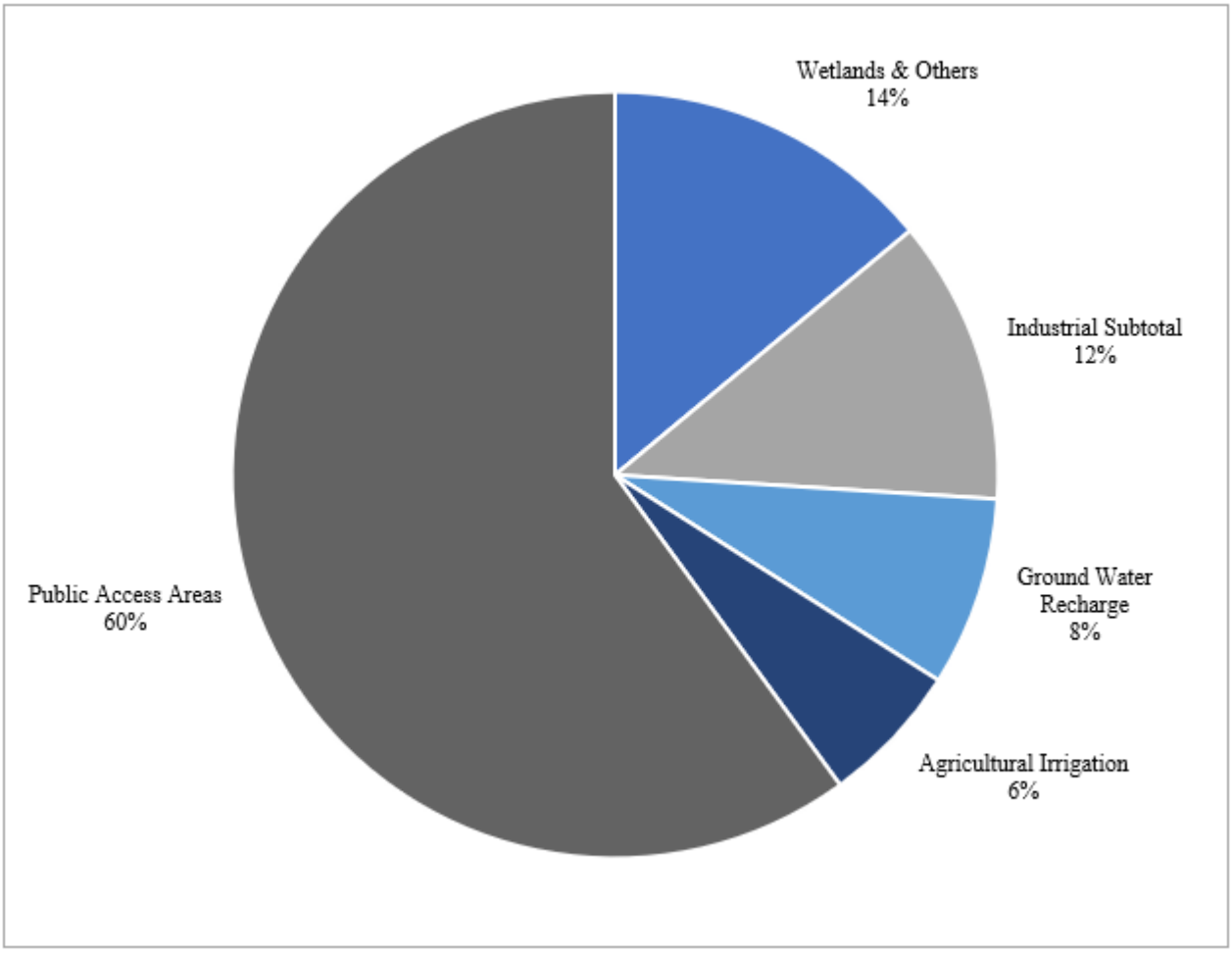
Reuse of Reclaimed Water

Reclaimed water is water that receives at least secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater treatment facility.[19] The reuse of reclaimed water is a critical component of meeting the state's existing and future water supply needs while sustaining natural systems and encouraging its best and most beneficial use.[20] Reclaimed water can be used for many purposes including:
- Irrigation of golf courses, parks, residential properties, highway medians and other landscaped areas;
- Urban uses such as toilet flushing, car washing, dust control and aesthetic purposes (i.e., decorative lakes, ponds, and fountains);
- Agricultural uses such as irrigation of edible food crops, pasture lands, grasslands, and other feed and fodder crops, and irrigation at nurseries;
- Wetlands creation, restoration, and enhancement;
- Recharging ground water with the use of rapid infiltration basins (percolation ponds), absorption fields, and direct injection to ground waters;
- Augmentation of surface waters that are used for drinking water supplies; and
- Industrial uses, including plant wash down, processing water, and cooling water purposes.[21]

A total of 380 domestic wastewater treatment facilities made reclaimed water available for reuse in 2023.[22] Approximately 891 million gallons per day (mgd) of reclaimed water from these facilities was reused for beneficial purposes, such as irrigating 655,171 residences, 536 golf courses, 1,104 parks, and 417 schools.[23] Irrigation accounted for about 60 percent of the 891 mgd of reclaimed water that was reused.[24] The graph below shows the percentage of reclaimed water utilization, by flow, for each reuse type.[25]

[17] The Northwest Florida Water Management District and the Suwannee River Water Management District are not required to meet the minimum financial assistance requirement. Section 373.805(4), F.S.
[18] *Id.*
[19] Fla. Admin. Code R. 62-600.200(57).
[20] Section 403.064(1), F.S.
[21] DEP, *Uses of Reclaimed Water*, https://floridadep.gov/water/domestic-wastewater/content/uses-reclaimed-water (last visited Mar. 22, 2025).
