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 Appropriations Committee on Transportation, Tourism, and Economic Development

BILL:	CS/SB 810
INTRODUCER:	Appropriations Committee on Transportation, Tourism, and Economic Development and Senator Burgess
SUBJECT:	Stormwater Management Systems
DATE:	March 26, 2025 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barriero	Rogers	EN	**Favorable**
2.	Griffin	Nortelus	ATD	**Fav/CS**
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 810 requires each municipal separate storm sewer (MS4) entity to conduct annual operation and maintenance inspections of all permitted stormwater management systems owned or operated by the MS4 entity. As part of such inspections, the MS4 entity must identify any infrastructure within the MS4, or any component thereof, which:

- Has a significant vulnerability to obstruction, blockage, deterioration, failure, or other deficiencies; and
- Upon operational failure, would result in flooding and property damage.

The bill requires MS4 entities to complete a stormwater facility inspection checklist for each MS4 inspected and submit it to the Department of Environmental Protection and the Division of Emergency Management by September 1, 2026, and by June 1 of each year thereafter. Each checklist must include any vulnerable infrastructure within the MS4 identified by the inspection.

The bill may have an indeterminate, negative fiscal impact on MS4 entities. **See Section V. Fiscal Impact Statement.**

The bill takes effect July 1, 2025.

II. Present Situation:

Environmental Resource Permitting (ERP)

Part IV of ch. 373, F.S., and Rule 62-330, F.A.C., regulate the statewide ERP program, which is the primary tool used by the Department of Environmental Protection (DEP) and the water management districts (WMDs) for preserving natural resources and fish and wildlife, minimizing degradation of water resources caused by stormwater discharges, and providing for the management of water and related land resources. The program governs the construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and other works such as docks, piers, structures, dredging, and filling located in, on, or over wetlands or other surface waters.[1]

The ERP regulatory framework also includes inspection requirements. For example, s. 373.423, F.S., provides that, during the construction or alteration of any stormwater management system, dam, impoundment, reservoir, appurtenant work, or works, the DEP or the governing board of a water management district must make periodic inspections to ensure conformity with the approved plans and specifications included in the permit.[2] Additionally, once the work is completed, the executive director of the water management district or the DEP must ensure periodic inspections are conducted to protect public health, safety, and natural resources.[3]

Inspection requirements for stormwater management systems will be discussed in further detail below.

Stormwater Runoff

Florida averages 40-60 inches of rainfall a year, depending on the location, with about two-thirds falling between June and October.[4] Stormwater runoff generated during these rain events flows over land or impervious surfaces, such as paved streets, parking lots, driveways, sidewalks, and rooftops, and picks up pollutants like trash, chemicals, oils, and sediment along the way. This unfiltered water ends up in streams, ponds, lakes, bays, wetlands, oceans, and groundwater. Construction sites, lawns, improperly stored hazardous wastes, and illegal dumping are all potential sources of stormwater pollutants.[5]

[1] Fla. Admin. Code R. 62-330.010(2).
[2] Section 373.423(1), F.S.
[3] Section 373.423(2), F.S.
[4] University of Florida Institute of Food and Agricultural Sciences, *Florida Rainfall Data Sources and Types*, 1 (2023), *available at* https://edis.ifas.ufl.edu/publication/AE517.
[5] U.S. Environmental Protection Agency (EPA), *Urbanization and Stormwater Runoff*, https://www.epa.gov/sourcewaterprotection/urbanization-and-stormwater-runoff (last visited Mar. 3, 2025).

Polluted stormwater runoff is one of the greatest threats to clean water in the United States.[6] Over 40 percent of waters assessed by the states are too polluted for fishing or swimming.[7] Nonpoint sources associated with stormwater account for over 40 percent of these polluted waters.[8] Conversely, traditional point sources (i.e., wastewater treatment plants) account for only about 10 percent of these polluted or "impaired" waters.[9] Hundreds of impaired waters in Florida have lost their designated use due, in part, to stormwater pollution.[10]

Moreover, when prolonged or heavy rains saturate the ground, such as during a hurricane or other storm event, stormwater retention ponds may overflow and yards and streets may flood, causing sanitary sewer systems to also overflow.[11] Some stormwater management structures may fail during severe storm events when overwhelmed by flood volumes that exceed the facility's design capacity or by defects or lack of maintenance that result in reduced storage capacity.[12]

Inadequate stormwater management can also increase stormwater flows and velocities, contribute to erosion, overtax the carrying capacity of streams and other conveyances, and reduce groundwater recharge.[13]

Stormwater Management Rules and Municipal Separate Storm and Sewer (MS4) Entities

