

**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 444

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Domestic Wastewater Discharged Through Ocean Outfalls

DATE: March 6, 2013

REVISED: 3/7/2013

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Gudeman</u>	<u>Uchino</u>	<u>EP</u>	<b>Favorable</b>
2.	<u></u>	<u></u>	<u>CA</u>	<u></u>
3.	<u></u>	<u></u>	<u>AGG</u>	<u></u>
4.	<u></u>	<u></u>	<u>AP</u>	<u></u>
5.	<u></u>	<u></u>	<u></u>	<u></u>
6.	<u></u>	<u></u>	<u></u>	<u></u>

**I. Summary:**

SB 444 allows utilities additional flexibility to meet the 60 percent reuse requirement. The bill allows utilities to continue to discharge peak flows up to five 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 s. 403.086(9), F.S. Finally, the bill requires the utilities, the Department of Environmental Protection (DEP, department) and the South Florida Water Management District (SFWMD) to evaluate the detailed plans and recommend adjustments to the Legislature, if necessary, to the reuse requirements in this section.

SB 444 substantially amends s. 403.086 of the Florida Statutes.

**II. Present Situation:**

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 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.

---

<sup>1</sup> DEP, *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 Feb. 11, 2013).

<sup>2</sup> David Fleshler, *Flow of sewage to ocean ending*, Sun Sentinel (April 1, 2009), available at [http://articles.sun-sentinel.com/2009-04-01/news/0903310461\\_1\\_outfall-pipe-treatment-plant](http://articles.sun-sentinel.com/2009-04-01/news/0903310461_1_outfall-pipe-treatment-plant) (last visited Feb. 11, 2013).

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>

### III. Effect of Proposed Changes:

**Section 1** amends s. 403.086, F.S., to allow utilities to comply with the 60 percent reuse requirement from their entire service areas or by contract with another utility within Miami-Dade, Broward, or Palm Beach Counties rather than just from ocean outfalls by 2025. This provision will allow utilities the flexibility to find the most cost-effective method to achieve 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 department must approve the apportionment of the reuse generated from the new or expanded reuse system for facilities that contract with another utility and the reuse apportioned to each utility's requirement may not exceed the total reuse generated by the new or expanded reuse system.

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 five 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.

---

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

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

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

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 July 1, 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<sup>6</sup>. The plan is due to the department by July 1, 2013, with an update due by July 1, 2016.

Finally, the bill requires the DEP, the SFWMD and affected utilities to evaluate the detailed plans and recommend adjustments to the Legislature, if necessary, to the reuse requirements in this bill. The report is due to the Legislature by February 15, 2015.

**Section 2** provides an effective date of July 1, 2013.

#### **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.

---

<sup>6</sup> SFWMD, *Lower East Coast Water Supply Plan* (2012), available at <http://www.sfwmd.gov/portal/page/portal/xweb%20-%20release%203%20water%20supply/lower%20east%20coast%20plan> (last visited Feb. 11, 2013).

**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 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 five percent will save on capital costs of \$150-200 million, \$300 million, and \$820 million, respectively.<sup>7</sup>

**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.

---

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---

---

<sup>7</sup> Information provided by Broward and Miami-Dade Counties, the City of Hollywood and the City of Boca Raton (on file with the Senate Committee on Environmental Preservation and Conservation).