

1                   A bill to be entitled  
 2           An act relating to onsite sewage treatment and disposal  
 3           systems; amending s. 381.0065, F.S.; revising legislative  
 4           intent; eliminating provisions directing the Department of  
 5           Health to create and administer a statewide septic tank  
 6           evaluation program; eliminating procedures and criteria  
 7           for the evaluation program; repealing s. 381.00656, F.S.,  
 8           to terminate the grant program for repair of onsite sewage  
 9           treatment disposal systems identified pursuant to the  
 10          evaluation program, to conform; amending s. 381.0066,  
 11          F.S.; eliminating provisions authorizing the department to  
 12          collect an evaluation report fee; eliminating provisions  
 13          relating to disposition of fee proceeds and a revenue-  
 14          neutral fee schedule; providing an effective date.

15  
 16   Be It Enacted by the Legislature of the State of Florida:

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 18           Section 1. Subsections (1), (5), (6), and (7) of section  
 19   381.0065, Florida Statutes, are amended to read:

20           381.0065 Onsite sewage treatment and disposal systems;  
 21   regulation.—

22           (1) LEGISLATIVE INTENT.—

23           (a) It is the intent of the Legislature that proper  
 24   management of onsite sewage treatment and disposal systems is  
 25   paramount to the health, safety, and welfare of the public. ~~It~~  
 26   ~~is further the intent of the Legislature that the department~~  
 27   ~~shall administer an evaluation program to ensure the operational~~  
 28   ~~condition of the system and identify any failure with the~~

29 ~~system.~~

30 (b) It is the intent of the Legislature that where a  
 31 publicly owned or investor-owned sewerage system is not  
 32 available, the department shall issue permits for the  
 33 construction, installation, modification, abandonment, or repair  
 34 of onsite sewage treatment and disposal systems under conditions  
 35 as described in this section and rules adopted under this  
 36 section. It is further the intent of the Legislature that the  
 37 installation and use of onsite sewage treatment and disposal  
 38 systems not adversely affect the public health or significantly  
 39 degrade the groundwater or surface water.

40 ~~(5) EVALUATION AND ASSESSMENT.—~~

41 ~~(a) Beginning January 1, 2011, the department shall~~  
 42 ~~administer an onsite sewage treatment and disposal system~~  
 43 ~~evaluation program for the purpose of assessing the fundamental~~  
 44 ~~operational condition of systems and identifying any failures~~  
 45 ~~within the systems. The department shall adopt rules~~  
 46 ~~implementing the program standards, procedures, and~~  
 47 ~~requirements, including, but not limited to, a schedule for a 5-~~  
 48 ~~year evaluation cycle, requirements for the pump-out of a system~~  
 49 ~~or repair of a failing system, enforcement procedures for~~  
 50 ~~failure of a system owner to obtain an evaluation of the system,~~  
 51 ~~and failure of a contractor to timely submit evaluation results~~  
 52 ~~to the department and the system owner. The department shall~~  
 53 ~~ensure statewide implementation of the evaluation and assessment~~  
 54 ~~program by January 1, 2016.~~

55 ~~(b) Owners of an onsite sewage treatment and disposal~~  
 56 ~~system, excluding a system that is required to obtain an~~

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57 ~~operating permit, shall have the system evaluated at least once~~  
58 ~~every 5 years to assess the fundamental operational condition of~~  
59 ~~the system, and identify any failure within the system.~~

60 ~~(c) All evaluation procedures must be documented and~~  
61 ~~nothing in this subsection limits the amount of detail an~~  
62 ~~evaluator may provide at his or her professional discretion. The~~  
63 ~~evaluation must include a tank and drainfield evaluation, a~~  
64 ~~written assessment of the condition of the system, and, if~~  
65 ~~necessary, a disclosure statement pursuant to the department's~~  
66 ~~procedure.~~

