

By Representative Alexander

1 A bill to be entitled
2 An act relating to onsite sewage and disposal
3 systems; amending s. 381.0065, F.S.; defining
4 "mean annual flood line," "permanent nontidal
5 surface water body," "seasonally inundated
6 area," and "tidally influenced surface water
7 body"; providing that the Department of Health
8 shall not make the issuance of a permit to
9 construct, repair, modify, abandon, or operate
10 an onsite sewage treatment and disposal system
11 contingent upon prior approval by the
12 Department of Environmental Protection;
13 revising certain limitations with respect to
14 the placement of onsite sewage treatment and
15 disposal systems; providing that no limitations
16 shall be imposed by rule, relating to the
17 distance between an onsite disposal system and
18 any area that either permanently or temporarily
19 has viable surface water; specifying persons
20 required to perform evaluations for determining
21 mean annual flood lines and the accuracy of
22 seasonally inundated area designations;
23 amending s. 381.0066, F.S.; providing that a
24 specified portion of onsite sewage treatment
25 and disposal repair permit fees shall be used
26 for the funding of certain training centers;
27 providing an effective date.

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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Subsections (2) and (4) of section
2 381.0065, Florida Statutes, 1998 Supplement, are amended to
3 read:

4 381.0065 Onsite sewage treatment and disposal systems;
5 regulation.--

6 (2) DEFINITIONS.--As used in ss. 381.0065-381.0067,
7 the term:

8 (a) "Available," as applied to a publicly owned or
9 investor-owned sewerage system, means that the publicly owned
10 or investor-owned sewerage system is capable of being
11 connected to the plumbing of an establishment or residence, is
12 not under a Department of Environmental Protection moratorium,
13 and has adequate permitted capacity to accept the sewage to be
14 generated by the establishment or residence; and:

15 1. For a residential subdivision lot, a single-family
16 residence, or an establishment, any of which has an estimated
17 sewage flow of 1,000 gallons per day or less, a gravity sewer
18 line to maintain gravity flow from the property's drain to the
19 sewer line, or a low pressure or vacuum sewage collection line
20 in those areas approved for low pressure or vacuum sewage
21 collection, exists in a public easement or right-of-way that
22 abuts the property line of the lot, residence, or
23 establishment.

24 2. For an establishment with an estimated sewage flow
25 exceeding 1,000 gallons per day, a sewer line, force main, or
26 lift station exists in a public easement or right-of-way that
27 abuts the property of the establishment or is within 50 feet
28 of the property line of the establishment as accessed via
29 existing rights-of-way or easements.

30 3. For proposed residential subdivisions with more
31 than 50 lots, for proposed commercial subdivisions with more

1 than 5 lots, and for areas zoned or used for an industrial or
2 manufacturing purpose or its equivalent, a sewerage system
3 exists within one-fourth mile of the development as measured
4 and accessed via existing easements or rights-of-way.

5 4. For repairs or modifications within areas zoned or
6 used for an industrial or manufacturing purpose or its
7 equivalent, a sewerage system exists within 500 feet of an
8 establishment's or residence's sewer stub-out as measured and
9 accessed via existing rights-of-way or easements.

10 (b) "Blackwater" means that part of domestic sewage
11 carried off by toilets, urinals, and kitchen drains.

12 (c) "Domestic sewage" means human body waste and
13 wastewater, including bath and toilet waste, residential
14 laundry waste, residential kitchen waste, and other similar
15 waste from appurtenances at a residence or establishment.

16 (d) "Graywater" means that part of domestic sewage
17 that is not blackwater, including waste from the bath,
18 lavatory, laundry, and sink, except kitchen sink waste.

19 (e) "Florida Keys" means those islands of the state
20 located within the boundaries of Monroe County.

21 (f) "Injection well" means an open vertical hole at
22 least 90 feet in depth, cased and grouted to at least 60 feet
23 in depth which is used to dispose of effluent from an onsite
24 sewage treatment and disposal system.

25 (g) "Innovative system" means an onsite sewage
26 treatment and disposal system that, in whole or in part,
27 employs materials, devices, or techniques that are novel or
28 unique and that have not been successfully field-tested under
29 sound scientific and engineering principles under climatic and
30 soil conditions found in this state.