[22] DEP, *2023 Reuse Inventory Report*, 7 (2024), *available at* https://floridadep.gov/water/domestic-wastewater/content/reuse-inventory-database-and-annual-report.
[23] *Id.* at 7-8; DEP, *Florida's Reuse Activities*, https://floridadep.gov/water/domestic-wastewater/content/floridas-reuse-activities (last visited Mar. 22, 2025).
[24] *Id.*
[25] DEP, *2023 Reuse Inventory Report* at 12 (showing graph of reclaimed water utilization).

Figure 1: Reclaimed Water Utilization by Flow.



Note: Agriculture irrigation includes edible crops as well as feed and fodder crops (e.g., spray fields).

The total reuse capacity of Florida's domestic wastewater treatment facilities has increased from 1,116 mgd in 2000 to 2,497 mgd in 2023.[26] The current reuse capacity represents about 55 percent of the total permitted domestic wastewater treatment capacity in Florida.[27]

Eliminating Nonbeneficial Discharges

Domestic wastewater utilities that dispose of effluent, reclaimed water, or reuse water by surface water discharge are required to submit to the DEP a plan for eliminating nonbeneficial surface water discharge by January 1, 2032.[28] The plan must include the average gallons per day of effluent, reclaimed water, or reuse water that will no longer be discharged into surface waters and the date of such elimination, the average gallons per day of surface water discharge which will continue in accordance with approved alternative uses, and the level of treatment that the

[26] DEP, *Florida's Reuse Activities*, https://floridadep.gov/water/domestic-wastewater/content/floridas-reuse-activities (last visited Mar. 5, 2025).
[27] *Id.*
[28] Section 403.064(16), F.S.

effluent, reclaimed water, or reuse water will receive before being discharged into a surface water by each alternative.[29]

The utility's plan must eliminate surface water discharges or meet the requirements of s. 403.086(10), F.S., which regulates the elimination of domestic wastewater through ocean outfalls.[30] If the plan does not provide for the complete elimination of surface water discharges, it must provide an affirmative demonstration that any of the following conditions apply to the remaining discharge:

- The discharge is associated with an indirect potable reuse project;
- The discharge is a wet weather discharge that occurs in accordance with an applicable DEP permit;
- The discharge is into a stormwater management system and is subsequently withdrawn for irrigation purposes;
- The utility operates domestic wastewater treatment facilities with reuse systems that reuse a minimum of 90 percent of the facility's annual average flow for reuse purposes; or
- The discharge provides direct ecological or public water supply benefits, such as rehydrating wetlands or implementing the requirements of MFLs or recovery or prevention strategies for a waterbody.[31]

These requirements do not apply to domestic wastewater treatment facilities that are:

- Located in a fiscally constrained county.[32]
- Located in a municipality that is entirely within a rural area of opportunity.[33]
- Located in a municipality that has less than $10 million in total revenue.
- Operated by an operator of a mobile home park[34] and has a permitted capacity of less than 300,000 gallons per day.[35]

A utility may modify its plan, provided it continues to meet the above requirements and the timeline to implement the plan is not extended.[36] If a plan is not timely submitted or approved by

[29] *Id.*
[30] Section 403.064(16)(a)1. and 2., F.S. Section 403.086(10), F.S., prohibits constructing new or expanding existing ocean outfalls beyond the capacities authorized as of July 1, 2008. By December 31, 2018, wastewater discharged through ocean outfalls must meet advanced treatment standards that reduce nitrogen and phosphorus levels, and by December 31, 2025, utilities must implement reuse systems to repurpose at least 60 percent of their baseline wastewater flow for approved beneficial uses such as irrigation, aquifer recharge, and industrial cooling. After December 31, 2025, ocean outfall discharges are prohibited except for limited backup flows under specific conditions.
[31] Section 403.064(16)(a)3., F.S.
[32] Each county that is entirely within a rural area of opportunity or each county for which the value of a mill will raise no more than $5 million in revenue from the previous July 1, is considered a fiscally constrained county. Section 218.67(1), F.S.
[33] "Rural area of opportunity" means a rural community, or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact. Section 288.0656(2)(d), F.S.
[34] "Operator of a mobile home park" means either a person who establishes a mobile home park on land that is leased from another person or a person who has been delegated the authority to act as the park owner in matters relating to the administration and management of the mobile home park, including, but not limited to, authority to make decisions relating to the mobile home park. Section 723.003(16), F.S.
[35] Section 403.064(16)(g), F.S.
[36] Section 403.064(16)(b), F.S.

the DEP, the utility's domestic wastewater treatment facilities may not dispose of effluent, reclaimed water, or reuse water by surface water discharge after January 1, 2028.[37]

Rural Areas of Opportunity

Section 288.0656(2)(d), F.S., defines a rural area of opportunity as a rural community, or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact. Florida's current rural areas of opportunity are:

- Opportunity Florida (the Northwest Rural Area of Opportunity), consisting of Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and the area within the city limits of Freeport and Walton County north of the Choctawhatchee Bay and intercoastal waterway.
- North Florida Economic Development Partnership (the North Central Rural Area of Opportunity), consisting of Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.
- Florida's Heartland Regional Economic Development Initiative, Inc. (the South Central Rural Area of Opportunity), consisting of DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the cities of Pahokee, Belle Glade, and South Bay (Palm Beach County), and Immokalee (Collier County).

III. Effect of Proposed Changes:

Section 1 amends s. 403.064, F.S., which regulates the reuse of reclaimed water. The bill provides that a domestic wastewater facility with an approved plan may submit a request to the DEP to amend the plan to incorporate a reclaimed water project identified in an Outstanding Florida Springs recovery or prevention strategy. The DEP must approve the request within 60 days after receipt of the request if all the following conditions are met:

- The identified use of reclaimed water will benefit a rural area of opportunity.
- The project will provide at least 35 million gallons per day of reclaimed water to benefit an Outstanding Florida Spring.
- The project involves more than one domestic wastewater treatment facility.
- The project implementation and surface water discharge elimination schedule meets the minimum flows and minimum water levels requirements for Outstanding Florida Springs.

Section 2 provides an effective date of July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[37] Section 403.064(16)(d), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 403.064 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.