67 ~~(d)1. Systems being evaluated that were installed prior to~~  
68 ~~January 1, 1983, shall meet a minimum 6-inch separation from the~~  
69 ~~bottom of the drainfield to the wettest season water table~~  
70 ~~elevation as defined by department rule. All drainfield repairs,~~  
71 ~~replacements or modifications to systems installed prior to~~  
72 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~  
73 ~~the bottom of the drainfield to the wettest season water table~~  
74 ~~elevation as defined by department rule.~~

75 ~~2. Systems being evaluated that were installed on or after~~  
76 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~  
77 ~~the bottom of the drainfield to the wettest season water table~~  
78 ~~elevation as defined by department rule. All drainfield repairs,~~  
79 ~~replacements or modification to systems developed on or after~~  
80 ~~January 1, 1983, shall meet a minimum 24-inch separation from~~  
81 ~~the bottom of the drainfield to the wettest season water table~~  
82 ~~elevation.~~

83 ~~(e) If documentation of a tank pump-out or a permitted new~~  
84 ~~installation, repair, or modification of the system within the~~

85 ~~previous 5 years is provided, and states the capacity of the~~  
 86 ~~tank and indicates that the condition of the tank is not a~~  
 87 ~~sanitary or public health nuisance pursuant to department rule,~~  
 88 ~~a pump-out of the system is not required.~~

89 ~~(f) Owners are responsible for paying the cost of any~~  
 90 ~~required pump-out, repair, or replacement pursuant to department~~  
 91 ~~rule, and may not request partial evaluation or the omission of~~  
 92 ~~portions of the evaluation.~~

93 ~~(g) Each evaluation or pump-out required under this~~  
 94 ~~subsection must be performed by a septic tank contractor or~~  
 95 ~~master septic tank contractor registered under part III of~~  
 96 ~~chapter 489, a professional engineer with wastewater treatment~~  
 97 ~~system experience licensed pursuant to chapter 471, or an~~  
 98 ~~environmental health professional certified under chapter 381 in~~  
 99 ~~the area of onsite sewage treatment and disposal system~~  
 100 ~~evaluation.~~

101 ~~(h) The evaluation report fee collected pursuant to s.~~  
 102 ~~381.0066(2)(b) shall be remitted to the department by the~~  
 103 ~~evaluator at the time the report is submitted.~~

104 ~~(i) Prior to any evaluation deadline, the department must~~  
 105 ~~provide a minimum of 60 days' notice to owners that their~~  
 106 ~~systems must be evaluated by that deadline. The department may~~  
 107 ~~include a copy of any homeowner educational materials developed~~  
 108 ~~pursuant to this section which provides information on the~~  
 109 ~~proper maintenance of onsite sewage treatment and disposal~~  
 110 ~~systems.~~

111 (5) ~~(6)~~ ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.—

112 (a) Department personnel who have reason to believe

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113 noncompliance exists, may at any reasonable time, enter the  
114 premises permitted under ss. 381.0065-381.0066, or the business  
115 premises of any septic tank contractor or master septic tank  
116 contractor registered under part III of chapter 489, or any  
117 premises that the department has reason to believe is being  
118 operated or maintained not in compliance, to determine  
119 compliance with the provisions of this section, part I of  
120 chapter 386, or part III of chapter 489 or rules or standards  
121 adopted under ss. 381.0065-381.0067, part I of chapter 386, or  
122 part III of chapter 489. As used in this paragraph, the term  
123 "premises" does not include a residence or private building. To  
124 gain entry to a residence or private building, the department  
125 must obtain permission from the owner or occupant or secure an  
126 inspection warrant from a court of competent jurisdiction.

127 (b)1. The department may issue citations that may contain  
128 an order of correction or an order to pay a fine, or both, for  
129 violations of ss. 381.0065-381.0067, part I of chapter 386, or  
130 part III of chapter 489 or the rules adopted by the department,  
131 when a violation of these sections or rules is enforceable by an  
132 administrative or civil remedy, or when a violation of these  
133 sections or rules is a misdemeanor of the second degree. A  
134 citation issued under ss. 381.0065-381.0067, part I of chapter  
135 386, or part III of chapter 489 constitutes a notice of proposed  
136 agency action.

137 2. A citation must be in writing and must describe the  
138 particular nature of the violation, including specific reference  
139 to the provisions of law or rule allegedly violated.