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1 (h) "Lot" means a parcel or tract of land described by
2 reference to recorded plats or by metes and bounds, or the
3 least fractional part of subdivided lands having limited fixed
4 boundaries or an assigned number, letter, or any other legal
5 description by which it can be identified.

6 (i) "Mean annual flood line" means the elevation
7 determined by calculating the arithmetic mean of the
8 elevations of the highest yearly flood stage or discharge for
9 the period of record, to include at least the most recent
10 10-year period. If at least 10 years of data is not available,
11 the mean annual flood line shall be as determined based upon
12 the data available and field verification conducted by a
13 certified professional surveyor and mapper with experience in
14 the determination of flood water elevation lines or, at the
15 option of the applicant, by department personnel. Field
16 verification of the mean annual flood line shall be performed
17 using a combination of those indicators listed in
18 subparagraphs 1. through 7. that are present on the site, and
19 that reflect flooding that recurs on an annual basis. In those
20 situations where any one or more of these indicators reflect a
21 rare or aberrant event, such indicator or indicators shall not
22 be utilized in determining the mean annual flood line. The
23 indicators that may be considered are:

24 1. Water stains on the ground surface, trees, and
25 other fixed objects;

26 2. Hydric adventitious roots;

27 3. Drift lines;

28 4. Rafted debris;

29 5. Aquatic mosses and liverworts;

30 6. Moss collars; and

31 7. Lichen lines.

1 ~~(j)(i)~~ "Onsite sewage treatment and disposal system"
2 means a system that contains a standard subsurface, filled, or
3 mound drainfield system; an aerobic treatment unit; a
4 graywater system tank; a laundry wastewater system tank; a
5 septic tank; a grease interceptor; a dosing tank; a solids or
6 effluent pump; a waterless, incinerating, or organic
7 waste-composting toilet; or a sanitary pit privy that is
8 installed or proposed to be installed beyond the building
9 sewer on land of the owner or on other land to which the owner
10 has the legal right to install a system. This term does not
11 include package sewage treatment facilities and other
12 treatment works regulated under chapter 403.

13 (k) "Permanent nontidal surface water body" means a
14 perennial stream, a perennial river, an intermittent stream, a
15 perennial lake, a submerged marsh or swamp, a submerged wooded
16 marsh or swamp, a spring, or a seep, as identified on the most
17 recent quadrangle map, 7.5 minute series (topographic),
18 produced by the United States Geological Survey. "Permanent
19 nontidal surface water body" shall also mean an artificial
20 surface water body that does not have an impermeable bottom
21 and side and that is designed to hold, or does hold, visible
22 standing water for at least 180 days of the year. However, a
23 nontidal surface water body that is drained, either naturally
24 or artificially, where the intent or the result is that such
25 drainage be temporary, shall be considered a permanent
26 nontidal surface water body. A nontidal surface water body
27 that is drained of all visible surface water, where the lawful
28 intent or the result of such drainage is that such drainage
29 will be permanent, shall not be considered a permanent
30 nontidal surface water body. The boundary of a permanent
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1 nontidal surface water body shall be the mean annual flood
2 line.

3 (l)~~(j)~~ "Potable water line" means any water line that
4 is connected to a potable water supply source, but the term
5 does not include an irrigation line with any of the following
6 types of backflow devices:

7 1. For irrigation systems into which chemicals are not
8 injected, any atmospheric or pressure vacuum breaker or double
9 check valve or any detector check assembly.

10 2. For irrigation systems into which chemicals such as
11 fertilizers, pesticides, or herbicides are injected, any
12 reduced pressure backflow preventer.

13 (m)~~(k)~~ "Septage" means a mixture of sludge, fatty
14 materials, human feces, and wastewater removed during the
15 pumping of an onsite sewage treatment and disposal system.

16 (n)~~(l)~~ "Subdivision" means, for residential use, any
17 tract or plot of land divided into two or more lots or parcels
18 of which at least one is 1 acre or less in size for sale,
19 lease, or rent. A subdivision for commercial or industrial
20 use is any tract or plot of land divided into two or more lots
21 or parcels of which at least one is 5 acres or less in size
22 and which is for sale, lease, or rent. A subdivision shall be
23 deemed to be proposed until such time as an application is
24 submitted to the local government for subdivision approval or,
25 in those areas where no local government subdivision approval
26 is required, until such time as a plat of the subdivision is
27 recorded.

