

By Representative Harrington

1                                   A bill to be entitled  
 2           An act relating to public health; amending s.  
 3           381.0065, F.S.; prescribing Department of  
 4           Health responsibility for determining site  
 5           suitability for onsite sewage treatment and  
 6           disposal systems; restricting actions regarding  
 7           such systems by the Department of Community  
 8           Affairs pursuant to review of comprehensive  
 9           plan amendments; revising guidelines and  
 10          procedures for granting variances for such  
 11          systems; revising membership of the  
 12          department's variance review and advisory  
 13          committee; amending s. 381.0068, F.S.; revising  
 14          duties and procedures of the department's  
 15          technical review and advisory panel; providing  
 16          an effective date.

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

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 20           Section 1. Subsection (1) and paragraph (g) of  
 21 subsection (4) of section 381.0065, Florida Statutes, are  
 22 amended to read:

23           381.0065 Onsite sewage treatment and disposal systems;  
 24 regulation.--

25           (1) LEGISLATIVE INTENT.--It is the intent of the  
 26 Legislature that where a publicly owned or investor-owned  
 27 sewerage system is not available, the department shall issue  
 28 permits for the construction, installation, modification,  
 29 abandonment, or repair of onsite sewage treatment and disposal  
 30 systems, and shall have the sole authority and responsibility  
 31 to determine site suitability, under conditions as described

1 in this section and rules adopted under this section. It is  
2 further the intent of the Legislature that the installation  
3 and use of onsite sewage treatment and disposal systems not  
4 adversely affect the public health or significantly degrade  
5 the groundwater or surface water. The Legislature acknowledges  
6 the Department of Community Affairs' responsibility to review  
7 and evaluate comprehensive plan amendments to the general  
8 sanitary sewer, solid waste, drainage, and potable water  
9 element exclusively pursuant to s. 163.3177(6)(c). In  
10 considering comprehensive plan amendments, the Department of  
11 Community Affairs may not require, encourage, or promote the  
12 use of standards or conditions that are more stringent than  
13 rules adopted by the Department of Health regarding the  
14 location, installation, and use of onsite sewage treatment and  
15 disposal systems. In addition, the Department of Community  
16 Affairs may not require, encourage, or promote the use of  
17 publicly owned or investor-owned sewerage systems or other  
18 sewerage treatment processes as an alternative to the proposed  
19 use of onsite sewage treatment and disposal systems, other  
20 than to determine the compliance of a plan amendment pursuant  
21 to s. 163.3184(1)(b).

22 (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person  
23 may not construct, repair, modify, abandon, or operate an  
24 onsite sewage treatment and disposal system without first  
25 obtaining a permit approved by the department. The department  
26 may issue permits to carry out this section. A construction  
27 permit is valid for 18 months from the issuance date and may  
28 be extended by the department for one 90-day period under  
29 rules adopted by the department. A repair permit is valid for  
30 90 days from the date of issuance. An operating permit is  
31 valid for 1 year from the date of issuance and must be renewed

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

20 (g)1. The department may grant variances in hardship  
21 cases which may be less restrictive than the provisions  
22 specified in this section. If a variance is granted and the  
23 onsite sewage treatment and disposal system construction  
24 permit has been issued, the variance may be transferred with  
25 the system construction permit, if the transferee files,  
26 within 60 days after the transfer of ownership, an amended  
27 construction permit application providing all corrected  
28 information and proof of ownership of the property and if the  
29 same variance would have been required for the new owner of  
30 the property as was originally granted to the original  
31 applicant for the variance. There is no fee associated with

1 the processing of this supplemental information. A variance  
2 may not be granted under this section until the department is  
3 satisfied that:

4 a. The hardship was not caused intentionally by the  
5 action of the applicant;

6 b. No reasonable, cost-effective, affordable, or  
7 economically justifiable alternative exists for the treatment  
8 of the sewage; and

9 c. The discharge from the onsite sewage treatment and  
10 disposal system will not adversely affect the health of the  
11 applicant or the public or significantly degrade the  
12 groundwater or surface waters.

13

14 Where soil conditions, water table elevation, and setback  
15 provisions are determined by the department to be  
16 satisfactory, special consideration must be given to those  
17 lots platted before 1972.

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

30 a. The Division Director for Environmental Health of  
31 the department or his or her designee.

1           b. A representative from the county health  
2 departments.

3           c. A representative from the home building industry  
4 recommended by the Florida Home Builders Association.