140 3. The fines imposed by a citation issued by the

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141 department may not exceed \$500 for each violation. Each day the  
142 violation exists constitutes a separate violation for which a  
143 citation may be issued.

144 4. The department shall inform the recipient, by written  
145 notice pursuant to ss. 120.569 and 120.57, of the right to an  
146 administrative hearing to contest the citation within 21 days  
147 after the date the citation is received. The citation must  
148 contain a conspicuous statement that if the recipient fails to  
149 pay the fine within the time allowed, or fails to appear to  
150 contest the citation after having requested a hearing, the  
151 recipient has waived the recipient's right to contest the  
152 citation and must pay an amount up to the maximum fine.

153 5. The department may reduce or waive the fine imposed by  
154 the citation. In determining whether to reduce or waive the  
155 fine, the department must consider the gravity of the violation,  
156 the person's attempts at correcting the violation, and the  
157 person's history of previous violations including violations for  
158 which enforcement actions were taken under ss. 381.0065-  
159 381.0067, part I of chapter 386, part III of chapter 489, or  
160 other provisions of law or rule.

161 6. Any person who willfully refuses to sign and accept a  
162 citation issued by the department commits a misdemeanor of the  
163 second degree, punishable as provided in s. 775.082 or s.  
164 775.083.

165 7. The department, pursuant to ss. 381.0065-381.0067, part  
166 I of chapter 386, or part III of chapter 489, shall deposit any  
167 fines it collects in the county health department trust fund for  
168 use in providing services specified in those sections.

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169           8. This section provides an alternative means of enforcing  
 170 ss. 381.0065-381.0067, part I of chapter 386, and part III of  
 171 chapter 489. This section does not prohibit the department from  
 172 enforcing ss. 381.0065-381.0067, part I of chapter 386, or part  
 173 III of chapter 489, or its rules, by any other means. However,  
 174 the department must elect to use only a single method of  
 175 enforcement for each violation.

176           (6)~~(7)~~ LAND APPLICATION OF SEPTAGE PROHIBITED.—Effective  
 177 January 1, 2016, the land application of septage from onsite  
 178 sewage treatment and disposal systems is prohibited. By February  
 179 1, 2011, the department, in consultation with the Department of  
 180 Environmental Protection, shall provide a report to the  
 181 Governor, the President of the Senate, and the Speaker of the  
 182 House of Representatives, recommending alternative methods to  
 183 establish enhanced treatment levels for the land application of  
 184 septage from onsite sewage and disposal systems. The report  
 185 shall include, but is not limited to, a schedule for the  
 186 reduction in land application, appropriate treatment levels,  
 187 alternative methods for treatment and disposal, enhanced  
 188 application site permitting requirements including any  
 189 requirements for nutrient management plans, and the range of  
 190 costs to local governments, affected businesses, and individuals  
 191 for alternative treatment and disposal methods. The report shall  
 192 also include any recommendations for legislation or rule  
 193 authority needed to reduce land application of septage.

194           Section 2. Section 381.00656, Florida Statutes, is  
 195 repealed:

196           ~~381.00656 Grant program for repair of onsite sewage~~  
 197 ~~treatment disposal systems. Effective January 1, 2012, the~~  
 198 ~~department shall administer a grant program to assist owners of~~  
 199 ~~onsite sewage treatment and disposal systems identified pursuant~~  
 200 ~~to s. 381.0065 or the rules adopted thereunder. A grant under~~  
 201 ~~the program may be awarded to an owner only for the purpose of~~  
 202 ~~inspecting, pumping, repairing, or replacing a system serving a~~  
 203 ~~single-family residence occupied by an owner with a family~~  
 204 ~~income of less than or equal to 133 percent of the federal~~  
 205 ~~poverty level at the time of application. The department may~~  
 206 ~~prioritize applications for an award of grant funds based upon~~  
 207 ~~the severity of a system's failure, its relative environmental~~  
 208 ~~impact, the income of the family, or any combination thereof.~~  
 209 ~~The department shall adopt rules establishing the grant~~  
 210 ~~application and award process, including an application form.~~  
 211 ~~The department shall seek to make grants in each fiscal year~~  
 212 ~~equal to the total amount of grant funds available, with any~~  
 213 ~~excess funds used for grant awards in subsequent fiscal years.~~