28 (o) "Seasonally inundated area" shall mean specific
29 soil mapping units, of at least 0.025 acre, that are
30 classified in the Soil Legend of the applicable United States
31 Department of Agriculture Natural Resource Conservation

1 Service Florida county soil survey as frequently flooded,
2 ponded, depressional, or slough; that are described in the
3 Detailed Soil Map Units of the applicable Natural Resource
4 Conservation Service Florida county soil survey as very poorly
5 drained; or that are classified in the Soil Legend of the
6 Natural Resource Conservation Service county soil survey for
7 Taylor County as commonly flooded. The accuracy of any soil
8 mapping unit designation for a specific site may be
9 field-verified using Natural Resource Conservation Service
10 soil survey methodologies by a soil scientist or soil
11 classifier certified by the American Registry of Certified
12 Professionals in Agronomy, Crops, and Soils, a soil scientist
13 employed by the Natural Resource Conservation Service, or a
14 licensed professional engineer experienced in utilizing
15 Natural Resource Conservation Service soil survey
16 methodologies. Field verification under this subsection shall
17 not be a precondition to permit issuance. An area shall not be
18 considered a seasonally inundated area if it has been
19 physically altered, or will be physically altered before
20 installation of an onsite sewage treatment and disposal system
21 begins, in a manner that prevents future seasonal inundation,
22 provided that such physical alteration is not unlawful.

23 (p)(m) "Tidally influenced surface water body" means a
24 recognizable body of water that is subject to the ebb and flow
25 of the tides and has as its boundary a mean high-water line as
26 defined by s. 177.27(15), including swamp or marsh areas,
27 bayheads, cypress ponds and sloughs, and natural or
28 constructed ponds contained within a recognizable boundary.
29 This does not include retention or detention areas designed to
30 contain standing or flowing water for less than 72 hours after
31 a rainfall.

1 ~~(g)(n)~~ "Toxic or hazardous chemical" means a substance
2 that poses a serious danger to human health or the
3 environment.

4 (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person
5 may not construct, repair, modify, abandon, or operate an
6 onsite sewage treatment and disposal system without first
7 obtaining a permit approved by the department. The department
8 may issue permits to carry out this section, but shall not
9 make the issuance of such permits contingent upon prior
10 approval by the Department of Environmental Protection. A
11 construction permit is valid for 18 months from the issuance
12 date and may be extended by the department for one 90-day
13 period under rules adopted by the department. A repair permit
14 is valid for 90 days from the date of issuance. An operating
15 permit must be obtained prior to the use of any aerobic
16 treatment unit or if the establishment generates commercial
17 waste. Buildings or establishments that use an aerobic
18 treatment unit or generate commercial waste shall be inspected
19 by the department at least annually to assure compliance with
20 the terms of the operating permit. The operating permit is
21 valid for 1 year from the date of issuance and must be renewed
22 annually. If all information pertaining to the siting,
23 location, and installation conditions or repair of an onsite
24 sewage treatment and disposal system remains the same, a
25 construction or repair permit for the onsite sewage treatment
26 and disposal system may be transferred to another person, if
27 the transferee files, within 60 days after the transfer of
28 ownership, an amended application providing all corrected
29 information and proof of ownership of the property. There is
30 no fee associated with the processing of this supplemental
31 information. A person may not contract to construct, modify,

1 alter, repair, service, abandon, or maintain any portion of an
2 onsite sewage treatment and disposal system without being
3 registered under part III of chapter 489. A property owner
4 who personally performs construction, maintenance, or repairs
5 to a system serving his or her own owner-occupied
6 single-family residence is exempt from registration
7 requirements for performing such construction, maintenance, or
8 repairs on that residence, but is subject to all permitting
9 requirements. A municipality or political subdivision of the
10 state may not issue a building or plumbing permit for any
11 building that requires the use of an onsite sewage treatment
12 and disposal system unless the owner or builder has received a
13 construction permit for such system from the department. A
14 building or structure may not be occupied and a municipality,
15 political subdivision, or any state or federal agency may not
16 authorize occupancy until the department approves the final
17 installation of the onsite sewage treatment and disposal
18 system. A municipality or political subdivision of the state
19 may not approve any change in occupancy or tenancy of a
20 building that uses an onsite sewage treatment and disposal
21 system until the department has reviewed the use of the system
22 with the proposed change, approved the change, and amended the
23 operating permit.