In 2020, the Florida Legislature passed Senate Bill 712, also known as the Clean Waterways Act (the Act).[14] This legislation passed with unanimous, bipartisan support and included a wide range of water-quality protection provisions aimed at minimizing the impact of known sources of nutrient pollution and strengthening regulatory requirements. Among other things, the Act directed the DEP and water management districts to update stormwater rules using the latest scientific information.[15] In 2024, the Legislature ratified those rules. Among other things, the revised rules:

- Created new minimum performance standards for all ERP stormwater systems;

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[6] South Florida Water Management District (SFWMD), *Your Impact on the Environment*, https://www.sfwmd.gov/community-residents/what-can-you-do (last visited Mar. 3, 2025); EPA, *Soak Up the Rain: What's the Problem?*, https://www.epa.gov/soakuptherain/soak-rain-whats-problem#:~:text=Runoff%20picks%20up%20fertilizer%2C%20oil,clean%20water%20in%20the%20U.S. (last visited Mar. 5, 2025).

[7] DEP, *Stormwater Support*, https://floridadep.gov/water/engineering-hydrology-geology/content/stormwater-support (last visited Mar. 3, 2025). A recent study examining water quality across the U.S. shows Florida ranks first in the nation for total acres of lakes classified as impaired for swimming and aquatic life (873,340 acres), and second for total lake acres listed as impaired for any use (935,808 acres). Environmental Integrity Project, *The Clean Water Act at 50*, 28 (2022), *available at* https://environmentalintegrity.org/wp-content/uploads/2022/03/CWA@50-report-3-17-22.pdf. Florida also has the second most total square miles of impaired estuaries (2,533 square miles). *Id.* at 29.

[8] DEP, *Stormwater Support*, https://floridadep.gov/water/engineering-hydrology-geology/content/stormwater-support (last visited Mar. 3, 2025).

[9] *Id.*

[10] *Id.*

[11] DEP, *Water Conservation Tips*, https://floridadep.gov/comm/press-office/content/water-conservation-tips (last visited Mar. 4, 2025).

[12] U.S. Federal Emergency Management Agency, *Hurricane and Flood Mitigation Handbook for Public Facilities: Fact Sheet 2.2: Basins*, 1 (2022), *available at* https://www.fema.gov/sites/default/files/documents/fema_p-2181-fact-sheet-2-2-basins.pdf?utm_source=chatgpt.com.

[13] Fla. Admin. Code R. 62-40.431(2)(b).

[14] Ch. 2020-150, Laws of Fla.

[15] *Id.*at s. 5 (amending s. 373.4131, F.S., effective July 1, 2020).

- Required applicants to demonstrate through modeling and calculations based on local conditions and annual runoff volumes that their proposed stormwater treatment system is designed to discharge to the required treatment level; and
- Created new requirements for periodic inspections and the operation and maintenance of stormwater treatment systems.

Under the revised rules, operation and maintenance entities—other than municipal separate storm sewer system (MS4) entities—are required to submit a written operation and maintenance plan and conduct periodic inspections to ensure that the stormwater management system, and each component thereof, continues to function as designed and permitted.[16] The table below provides the default inspection frequencies for common stormwater best management practices. These inspection frequencies may be altered by the permitting agency.[17]

TYPE OF SYSTEM	INSPECTION FREQUENCY
Dry Retention basins	Once every 3 years
Exfiltration trenches	Once every 2 Years
Underground retention	Once every Year
Sand or Media Filters	Once every Year
Underdrain System	Once every 2 Years
Underground vault/chambers	Once every Year
Pump Systems	Twice every Year
Swales (treatment)	Once every 3 years
Wet Detention systems	Once every 3 years
Wet Detention systems with littoral zones	Once every 2 years
Vegetated Natural Buffers	Once every 5 years
Manufactured Devices	As manufacturer recommends in specifications, minimum once every year
Dam Systems	Once every Year
All other	Once every Year

The new inspection requirements under the revised rules do not apply to MS4 entities. An MS4 is a publicly-owned conveyance or system of conveyances (i.e., ditches, curbs, catch basins, underground pipes, etc.) for collecting or conveying stormwater and discharges to surface waters of the state.[18] Examples of MS4 entities include, but are not limited to, municipalities, counties, community development districts, universities, military bases or federal correctional facilities.[19] MS4 entities must conduct and report inspections in accordance with their MS4 permit requirements and any associated standard operating procedures.[20] MS4 entities do not need to provide a written operation and maintenance plan under the revised rules.[21] MS4 entities must nonetheless ensure that operation and maintenance activities are sufficient to perpetually

