

By the Committee on Community Affairs and Senator Laurent

316-2188-98

1 A bill to be entitled
 2 An act relating to wastewater treatment
 3 systems; amending s. 381.0065, F.S.; revising
 4 guidelines and procedures for granting
 5 variances for such systems; revising membership
 6 of the department's variance review and
 7 advisory committee; providing criteria for use
 8 of guttering; amending s. 381.0068, F.S.;
 9 revising duties and procedures of the
 10 department's technical review and advisory
 11 panel; providing for the transfer of a certain
 12 amount from the Solid Waste Trust Fund to the
 13 State Housing Trust Fund for the purposes of
 14 funding wastewater treatment systems; providing
 15 an effective date.

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

18
 19 Section 1. Section 381.0064, Florida Statutes, is
 20 amended to read:

21 381.0064 Continuing education courses for persons
 22 installing or servicing septic tanks.--

23 (1) The Department of Health shall establish a program
 24 for ~~conduct~~ continuing education which meets the purposes of
 25 s. 381.0101, and s. 489.554 ~~courses for pumpout operators,~~
 26 ~~environmental health specialists, and master plumbers who~~
 27 ~~install septic tanks or service septic tanks. The course of~~
 28 ~~study required must consist of at least two 6-classroom-hour~~
 29 ~~courses of instruction a year~~ regarding the public health and
 30 environmental effects of onsite sewage treatment and disposal
 31 systems and any other matters the department determines

1 desirable for the safe installation and use of onsite sewage
2 treatment and disposal systems. The department may charge a
3 fee to cover the cost of such program ~~course of study~~;
4 ~~however, such fee must take into account any moneys collected~~
5 ~~under s. 381.0066 and appropriated to the department for the~~
6 ~~purpose of this section.~~

7 (2) The department shall by rule establish criteria
8 for the approval of continuing education courses and
9 providers, including requirements relating to the content of
10 courses and standards for approval of providers, and may by
11 rule establish criteria for accepting alternative nonclassroom
12 continuing education on an hour-for-hour basis. ~~also approve~~
13 ~~other continuing education courses for pumpout operators,~~
14 ~~environmental health specialists, and master plumbers who~~
15 ~~install septic tanks or service septic tanks, which courses~~
16 ~~meet the purposes of this section and consist of at least two~~
17 ~~6-classroom-hour courses of instruction a year.~~

18 (3) Septic tank contractors and master septic tank
19 contractors registered under part III of chapter 489 shall
20 meet the continuing education requirements set forth in s.
21 489.554.

22 Section 2. Paragraph (g) of subsection (4) of section
23 381.0065, Florida Statutes, is amended and paragraphs (r) and
24 (s) are added to that subsection to read:

25 381.0065 Onsite sewage treatment and disposal systems;
26 regulation.--

27 (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person
28 may not construct, repair, modify, abandon, or operate an
29 onsite sewage treatment and disposal system without first
30 obtaining a permit approved by the department. The department
31 may issue permits to carry out this section. A construction

1 permit is valid for 18 months from the issuance date and may
2 be extended by the department for one 90-day period under
3 rules adopted by the department. A repair permit is valid for
4 90 days from the date of issuance. An operating permit is
5 valid for 1 year from the date of issuance and must be renewed
6 annually. If all information pertaining to the siting,
7 location, and installation conditions or repair of an onsite
8 sewage treatment and disposal system remains the same, a
9 construction or repair permit for the onsite sewage treatment
10 and disposal system may be transferred to another person, if
11 the transferee files, within 60 days after the transfer of
12 ownership, an amended application providing all corrected
13 information and proof of ownership of the property. There is
14 no fee associated with the processing of this supplemental
15 information. A person may not contract to construct, modify,
16 alter, repair, service, abandon, or maintain any portion of an
17 onsite sewage treatment and disposal system without being
18 registered under part III of chapter 489. A property owner
19 who personally performs construction, maintenance, or repairs
20 to a system serving his or her own owner-occupied
21 single-family residence is exempt from registration
22 requirements for performing such construction, maintenance, or
23 repairs on that residence, but is subject to all permitting
24 requirements.