24 (a) Subdivisions and lots in which each lot has a
25 minimum area of at least one-half acre and either a minimum
26 dimension of 100 feet or a mean of at least 100 feet of the
27 side bordering the street and the distance formed by a line
28 parallel to the side bordering the street drawn between the
29 two most distant points of the remainder of the lot may be
30 developed with a water system regulated under s. 381.0062 and
31 onsite sewage treatment and disposal systems, provided the

1 projected daily domestic sewage flow does not exceed an
2 average of 1,500 gallons per acre per day, and provided
3 satisfactory drinking water can be obtained and all distance
4 and setback, soil condition, water table elevation, and other
5 related requirements of this section and rules adopted under
6 this section can be met.

7 (b) Subdivisions and lots using a public water system
8 as defined in s. 403.852 may use onsite sewage treatment and
9 disposal systems, provided there are no more than four lots
10 per acre, provided the projected daily domestic sewage flow
11 does not exceed an average of 2,500 gallons per acre per day,
12 and provided that all distance and setback, soil condition,
13 water table elevation, and other related requirements that are
14 generally applicable to the use of onsite sewage treatment and
15 disposal systems are met.

16 (c) Notwithstanding the provisions of paragraphs (a)
17 and (b), for subdivisions platted of record on or before
18 October 1, 1991, when a developer or other appropriate entity
19 has previously made or makes provisions, including financial
20 assurances or other commitments, acceptable to the Department
21 of Health, that a central water system will be installed by a
22 regulated public utility based on a density formula, private
23 potable wells may be used with onsite sewage treatment and
24 disposal systems until the agreed-upon densities are reached.
25 The department may consider assurances filed with the
26 Department of Business and Professional Regulation under
27 chapter 498 in determining the adequacy of the financial
28 assurance required by this paragraph. In a subdivision
29 regulated by this paragraph, the average daily domestic sewage
30 flow may not exceed 2,500 gallons per acre per day. This
31 section does not affect the validity of existing prior

1 agreements. After October 1, 1991, the exception provided
2 under this paragraph is not available to a developer or other
3 appropriate entity.

4 (d) Paragraphs (a) and (b) do not apply to any
5 proposed residential subdivision with more than 50 lots or to
6 any proposed commercial subdivision with more than 5 lots
7 where a publicly owned or investor-owned sewerage system is
8 available. It is the intent of this paragraph not to allow
9 development of additional proposed subdivisions in order to
10 evade the requirements of this paragraph. The department
11 shall report to the Legislature by February 1 of each
12 odd-numbered year concerning the success in meeting this
13 intent.

14 (e) Onsite sewage treatment and disposal systems must
15 not be placed closer than:

16 1. Seventy-five feet from a private potable well.
17 2. Two hundred feet from a public potable well serving
18 a residential or nonresidential establishment having a total
19 sewage flow of greater than 2,000 gallons per day.

20 3. One hundred feet from a public potable well serving
21 a residential or nonresidential establishment having a total
22 sewage flow of less than or equal to 2,000 gallons per day.

23 ~~4. Seventy-five feet from surface waters.~~

24 4.5. Fifty feet from any nonpotable well.

25 5.6. Ten feet from any storm sewer pipe, to the
26 maximum extent possible, but in no instance shall the setback
27 be less than 5 feet.

28 6. Seventy-five feet from the mean high-water line of
29 a tidally influenced surface water body;

30 7. Seventy-five feet from the normal annual flood line
31 of a permanent nontidal surface water body;

1 8. Twenty-five feet from the outermost continuous edge
2 of a seasonally inundated area; and

3 9. Fifteen feet from an artificial water body that has
4 been certified by a licensed professional engineer as designed
5 to hold water for less than 72 continuous hours or, if the
6 artificial water body has been in existence for more than 2
7 years, has been certified by a licensed professional engineer
8 as continuously maintained to hold water for less than 72
9 continuous hours.

