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 810
INTRODUCER:	Senator Burgess
SUBJECT:	Stormwater Management Systems
DATE:	March 10, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barriero	Rogers	EN	**Pre-meeting**
2.			ATD	
3.			FP	

I. Summary:

SB 810 requires each political subdivision of this state to inspect known works under the normal and customary control of the political subdivision by June 1 of each year. The bill directs the Division of Emergency Management to create a standardized form for the official who completes such inspection to complete and sign, attesting that he or she completed the inspection. The form must be submitted to the Division of Emergency Management.

The bill also directs the Division of Emergency Management to adopt rules to implement this section.

II. Present Situation:

Environmental Resource Permitting (ERP)

Part IV of chapter 373, F.S., and chapter 62-330 of the Florida Administrative Code regulate the statewide ERP program, which is the primary tool used by the DEP and the 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, DEP or the governing board of a

[1] Fla. Admin. Code R. 62-330.010(2).

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 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]

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,

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[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).
[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.*

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

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 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:

- Create new minimum performance standards for all ERP stormwater systems;
- Require 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
- Create 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—must 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] Below are the default inspection frequencies for common stormwater best management practices. These inspection frequencies may be altered by the permitting agency.[17]

[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).
[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.

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 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

[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.
[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).

to allow DEP personnel to inspect facilities, equipment, practices, and operations regulated under a NPDES generic permit.[25]

III. Effect of Proposed Changes:

Section 1 amends the stormwater management system inspections in s. 373.423, F.S. The bill requires each political subdivision of this state to inspect known works under the normal and customary control of the political subdivision[26] by June 1 of each year. The bill directs the Division of Emergency Management to create a standardized form for the official who completes such inspection to complete and sign, attesting that he or she completed the inspection. The form must be submitted to the Division of Emergency Management.

The bill also directs the Division of Emergency Management to adopt rules to implement this section, including rules establishing a standardized form.

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.

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

[26] Under a separate part of chapter 373, F.S., political subdivision is defined as a city, town, county, district, or other public body created by or pursuant to state law, or any combination thereof acting cooperatively or jointly. Section 373.303(4), F.S. This term is not defined in part IV of chapter 373, F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Local governments and other political subdivisions may be required to expend funds to conduct annual inspections of their stormwater management systems. The Division of Emergency Management may also incur costs to develop rules and create a standardized form pursuant the requirements of this bill.

VI. Technical Deficiencies:

The bill does not define "known works," and it is therefore unclear if this bill requires political subdivisions to inspect only stormwater management systems or other structures under their control (e.g., dams, impoundments, reservoirs, appurtenant works, other infrastructure). It is also unclear if "normal and customary control" includes everything within the political subdivision's jurisdiction or just works that the political subdivision has the responsibility to maintain.

VII. Related Issues:

It may be beneficial to define "political subdivisions." This term is defined under a separate part of chapter 373, F.S., as a city, town, county, district, or other public body created by or pursuant to state law, or any combination thereof acting cooperatively or jointly.[27] However, the term is not defined in the bill or part IV of chapter 373, F.S.

VIII. Statutes Affected:

This bill substantially amends section 373.423 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.

[27] Section 373.303(4), F.S.