25 (g)1. The department may grant variances in hardship
26 cases which may be less restrictive than the provisions
27 specified in this section. If a variance is granted and the
28 onsite sewage treatment and disposal system construction
29 permit has been issued, the variance may be transferred with
30 the system construction permit, if the transferee files,
31 within 60 days after the transfer of ownership, an amended

1 construction permit application providing all corrected
2 information and proof of ownership of the property and if the
3 same variance would have been required for the new owner of
4 the property as was originally granted to the original
5 applicant for the variance. There is no fee associated with
6 the processing of this supplemental information. A variance
7 may not be granted under this section until the department is
8 satisfied that:

9 a. The hardship was not caused intentionally by the
10 action of the applicant;

11 b. No reasonable alternative, taking into
12 consideration factors such as cost, exists for the treatment
13 of the sewage; and

14 c. The discharge from the onsite sewage treatment and
15 disposal system will not adversely affect the health of the
16 applicant or the public or significantly degrade the
17 groundwater or surface waters.

18
19 Where soil conditions, water table elevation, and setback
20 provisions are determined by the department to be
21 satisfactory, special consideration must be given to those
22 lots platted before 1972.

23 2. The department shall appoint and staff a variance
24 review and advisory committee, which shall meet monthly to
25 recommend agency action on variance requests. The committee
26 shall make its recommendations on variance requests at the
27 meeting in which the application is scheduled for
28 consideration, except for an extraordinary change in
29 circumstances, the receipt of new information that raises new
30 issues, or when the applicant requests an extension. The
31 committee shall consider the criteria in subparagraph 1. in

1 its recommended agency action on variance requests and shall
2 also strive to allow property owners the full use of their
3 land where possible.The committee ~~board~~ consists of the
4 following:

5 a. The Division Director for Environmental Health of
6 the department or his or her designee.

7 b. A representative from the county health
8 departments.

9 c. A representative from the home building industry
10 recommended by the Florida Home Builders Association.

11 d. A representative from the septic tank industry
12 recommended by the Florida Septic Tank Association.

13 e. A representative from the Department of
14 Environmental Protection.

15 f. A representative from the real estate industry who
16 is also a developer in this state who develops lots using
17 onsite sewage treatment and disposal systems, recommended by
18 the Florida Association of Realtors.

19 g. A representative from the engineering profession
20 recommended by the Florida Engineering Society.

21
22 Members shall be appointed for a term of 3 years, with such
23 appointments being staggered so that the terms of no more than
24 two members expire in any one year. Members shall serve
25 without remuneration, but if requested, shall ~~may~~ be
26 reimbursed for per diem and travel expenses as provided in s.
27 112.061.

28 (r) In the siting of onsite sewage treatment and
29 disposal systems, including drainfields, shoulders, and
30 slopes, guttering shall not be required on single-family
31 residential dwelling units for systems located greater than 5

1 feet from the roof drip line of the house. If guttering is
2 used on residential dwelling units, the downspouts shall be
3 directed away from the drainfield.

4 (s) Notwithstanding the provisions of subparagraph
5 (f)1. of this subsection, onsite sewage treatment and disposal
6 systems located in floodways of the Suwannee and Aucilla
7 Rivers must adhere to the following requirements:

8 1. The absorption surface of the drainfield shall not
9 be subject to flooding based on 10-year flood elevations.