10 ~~7. Fifteen feet from the design high-water line of~~
11 ~~retention areas, detention areas, or swales designed to~~
12 ~~contain standing or flowing water for less than 72 hours after~~
13 ~~a rainfall or the design high-water level of normally dry~~
14 ~~drainage ditches or normally dry individual lot~~
15 ~~stormwater retention areas.~~

16 (f) Except as provided under paragraphs (e) and (t),
17 no limitations shall be imposed by rule, relating to the
18 distance between an onsite disposal system and any area that
19 either permanently or temporarily has visible surface water.

20 (g)~~(f)~~ All provisions of this section and rules
21 adopted under this section relating to soil condition, water
22 table elevation, distance, and other setback requirements must
23 be equally applied to all lots, with the following exceptions:

24 1. Any residential lot that was platted and recorded
25 on or after January 1, 1972, or that is part of a residential
26 subdivision that was approved by the appropriate permitting
27 agency on or after January 1, 1972, and that was eligible for
28 an onsite sewage treatment and disposal system construction
29 permit on the date of such platting and recording or approval
30 shall be eligible for an onsite sewage treatment and disposal
31 system construction permit, regardless of when the application

1 for a permit is made. If rules in effect at the time the
2 permit application is filed cannot be met, residential lots
3 platted and recorded or approved on or after January 1, 1972,
4 shall, to the maximum extent possible, comply with the rules
5 in effect at the time the permit application is filed. At a
6 minimum, however, those residential lots platted and recorded
7 or approved on or after January 1, 1972, but before January 1,
8 1983, shall comply with those rules in effect on January 1,
9 1983, and those residential lots platted and recorded or
10 approved on or after January 1, 1983, shall comply with those
11 rules in effect at the time of such platting and recording or
12 approval. In determining the maximum extent of compliance
13 with current rules that is possible, the department shall
14 allow structures and appurtenances thereto which were
15 authorized at the time such lots were platted and recorded or
16 approved.

17 2. Lots platted before 1972 are subject to a 50-foot
18 minimum surface water setback and are not subject to lot size
19 requirements. The projected daily flow for domestic onsite
20 sewage treatment and disposal systems for lots platted before
21 1972 may not exceed:

22 a. Two thousand five hundred gallons per acre per day
23 for lots served by public water systems as defined in s.
24 403.852.

25 b. One thousand five hundred gallons per acre per day
26 for lots served by water systems regulated under s. 381.0062.

27 (h)~~(g)~~1. The department may grant variances in
28 hardship cases which may be less restrictive than the
29 provisions specified in this section. If a variance is
30 granted and the onsite sewage treatment and disposal system
31 construction permit has been issued, the variance may be

1 transferred with the system construction permit, if the
2 transferee files, within 60 days after the transfer of
3 ownership, an amended construction permit application
4 providing all corrected information and proof of ownership of
5 the property and if the same variance would have been required
6 for the new owner of the property as was originally granted to
7 the original applicant for the variance. There is no fee
8 associated with the processing of this supplemental
9 information. A variance may not be granted under this section
10 until the department is satisfied that:

11 a. The hardship was not caused intentionally by the
12 action of the applicant;

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

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

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

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

1 issues, or when the applicant requests an extension. The
2 committee shall consider the criteria in subparagraph 1. in
3 its recommended agency action on variance requests and shall
4 also strive to allow property owners the full use of their
5 land where possible. The committee consists of the following:

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

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

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

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

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

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

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

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

28 (i)~~(h)~~ A construction permit may not be issued for an
29 onsite sewage treatment and disposal system in any area zoned
30 or used for industrial or manufacturing purposes, or its
31 equivalent, where a publicly owned or investor-owned sewage

1 treatment system is available, or where a likelihood exists
2 that the system will receive toxic, hazardous, or industrial
3 waste. An existing onsite sewage treatment and disposal
4 system may be repaired if a publicly owned or investor-owned
5 sewerage system is not available within 500 feet of the
6 building sewer stub-out and if system construction and
7 operation standards can be met. This paragraph does not
8 require publicly owned or investor-owned sewerage treatment
9 systems to accept anything other than domestic wastewater.

10 1. A building located in an area zoned or used for
11 industrial or manufacturing purposes, or its equivalent, when
12 such building is served by an onsite sewage treatment and
13 disposal system, must not be occupied until the owner or
14 tenant has obtained written approval from the department. The
15 department shall not grant approval when the proposed use of
16 the system is to dispose of toxic, hazardous, or industrial
17 wastewater or toxic or hazardous chemicals.

