

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 Environmental Preservation and Conservation

BILL: SB 934

INTRODUCER: Senator Lee

SUBJECT: Stormwater Management Permits

DATE: March 19, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Uchino	EP	Pre-meeting
2.			CA	
3.				
4.				
5.				
6.				

I. Summary:

SB 934 requires water management districts (WMDs) to establish an urban redevelopment conceptual permit in consultation with the Department of Environmental Protection (DEP). It specifies that urban redevelopment projects that satisfy the permit requirements qualify for a noticed general permit.

This bill creates s. 373.41305 of the Florida Statutes.

II. Present Situation:

The Community Redevelopment Act of 1969

The Community Redevelopment Act of 1969¹ was developed to revitalize economically distressed areas in order to improve public welfare and increase the local tax base. The act provides a funding mechanism by which counties and municipalities may undertake community redevelopment.² It allows counties or municipalities to retain tax increment revenues from certain community taxing districts to fund redevelopment within a designated Community Redevelopment Area (CRA). To obtain this revenue, a local government must create a community redevelopment agency, designate an area or areas to be a CRA, create a community redevelopment plan, and establish a trust fund to receive the tax increment revenues.³

¹ See ch. 163, Part III, F.S.

² Section 163.353, F.S.

³ See *supra* note 1.

The Growth Policy Act of 1999

The Growth Policy Act authorizes local governments to designate urban infill and redevelopment areas for the purposes of stimulating investment in distressed urban areas and strengthening urban centers.⁴ The act defines “urban infill and redevelopment area” as an area or areas where:

- Public services such as water and wastewater, transportation, schools, and recreation are already available or are scheduled to be provided within five years.
- The area, or one or more neighborhoods within the area, suffers from pervasive poverty, unemployment, and general distress.
- The proportion of properties that are substandard, overcrowded, dilapidated, vacant or abandoned, or functionally obsolete is higher than the average for the local government.
- More than 50 percent of the area is within a quarter of a mile of a transit stop, or a sufficient number of such transit stops will be made available concurrent with the designation.
- The area includes or is adjacent to community redevelopment areas, brownfields, enterprise zones, or Main Street programs, or has been designated by the state or federal government as an urban redevelopment area or similar designation.⁵

Pursuant to s. 163.2517, F.S., local governments that want to designate urban infill and redevelopment areas must develop plans describing redevelopment objectives and strategies, or amend existing plans. Local governments must also adopt urban infill and redevelopment plans by ordinance and amend their comprehensive plans to delineate urban infill and redevelopment area boundaries.

Urban Stormwater Management

Unmanaged urban stormwater creates a wide variety of effects on Florida’s surface waters and groundwaters. Urbanization leads to:

- Compaction of soil;
- Addition of impervious surfaces such as roads and parking lots;
- Alteration of natural landscape features such as natural depressional areas that hold water, floodplains and wetlands;
- Construction of highly efficient drainage systems that alter the ability of the land to assimilate precipitation; and
- Pollutant loading of receiving water bodies from stormwater discharge.⁶

Urbanization within a watershed decreases the amount of rainwater that seeps into the soil. Rainwater is critical for recharging aquifers, maintaining water levels in lakes and wetlands, and maintaining spring and stream flows. The increased volume, speed, and pollutant loading in stormwater discharged from developed areas leads to flooding, water quality problems and loss of habitat.⁷

⁴ See ss. 163.2511 through 163.2523, F.S.

⁵ Section 163.2514(2), F.S.

⁶ DEP, *State Stormwater Treatment Rule Development Background*, available at <http://www.dep.state.fl.us/water/wetlands/erp/rules/stormwater/background.htm> (last visited Mar. 18, 2013).