10 Provided, however, for lots or parcels created by the
11 subdivision of land in accordance with applicable local
12 government regulations prior to January 17, 1990, if an
13 applicant cannot construct a drainfield system with the
14 absorption surface of the drainfield at an elevation equal to
15 or above 10-year flood elevation, the department shall issue a
16 permit for an onsite sewage treatment and disposal system
17 within the 10-year floodplain of rivers, streams and other
18 bodies of flowing water if all of the following criteria are
19 met:

20 a. The lot is at least one-half acre in size;

21 b. The bottom of the drainfield is at least 36 inches
22 above the 2-year flood elevation; and

23 c. The applicant installs either: a waterless,
24 incinerating, or organic waste composting toilet and a
25 graywater system and drainfield in accordance with department
26 rules; an aerobic treatment unit and drainfield in accordance
27 with department rules; a system approved by the State Health
28 Office that is capable of reducing effluent nitrate by at
29 least 50 percent; or a system approved by the county health
30 department pursuant to department rule other than a system
31 using alternative drainfield materials. USDA Soil

1 Conservation Service soil maps, State of Florida Water
2 Management District data, and Federal Emergency Management
3 Agency Flood Insurance maps are resources that shall be used
4 to identify floor prone areas.

5 2. The use of fill or mounding to elevate a drainfield
6 system out of the 10-year floodplain of rivers, streams, or
7 other bodies of flowing water shall not be permitted if such a
8 system lies within a regulatory floodway of the Suwannee and
9 Aucilla Rivers. In cases where the 10-year flood elevation
10 does not coincide with the boundaries of the regulatory
11 floodway, the regulatory floodway will be considered for the
12 purposes of this subsection to extend at a minimum to the
13 10-year flood elevation.

14 Section 3. Section 381.0068, Florida Statutes, is
15 amended to read:

16 381.0068 Technical review and advisory panel.--

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

20 (2) The primary purpose of the panel is to assist
21 ~~enhance the department's~~ the department in rulemaking and
22 decisionmaking by drawing on the expertise of representatives
23 from several groups that are affected by ~~have an interest in~~
24 onsite sewage treatment and disposal systems. The panel may
25 also review and comment on any legislation or any existing or
26 proposed state policy or issue related to onsite sewer
27 treatment and disposal systems. If requested by the panel,
28 the chair will advise any affected person or member of the
29 Legislature of the panel's position on the legislation or any
30 existing or proposed state policy or issue. The chair may also
31 take such other action as is appropriate to allow the panel to

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

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

12 Section 4. Subsection (2) of section 489.551, Florida
13 Statutes, is amended to read:

14 489.551 Definitions.--As used in this part:

15 (2) "Master septic tank contractor" means a septic
16 tank contractor whose services are unlimited in the septic
17 tank trade who has had at least 3 years' experience as a
18 Florida-registered septic tank contractor or a plumbing
19 contractor certified under part 1 of this chapter who has
20 provided septic tank contracting services for at least 3 years
21 and who has the experience, knowledge, and skills to install,
22 maintain, repair, close repairs of, and alter all types of
23 onsite sewage treatment and disposal systems, to design onsite
24 sewage treatment and disposal systems, where not prohibited by
25 law, to perform and submit soil evaluations, when determined
26 to meet site-evaluation expertise established by rule, and to
27 use materials and items used in the installation and
28 maintenance of all types of onsite sewage treatment and
29 disposal systems.

30 Section 5. Section 489.554, Florida Statutes, is
31 amended to read:

1 489.554 Registration renewal.--The department shall
2 prescribe by rule the method for approval of continuing
3 education courses and for renewal of annual registration. At
4 a minimum, annual renewal, ~~which~~ shall include continuing
5 education requirements of not less than 6 classroom hours
6 annually for septic tank contractors and not less than 12
7 classroom hours annually for master septic tank contractors.
8 The 12 classroom hours of continuing education required for
9 master septic tank contractors may include the 6 classroom
10 hours required for septic tank contractors, but at a minimum
11 must include 6 classroom hours of approved master septic tank
12 contractor coursework.

13 Section 6. Subsection (5) is added to section 489.555,
14 Florida Statutes, to read:

15 489.555 Certification of partnerships and
16 corporations.--

17 (5) When a certificate of authorization has been
18 revoked, any person authorized by law to provide septic tank
19 contracting services may not use the name or fictitious name
20 of the entity whose certificate was revoked, or any other
21 identifiers for the entity, including telephone numbers,
22 advertisements, or logos.