[16] DEP, *ERP Applicant's Handbook: Vol I*, ss. 12.4.1 and 12.5(a), (2024), *available at* https://flrules.org/Gateway/reference.asp?No=Ref-15342.
[17] DEP, *ERP Applicant's Handbook: Vol I* at s. 12.5(g), table 12.1.
[18] DEP, *Municipal Separate Storm Sewer Systems (MS4)*, https://floridadep.gov/water/stormwater/content/municipal-separate-storm-sewer-systems-ms4#:~:text=A%20municipal%20separate%20storm%20sewer%20system%20%28MS4%29%20is,that%20discharges%20to%20surface%20waters%20of%20the%20state (last visited Mar. 4, 2025).
[19] *Id.*
[20] DEP, *ERP Applicant's Handbook: Vol. I* at s. 12.5(b).
[21] *Id.* at s. 12.4.1.

maintain the performance of the ERP stormwater management system so that it functions as designed and permitted and must conduct operation and maintenance in accordance with their MS4 permit requirements.[22]

Operators of large, medium, and regulated small MS4s are required to obtain a National Pollutant Discharge Elimination System (NPDES) permit to discharge to waters of the state.[23] For large and medium MS4 discharges, the permit application must include a proposed management program, including priorities and procedures for inspections, to detect and remove illicit discharges and improper disposal into the sewer system.[24] Permittees may also be required to allow the DEP personnel to inspect facilities, equipment, practices, and operations regulated under a NPDES generic permit.[25]

III. Effect of Proposed Changes:

Section 1 amends s. 373.423, F.S., relating to the stormwater management system inspections. The bill provides that MS4 means a municipal separate storm sewer as defined in 40 C.F.R. s. 122.26(b), which in turn defines the term as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- Owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act that discharges to waters of the United States;
- Designed or used for collecting or conveying storm water;
- Which is not a combined sewer; and
- Which is not part of a publicly owned treatment works.[26]

The bill requires each MS4 entity[27] to conduct annual operation and maintenance inspections of all permitted stormwater management systems owned or operated by the MS4 entity. As part of such inspections, the MS4 entity must identify any infrastructure within the MS4, or any component thereof, which:

- Has a significant vulnerability to obstruction, blockage, deterioration, failure, or other deficiencies; and
- Upon operational failure, would result in flooding and property damage.

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[22] *Id.*

[23] DEP, *Municipal Separate Storm Sewer Systems (MS4),* https://floridadep.gov/water/stormwater/content/municipal-separate-storm-sewer-systems-ms4#:~:text=A%20municipal%20separate%20storm%20sewer%20system%20%28MS4%29%20is,that%20discharges%20to%20surface%20waters%20of%20the%20state (last visited Mar. 4, 2025). *See also* Fla. Admin. Code R. 62-624.400; 40 C.F.R. 122.26.

[24] 40 C.F.R. 122.26(d)(2)(iv)(B)(1).

[25] Fla. Admin. Code Form 62-621.300(7)(a), *available at* https://floridadep.gov/water/stormwater/forms/phase-ii-ms4-generic-permit-2021.

The bill requires the MS4 entity to complete the stormwater facility inspection checklist developed by the Department of Environmental Protection (DEP) for each MS4 inspected pursuant to this bill. The completed checklist must be submitted to the DEP and the Division of Emergency Management by September 1, 2026, and by June 1 of each year thereafter. Each checklist must include any vulnerable infrastructure within the MS4, or any component thereof, as identified by the inspection.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The municipality/county mandates provision of Art. VII, s. 18(a) of the Florida Constitution may apply to this bill. The Florida Constitution limits the ability of the State to impose unfunded mandates on local governments. This bill requires political subdivisions to expend funds to annually inspect known works under their control. However, the law would likely have an insignificant fiscal impact. Therefore, an exemption from Art. VII, s. 18(a) of the Florida Constitution likely applies.

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:

None.

C. Government Sector Impact:

Municipal separate storm sewer entities may be required to expend funds to conduct annual inspections of their stormwater management systems.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 373.423 of the Florida Statutes.

IX. Additional Information:

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

CS by Appropriations Committee on Transportation, Tourism, and Economic Development on March 24, 2025:
The committee substitute:

- Provides that the bill applies to municipal separate storm sewer (MS4) entities.
- Requires MS4s to conduct annual inspections of all permitted stormwater management systems owned or operated by the MS4 entity.
- Requires the MS4 entity to identify vulnerable infrastructure within the MS4, or any component thereof, which upon operational failure would result in flooding and property damage.
- Requires the MS4 entity to complete a stormwater facility inspection checklist and submit it to the Department of Environmental Protection and the Division of Emergency Management by September 1, 2026, and by June 1 of each year thereafter. Each checklist must include any vulnerable infrastructure within the MS4 identified by the inspection.

B. Amendments:

None.