⁷ *Id.*

In 1982, to manage urban stormwater and minimize impacts to natural systems, Florida adopted a technology-based rule requiring the treatment of stormwater to a specified level of pollutant load reduction for all new development. The rule included a performance standard for the minimum level of treatment and design criteria for best management practices (BMPs) that will achieve the performance standard. It also included a rebuttable presumption that discharges from a stormwater management system designed in accordance with the BMP design criteria would meet water quality standards.⁸ The performance standard was to reduce post-development stormwater pollutant loading of total suspended solids⁹ by 80 percent, or by 95 percent for Outstanding Florida Waters.¹⁰

In 1990, the DEP developed and implemented the State Water Resource Implementation Rule (originally known as the State Water Policy rule).¹¹ This rule sets forth the broad guidelines for the implementation of Florida's stormwater program and describes the roles of the DEP, the WMDs, and local governments. One of the primary goals of the program is to maintain the predevelopment stormwater characteristics of a site. The rule sets a minimum performance standard for stormwater treatment systems to remove 80 percent of the post development stormwater pollutant loading of pollutants "that cause or contribute to violations of water quality standards."¹²

The DEP and the WMDs jointly administer the environmental resource permit (ERP) program for activities that alter surface water flows.¹³ Alteration or construction of new stormwater management systems in urban redevelopment areas is regulated by the ERP program pursuant to s. 373.413, F.S., and must comply with all other relevant sections of ch. 373, Part IV, F.S.

III. Effect of Proposed Changes:

Section 1 creates s. 373.41305, F.S., to address conceptual permits for urban redevelopment projects. The bill allows counties and municipalities doing urban redevelopment projects to adopt stormwater adaptive management plans to address stormwater quality and quantity. Those that adopt such plans may obtain a conceptual permit from a WMD or the DEP.

The bill directs the WMDs, in consultation with the DEP, to establish the conceptual permit. The conceptual permit:

- Allows discharges from an urban redevelopment area created under ch. 163, F.S., or an urban infill and redevelopment area designated under s. 163.2517, F.S., to continue up to the maximum rate and volume in that area as of the date a stormwater adaptive management plan is adopted;

⁸ *Id.*

⁹ Total Suspended Solids is listed as a conventional pollutant under s. 304(a)(4) of the federal Clean Water Act. A conventional pollutant is a water pollutant that is amenable to treatment by a municipal sewage treatment plant.

¹⁰ Rule 62-302.700, F.A.C., provides that an Outstanding Florida Water is a water body designated worthy of special protection because of its natural attributes. This special designation is applied to certain water bodies, and is intended to protect and preserve their existing states.

¹¹ See *supra* note 6. See also ch. 62-40, F.A.C.

¹² See *supra* note 6.

¹³ See ch. 373, Part IV, F.S. See also Florida Dep't of Environmental Protection, *Environmental Resource Permitting (ERP) Program*, available at <http://www.dep.state.fl.us/water/wetlands/erp/index.htm> (last visited Mar. 18, 2013).

- Presumes that stormwater discharges from an urban redevelopment area that result in a net improvement of discharge quality as compared to discharges that existed at the time the stormwater adaptive management plan is adopted do not cause or contribute to violations of water quality criteria;
- Cannot contain additional or more stringent limitations than those in the section created by this bill;
- Must be issued for at least 20 years, unless the applicant requests a shorter duration permit; and
- May be renewed.

The bill permits urban redevelopment projects that meet all requirements to qualify for noticed general permits for construction and operation for the duration of the conceptual permit.

Finally, the bill clarifies that permits issued under this section may not conflict with the requirements of Florida's federally approved National Pollutant Discharge Elimination System (NPDES), found in s. 403.0885, F.S. Also, permits issued under this section may not conflict with the implementation of s. 403.067(7), F.S., which concerns the development of basin management plans and the implementation of total maximum daily loads.

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.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DEP and WMDs will be required to expend funds to establish and implement the conceptual permit required by this bill. It is expected that the DEP and WMDs can absorb these costs with existing staff and resources. Additionally, local governments may have to expend funds to modify plans for stormwater management plans in urban redevelopment areas. It is also expected that local governments can absorb these costs with existing staff and resources.

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.