

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 Community Affairs Committee

BILL: CS/CS/SB 2354

INTRODUCER: Committee on Community Affairs; Committee on Environmental Preservation and Conservation and Senator Sobel

SUBJECT: Sewage Disposal Facilities

DATE: April 14, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Uchino</u>	<u>Kiger</u>	<u>EP</u>	<u>Fav/CS</u>
2.	<u>Howes</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	_____	_____	<u>GA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The CS clarifies that any facility or entity that diverts domestic wastewater flow from a facility that discharges wastewater through an ocean outfall is required to meet the 60 percent reuse requirement for the diverted quantity. Such reuse will be credited to the diverting facility or entity. However, the diverted quantity will be accounted for in the reuse calculation for the facility originally discharging the domestic wastewater through an ocean outfall.

The CS provides for an effective date of July 1, 2010.

This CS substantially amends s. 403.086, Florida Statutes.

II. Present Situation:

There are six domestic wastewater facilities (facilities) in Palm Beach, Broward, and Miami-Dade Counties discharging approximately 400 million gallons per day of treated domestic wastewater directly into the Atlantic Ocean through ocean outfalls.¹

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 facilities' actual annual flow for beneficial reuse. The actual annual flow is calculated using the annual average flow through a facility's ocean outfall from 2003 through 2007.

Facilities operating ocean outfalls receive a significant portion of their annual average flow from other wastewater facilities located outside their direct service areas. There is a potential that flow received from outside their service areas could be diverted to other facilities that do not discharge to ocean outfalls, and therefore, would not have to comply with the 60 percent beneficial reuse requirement of ocean outfalls. Thus, diverting flow could circumvent the intent of the law to capture 60 percent of the flow currently being disposed of through ocean outfalls. Diversion may also prevent facilities discharging through ocean outfalls from meeting the 60 percent target for reuse. The reuse calculation does not consider quantities diverted from the facility, only the total average annual quantity from 2003 to 2007. In 2005, these facilities had reached approximately 94 percent of their permitted flow capacity.² As such, even small flow diversions have significant compliance consequences. For example, if a facility received an average of 100 million gallons per day from 2003 to 2007, it would be required to produce 60 million gallons per day of reuse by 2025 to be in compliance. If 20 million gallons per day were diverted, the facility would still be required to produce 60 million gallons of reuse per day to comply, or 75 percent of the flow. If enough flow is diverted, it is possible that facilities discharging to ocean outfalls will be required to produce greater than 100 percent of the flow they receive as reuse.

The discharge of wastewater through ocean outfalls is prohibited after December 31, 2025, except as a backup discharge that is part of a functioning reuse system authorized by the DEP. A backup discharge may occur only during periods of reduced demand for reclaimed water, such as periods of wet weather, and must comply with the advanced wastewater treatment and management requirements of s. 403.086, F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 403.086, F.S., requiring facilities or entities that contribute domestic wastewater to facilities discharging through ocean outfalls to meet the 60 percent reuse requirement for all quantities diverted. The diverted quantity would be deducted from the actual annual flow quantity of the facility that originally accepted the flow for discharge to an ocean

¹ Ben Koopman, et al., *Ocean Outfall Study, Final Report*. 2006. University of Florida, Gainesville. Prepared for the Florida Department of Environmental Protection. Last accessed March 19, 2010. Available at: <<http://www.dep.state.fl.us/water/reuse/docs/OceanOutfallStudy.pdf>>.

² *Id.*

outfall. It also clarifies that any entity, not just a facility, that diverts wastewater flow from a facility discharging to an ocean outfall must meet the 60 percent reuse requirement.

Section 2 provides an effective date of July 1, 2010.

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:

The rate payers serviced by an entity that chooses to divert flow from an ocean outfall may be subject to higher rates. Rate increases, if any, will be dependent on the cost of complying with the 60 percent beneficial reuse requirement for the quantity diverted.

C. Government Sector Impact:

According to the DEP, there will be no fiscal impact if entities currently contributing flow to a facility discharging to an ocean outfall continue to send 100 percent of their flow to these facilities. However, if an entity diverts flow, it would be responsible for the costs of complying with the 60 percent beneficial reuse requirement in this CS for the diverted flow. The facility discharging through an ocean outfall would be able to deduct the quantity diverted from its reuse calculation and may have reduced compliance costs. If the CS does not pass and if significant flow is diverted from facilities operating ocean outfalls, those facilities would have significantly higher compliance costs. It is also possible that if enough flow was diverted, compliance with the 60 percent requirement would be technically infeasible.

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.)

CS by Community Affairs on April 14, 2010:

The CS is a technical change.

CS by Environmental Preservation and Conservation on March 23, 2010:

The CS clarifies language relating to the word “facilities.” The DEP had expressed concern that the bill, as filed, used “facility” to refer to both a facility or entity contributing domestic wastewater flow and a facility receiving the domestic wastewater flow. The receiving facility is currently responsible for discharging the treated waste through an ocean outfall and must produce 60 percent reuse by 2025. The contributing entity does not have to comply with the 60 percent reuse requirement. New paragraph (i) clarifies that any entity contributing wastewater flow is required to meet the 60 percent reuse requirement for diverted quantities. Paragraph (i) also provides for recalculations of the amount of reuse a facility discharging to an ocean outfall must produce if flow is diverted.

B. Amendments:

None.