

By Senator Laurent

17-1439B-98

1                                   A bill to be entitled  
 2           An act relating to public health; amending s.  
 3           381.0065, F.S.; prescribing agency  
 4           responsibility for determining site suitability  
 5           for on-site sewage treatment and disposal  
 6           systems; revising guidelines for the granting  
 7           of variances regarding such systems; amending  
 8           s. 381.0068, F.S.; revising responsibilities  
 9           and duties of the technical review and advisory  
 10          panel; providing an effective date.

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 12 Be It Enacted by the Legislature of the State of Florida:

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 14           Section 1. Subsection (1) and paragraph (g) of  
 15           subsection (4) of section 381.0065, Florida Statutes, are  
 16           amended to read:

17           381.0065 Onsite sewage treatment and disposal systems;  
 18           regulation.--

19           (1) LEGISLATIVE INTENT.--It is the intent of the  
 20           Legislature that where a publicly owned or investor-owned  
 21           sewerage system is not available, the department shall issue  
 22           permits for the construction, installation, modification,  
 23           abandonment, or repair of onsite sewage treatment and disposal  
 24           systems and shall have the sole authority and responsibility  
 25           to determine site suitability under conditions as described in  
 26           this section and rules adopted under this section. It is  
 27           further the intent of the Legislature that the installation  
 28           and use of onsite sewage treatment and disposal systems not  
 29           adversely affect the public health or significantly degrade  
 30           the groundwater or surface water. The Legislature acknowledges  
 31           the Department of Community Affairs' responsibility to review

1 and evaluate comprehensive plan amendments to the general  
2 sanitary sewer, solid waste, drainage and potable water  
3 element exclusively pursuant to s. 163.3177(3)(c). In  
4 considering comprehensive plan amendments, the Department of  
5 Community Affairs may not require the use of standards or  
6 conditions that are more stringent than rules adopted by the  
7 Department of Health regarding the location, installation, and  
8 use of onsite sewage treatment and disposal systems. In  
9 addition, the Department of Community Affairs may not require  
10 the use of publicly owned or investor-owned sewerage systems  
11 or other sewerage treatment processes as an alternative to the  
12 proposed use of onsite sewage treatment and disposal systems,  
13 other than to determine the compliance of a plan amendment  
14 pursuant to s. 163.3184(1)(b).

15 (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person  
16 may not construct, repair, modify, abandon, or operate an  
17 onsite sewage treatment and disposal system without first  
18 obtaining a permit approved by the department. The department  
19 may issue permits to carry out this section. A construction  
20 permit is valid for 18 months from the issuance date and may  
21 be extended by the department for one 90-day period under  
22 rules adopted by the department. A repair permit is valid for  
23 90 days from the date of issuance. An operating permit is  
24 valid for 1 year from the date of issuance and must be renewed  
25 annually. If all information pertaining to the siting,  
26 location, and installation conditions or repair of an onsite  
27 sewage treatment and disposal system remains the same, a  
28 construction or repair permit for the onsite sewage treatment  
29 and disposal system may be transferred to another person, if  
30 the transferee files, within 60 days after the transfer of  
31 ownership, an amended application providing all corrected

1 information and proof of ownership of the property. There is  
2 no fee associated with the processing of this supplemental  
3 information. A person may not contract to construct, modify,  
4 alter, repair, service, abandon, or maintain any portion of an  
5 onsite sewage treatment and disposal system without being  
6 registered under part III of chapter 489. A property owner  
7 who personally performs construction, maintenance, or repairs  
8 to a system serving his or her own owner-occupied  
9 single-family residence is exempt from registration  
10 requirements for performing such construction, maintenance, or  
11 repairs on that residence, but is subject to all permitting  
12 requirements.

13 (g)1. The department may grant variances in hardship  
14 cases which may be less restrictive than the provisions  
15 specified in this section. If a variance is granted and the  
16 onsite sewage treatment and disposal system construction  
17 permit has been issued, the variance may be transferred with  
18 the system construction permit, if the transferee files,  
19 within 60 days after the transfer of ownership, an amended  
20 construction permit application providing all corrected  
21 information and proof of ownership of the property and if the  
22 same variance would have been required for the new owner of  
23 the property as was originally granted to the original  
24 applicant for the variance. There is no fee associated with  
25 the processing of this supplemental information. A variance  
26 may not be granted under this section until the department is  
27 satisfied that:

28 a. The hardship was not caused intentionally by the  
29 action of the applicant;

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1           b. No reasonable, cost-effective, affordable, or  
2 economically justifiable alternative exists for the treatment  
3 of the sewage; and

4           c. The discharge from the onsite sewage treatment and  
5 disposal system will not adversely affect the health of the  
6 applicant or the public or significantly degrade the  
7 groundwater or surface waters.

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9 Where soil conditions, water table elevation, and setback  
10 provisions are determined by the department to be  
11 satisfactory, special consideration must be given to those  
12 lots platted before 1972.