5           d. A representative from the septic tank industry  
6 recommended by the Florida Septic Tank Association.

7           e. A representative from the Department of  
8 Environmental Protection.

9           f. A representative from the real estate industry  
10 recommended by the Florida Association of Realtors.

11           g. A representative from the public food service  
12 industry whose business uses an onsite sewage treatment  
13 disposal system, recommended by the Florida Restaurant  
14 Association.

15  
16 Members shall be appointed for a term of 3 years, with such  
17 appointments being staggered so that the terms of no more than  
18 two members expire in any one year. Members shall serve  
19 without remuneration, but if requested, shall ~~may~~ be  
20 reimbursed for per diem and travel expenses as provided in s.  
21 112.061.

22           Section 2. Section 381.0068, Florida Statutes, is  
23 amended to read:

24           381.0068 Technical review and advisory panel.--

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

28           (2) The primary purpose of the panel is to assist  
29 ~~enhance~~ the department's rulemaking ~~decisionmaking~~ by drawing  
30 on the expertise of representatives from several groups that  
31 are affected by ~~have an interest in~~ onsite sewage treatment

1 and disposal systems. The panel shall also consider any  
2 existing or proposed state policy or issue that relates to  
3 onsite sewage treatment and disposal systems. If requested by  
4 the panel, the chair shall transmit or communicate a vote of  
5 the panel regarding any existing or proposed state policy or  
6 issue to any affected person. The chair may also take such  
7 other action as is appropriate to allow the panel to function.  
8 At a minimum, the ~~technical review and advisory~~ panel shall  
9 consist of a soil scientist; a professional engineer  
10 registered in this state who is recommended by the Florida  
11 Engineering Society and who has work experience in onsite  
12 sewage treatment and disposal systems; two representatives  
13 from the home-building industry recommended by the Florida  
14 Home Builders Association, including one who is a developer in  
15 this state who develops lots using onsite sewage treatment and  
16 disposal systems; a representative from the county health  
17 departments who has experience permitting and inspecting the  
18 installation of onsite sewage treatment and disposal systems  
19 in this state; a representative from the real estate industry  
20 who is recommended by the Florida Association of Realtors; a  
21 consumer representative with a science background; two  
22 representatives of the septic tank industry recommended by the  
23 Florida Septic Tank Association, including one who is a  
24 manufacturer of onsite sewage treatment and disposal systems;  
25 and a representative from the environmental health profession  
26 who is recommended by the Florida Environmental Health  
27 Association and who is not employed by a county health  
28 department. Members are to be appointed for a term of 2  
29 years. The panel may also, as needed, be expanded to include  
30 ad hoc, nonvoting representatives who have topic-specific  
31 expertise. All rules, except emergency rules, proposed by the

1 department which relate to onsite sewage treatment and  
2 disposal systems must be presented to the panel for review,  
3 ~~and comment, and approval~~ prior to adoption. The panel shall  
4 select a chair, who shall serve for a period of 1 year and who  
5 shall direct, coordinate, and execute the duties of the panel.  
6 The panel shall also solicit input from the department's  
7 variance review and advisory committee before taking action on  
8 ~~submitting any comments to the department concerning proposed~~  
9 ~~rules. The panel's comments must include any dissenting~~  
10 ~~points of view concerning proposed rules.~~ The panel shall  
11 hold meetings as it determines necessary to conduct its  
12 business, except that the chair, a quorum of the voting  
13 members of the panel, or the department may call meetings.  
14 The department shall keep minutes of all meetings of the  
15 panel. The minutes must record all votes on proposed rules and  
16 must describe the panel's general discussions and comments, as  
17 well as minority points of view regarding votes on such  
18 proposed rules. Panel members shall serve without  
19 remuneration, but if requested, shall ~~may~~ be reimbursed for  
20 per diem and travel expenses as provided in s. 112.061.

21 Section 3. This act shall take effect upon becoming a  
22 law.

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24  
25 HOUSE SUMMARY

26  
27 Defines the responsibilities of the Department of Health  
28 and the Department of Community Affairs in the issuance  
29 of permits for onsite sewage treatment and disposal  
30 systems. Revises guidelines and procedures relating to  
31 the granting of variances for such systems by the  
Department of Health, and provides additional members of  
the department's variance review and advisory committee.  
Revises the procedures and responsibilities of the  
department's technical review and advisory panel and its  
function in advising the Department of Health regarding  
proposed rules.