23 Section 7. The first \$1.9 million deposited to the
24 Solid Waste Management Trust Fund each fiscal year through the
25 2028-2029 fiscal year shall be transferred to the State
26 Housing Trust Fund administered by the Florida Housing Finance
27 Corporation on behalf of the Department of Community Affairs.
28 Said amount is hereby appropriated annually for that period to
29 the Florida Housing Finance Corporation to be used to pay for
30 local government infrastructure primarily related and
31 necessary to housing or to pay the debt service on revenue

1 bonds issued for such purposes by the Florida Housing Finance
2 Corporation. Such amounts may be pledged by the corporation
3 for purposes of securing said bonds and revenue may also be
4 used to pay administrative costs of the corporation, not to
5 exceed 3% in connection with such program. The following
6 projects shall be funded as indicated: Homosassa Wastewater
7 Treatment System at \$3,250,000; Jasper Wastewater Services at
8 \$344,144; Suwannee Wastewater Improvement Project at \$344,000;
9 Carrabelle Wastewater Collection System at \$300,000; Labelle
10 Wastewater Improvement at \$4,110,000; Astor Area Wastewater
11 System at \$3,000,000; Bushnell Wastewater System \$200,000;
12 Arroya Parkway Wastewater System at \$2,372,000; South Walton
13 Wastewater Treatment Facility at \$500,000; Skyview Utility
14 Wastewater Treatment Project at \$800,000; South Dade Watershed
15 Planning Stormwater Project at \$500,000; City of Sanibel
16 Wastewater Treatment Project at \$1,000,000; City of Frostproof
17 Wastewater Treatment at \$2,500,000; West Miami Sewer System at
18 \$250,000; and City of Perry Wastewater Treatment Project at
19 \$250,000.

20 Section 8. This act shall take effect upon becoming a
21 law.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 2542

4 Deletes language clarifying the Department of Health's sole
5 authority to determine soil suitability for onsite sewage
6 treatment and disposal systems (OSTDS) and clarifying the role
7 of DCA with respect to that issue.

8 Clarifies the department's authority to require continuing
9 education of certain professionals and authorizes the
10 department to establish by rule the criteria for those
11 requirements.

12 Allows the variance review and advisory committee to consider
13 the cost of alternatives when determining whether to grant a
14 variance application for OSTDS.

15 Allows the variance review and advisory committee to consider
16 "the receipt of new information that raises new issues" as a
17 basis for granting an extension.

18 Deletes provisions which would have revised the membership of
19 the variance review and advisory committee to include a
20 representative of the public food industry recommended by the
21 Florida Restaurant Association, and a member representing the
22 engineering profession recommended by the Florida Engineering
23 Society.

24 Provides standards for guttering of residences which use
25 OSTDS; and provides requirements for the use of OSTDS within
26 the floodways of the Suwannee and Aucilla Rivers.

27 Clarifies the authority of the department's technical review
28 and advisory panel to review and comment on legislation, in
29 addition to other existing and proposed state policies,
30 regarding OSTDS, and to assist the department in rulemaking.
31 Eliminates language which would have required the panel's
approval of all rules, but requires that the panel's position
on proposed rules be made a part of the rulemaking record that
is maintained by the agency.

Expands the definition of "master septic tank contractor" to
include a certified plumbing contractor who has provided
septic tank contracting services for at least 3 years.

Prohibits any person authorized to provide septic tank
contracting services from using the name, fictitious name, or
any other identifiers of an entity whose certificate has been
revoked.

Requires the transfer of the first \$1.9 million deposited to
the Solid Waste Mangement Trust Fund to the State Housing
Trust Fund to pay for numerous specific local government sewer
and water projects; includes the amount which may be allocated
to each specific project.