13           2. The department shall appoint and staff a variance  
14 review and advisory committee, which shall meet monthly to  
15 recommend agency action on variance requests. The committee  
16 shall make its recommendations on variance requests at the  
17 meeting in which the application is scheduled for  
18 consideration, except for an extraordinary change in  
19 circumstances or the applicant requests an extension. The  
20 committee shall consider the criteria in subparagraph 1. in  
21 its recommended agency action on variance requests and shall  
22 also strive to allow property owners the full use of their  
23 land where possible.The board consists of the following:

24           a. The Division Director for Environmental Health of  
25 the department or his or her designee.

26           b. A representative from the county health  
27 departments.

28           c. A representative from the home building industry  
29 recommended by the Florida Home Builders Association.

30           d. A representative from the septic tank industry  
31 recommended by the Florida Septic Tank Association.

1 e. A representative from the Department of  
2 Environmental Protection.

3 f. A representative from the real estate industry  
4 recommended by the Florida Association of Realtors.

5 g. A representative from the public food service  
6 industry, whose business uses an onsite sewage treatment  
7 disposal system, recommended by the Florida Restaurant  
8 Association.

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10 Members shall be appointed for a term of 3 years, with such  
11 appointments being staggered so that the terms of no more than  
12 two members expire in any one year. Members shall serve  
13 without remuneration, but if requested, shall ~~may~~ be  
14 reimbursed for per diem and travel expenses as provided in s.  
15 112.061.

16 Section 2. Section 381.0068, Florida Statutes, is  
17 amended to read:

18 381.0068 Technical review and advisory panel.--

19 (1) The Department of Health shall, by July 1, 1996,  
20 establish and staff a technical review and advisory panel to  
21 assist the department with rule adoption.

22 (2) The primary purpose of the panel is to assist  
23 ~~enhance~~ the department's rulemaking ~~decisionmaking~~ by drawing  
24 on the expertise of representatives from several groups that  
25 are affected by ~~have an interest in~~ onsite sewage treatment  
26 and disposal systems. The panel shall also consider any  
27 existing or proposed state policy or issue that relates to  
28 onsite sewage treatment and disposal systems. If requested by  
29 the panel, the chair shall transmit or communicate a vote of  
30 the panel regarding any existing or proposed state policy or  
31 issue to any affected person. The chair may also take such

1 other action as is appropriate to allow the panel to function.  
2 At a minimum, the ~~technical review and advisory~~ panel shall  
3 consist of a soil scientist; a professional engineer  
4 registered in this state who is recommended by the Florida  
5 Engineering Society and who has work experience in onsite  
6 sewage treatment and disposal systems; two representatives  
7 from the home-building industry recommended by the Florida  
8 Home Builders Association, including one who is a developer in  
9 this state who develops lots using onsite sewage treatment and  
10 disposal systems; a representative from the county health  
11 departments who has experience permitting and inspecting the  
12 installation of onsite sewage treatment and disposal systems  
13 in this state; a representative from the real estate industry  
14 who is recommended by the Florida Association of Realtors; a  
15 consumer representative with a science background; two  
16 representatives of the septic tank industry recommended by the  
17 Florida Septic Tank Association, including one who is a  
18 manufacturer of onsite sewage treatment and disposal systems;  
19 and a representative from the environmental health profession  
20 who is recommended by the Florida Environmental Health  
21 Association and who is not employed by a county health  
22 department. Members are to be appointed for a term of 2  
23 years. The panel may also, as needed, be expanded to include  
24 ad hoc, nonvoting representatives who have topic-specific  
25 expertise. All rules, except emergency rules, proposed by the  
26 department which relate to onsite sewage treatment and  
27 disposal systems must be presented to the panel for review,  
28 and comment, and approval prior to adoption. The panel shall  
29 select a chair, who shall serve for a period of 1 year and who  
30 shall direct, coordinate, and execute the duties of the panel.  
31 The panel shall also solicit input from the department's

1 variance review and advisory committee before taking action on  
2 ~~submitting any comments to the department concerning~~ proposed  
3 rules. ~~The panel's comments must include any dissenting~~  
4 ~~points of view concerning proposed rules.~~ The panel shall  
5 hold meetings as it determines necessary to conduct its  
6 business, except that the chair, a quorum of the voting  
7 members of the panel, or the department may call meetings.  
8 The department shall keep minutes of all meetings of the  
9 panel. The minutes must record all votes on proposed rules and  
10 must describe the panel's general discussions and comments, as  
11 well as minority points of view regarding votes on such  
12 proposed rules. Panel members shall serve without  
13 remuneration, but if requested, shall ~~may~~ be reimbursed for  
14 per diem and travel expenses as provided in s. 112.061.

15 Section 3. This act shall take effect upon becoming a  
16 law.

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19 SENATE SUMMARY

20 Defines the responsibilities of the Department of Health  
21 and the Department of Community Affairs in the issuance  
22 of permits for on-site sewage treatment and disposal  
23 systems. Revises guidelines relating to the granting of  
24 variances for such systems by the Department of Health.  
25 Revises the responsibilities of the technical review and  
26 advisory panel and its function in advising the  
27 Department of Health regarding proposed rules.  
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