214           Section 3. Subsection (2) of section 381.0066, Florida  
 215 Statutes, is amended to read:

216           381.0066 Onsite sewage treatment and disposal systems;  
 217 fees.—

218           (2) The minimum fees in the following fee schedule apply  
 219 until changed by rule by the department within the following  
 220 limits:

221           (a) Application review, permit issuance, or system  
 222 inspection, including repair of a subsurface, mound, filled, or  
 223 other alternative system or permitting of an abandoned system: a

224 fee of not less than \$25, or more than \$125.

225 ~~(b) A 5-year evaluation report submitted pursuant to s.~~  
 226 ~~381.0065(5): a fee not less than \$15, or more than \$30. At least~~  
 227 ~~\$1 and no more than \$5 collected pursuant to this paragraph~~  
 228 ~~shall be used to fund a grant program established under s.~~  
 229 ~~381.00656.~~

230 (b)~~(e)~~ Site evaluation, site reevaluation, evaluation of a  
 231 system previously in use, or a per annum septage disposal site  
 232 evaluation: a fee of not less than \$40, or more than \$115.

233 (c)~~(d)~~ Biennial Operating permit for aerobic treatment  
 234 units or performance-based treatment systems: a fee of not more  
 235 than \$100.

236 (d)~~(e)~~ Annual operating permit for systems located in  
 237 areas zoned for industrial manufacturing or equivalent uses or  
 238 where the system is expected to receive wastewater which is not  
 239 domestic in nature: a fee of not less than \$150, or more than  
 240 \$300.

241 (e)~~(f)~~ Innovative technology: a fee not to exceed \$25,000.

242 (f)~~(g)~~ Septage disposal service, septage stabilization  
 243 facility, portable or temporary toilet service, tank  
 244 manufacturer inspection: a fee of not less than \$25, or more  
 245 than \$200, per year.

246 (g)~~(h)~~ Application for variance: a fee of not less than  
 247 \$150, or more than \$300.

248 (h)~~(i)~~ Annual operating permit for waterless,  
 249 incinerating, or organic waste composting toilets: a fee of not  
 250 less than \$50, or more than \$150.

251 (i)~~(j)~~ Aerobic treatment unit or performance-based

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252 treatment system maintenance entity permit: a fee of not less  
 253 than \$25, or more than \$150, per year.

254 (j)~~(k)~~ Reinspection fee per visit for site inspection  
 255 after system construction approval or for noncompliant system  
 256 installation per site visit: a fee of not less than \$25, or more  
 257 than \$100.

258 (k)~~(l)~~ Research: An additional \$5 fee shall be added to  
 259 each new system construction permit issued to be used to fund  
 260 onsite sewage treatment and disposal system research,  
 261 demonstration, and training projects. Five dollars from any  
 262 repair permit fee collected under this section shall be used for  
 263 funding the hands-on training centers described in s.  
 264 381.0065(3)(j).

265 (l)~~(m)~~ Annual operating permit, including annual  
 266 inspection and any required sampling and laboratory analysis of  
 267 effluent, for an engineer-designed performance-based system: a  
 268 fee of not less than \$150, or more than \$300.

269  
 270 ~~On or before January 1, 2011, the Surgeon General, after~~  
 271 ~~consultation with the Revenue Estimating Conference, shall~~  
 272 ~~determine a revenue neutral fee schedule for services provided~~  
 273 ~~pursuant to s. 381.0065(5) within the parameters set in~~  
 274 ~~paragraph (b). Such determination is not subject to the~~  
 275 ~~provisions of chapter 120.~~ The funds collected pursuant to this  
 276 subsection must be deposited in a trust fund administered by the  
 277 department, to be used for the purposes stated in this section  
 278 and ss. 381.0065 and 381.00655.

279 Section 4. This act shall take effect upon becoming a law.