18 2. Each person who owns or operates a business or
19 facility in an area zoned or used for industrial or
20 manufacturing purposes, or its equivalent, or who owns or
21 operates a business that has the potential to generate toxic,
22 hazardous, or industrial wastewater or toxic or hazardous
23 chemicals, and uses an onsite sewage treatment and disposal
24 system that is installed on or after July 5, 1989, must obtain
25 an annual system operating permit from the department. A
26 person who owns or operates a business that uses an onsite
27 sewage treatment and disposal system that was installed and
28 approved before July 5, 1989, need not obtain a system
29 operating permit. However, upon change of ownership or
30 tenancy, the new owner or operator must notify the department
31 of the change, and the new owner or operator must obtain an

1 annual system operating permit, regardless of the date that
2 the system was installed or approved.

3 3. The department shall periodically review and
4 evaluate the continued use of onsite sewage treatment and
5 disposal systems in areas zoned or used for industrial or
6 manufacturing purposes, or its equivalent, and may require the
7 collection and analyses of samples from within and around such
8 systems. If the department finds that toxic or hazardous
9 chemicals or toxic, hazardous, or industrial wastewater have
10 been or are being disposed of through an onsite sewage
11 treatment and disposal system, the department shall initiate
12 enforcement actions against the owner or tenant to ensure
13 adequate cleanup, treatment, and disposal.

14 (j)~~(i)~~ An onsite sewage treatment and disposal system
15 for a single-family residence that is designed by a
16 professional engineer registered in the state and certified by
17 such engineer as complying with performance criteria adopted
18 by the department must be approved by the department subject
19 to the following:

20 1. The performance criteria applicable to
21 engineer-designed systems must be limited to those necessary
22 to ensure that such systems do not adversely affect the public
23 health or significantly degrade the groundwater or surface
24 water. Such performance criteria shall include consideration
25 of the quality of system effluent, the proposed total sewage
26 flow per acre, wastewater treatment capabilities of the
27 natural or replaced soil, water quality classification of the
28 potential surface-water-receiving body, and the structural and
29 maintenance viability of the system for the treatment of
30 domestic wastewater. However, performance criteria shall

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1 address only the performance of a system and not a system's
2 design.

3 2. The technical review and advisory panel shall
4 assist the department in the development of performance
5 criteria applicable to engineer-designed systems. Workshops
6 on the development of the rules delineating such criteria
7 shall commence not later than September 1, 1996, and the
8 department shall advertise such rules for public hearing no
9 later than October 1, 1997.

10 3. A person electing to utilize an engineer-designed
11 system shall, upon completion of the system design, submit
12 such design, certified by a registered professional engineer,
13 to the county health department. The county health department
14 may utilize an outside consultant to review the
15 engineer-designed system, with the actual cost of such review
16 to be borne by the applicant. Within 5 working days after
17 receiving an engineer-designed system permit application, the
18 county health department shall request additional information
19 if the application is not complete. Within 15 working days
20 after receiving a complete application for an
21 engineer-designed system, the county health department either
22 shall issue the permit or, if it determines that the system
23 does not comply with the performance criteria, shall notify
24 the applicant of that determination and refer the application
25 to the department for a determination as to whether the system
26 should be approved, disapproved, or approved with
27 modification. The department engineer's determination shall
28 prevail over the action of the county health department. The
29 applicant shall be notified in writing of the department's
30 determination and of the applicant's rights to pursue a
31 variance or seek review under the provisions of chapter 120.

1 4. The owner of an engineer-designed performance-based
2 system must obtain an annual system operating permit from the
3 department. The department shall inspect the system at least
4 annually and may collect system-effluent samples if
5 appropriate to determine compliance with the performance
6 criteria. The fee for the annual operating permit shall be
7 collected beginning with the second year of system operation.

8 5. If an engineer-designed system fails to properly
9 function or fails to meet performance standards, the system
10 shall be re-engineered, if necessary, to bring the system into
11 compliance with the provisions of this section.

12 (k)~~(j)~~ An innovative system may be approved in
13 conjunction with an engineer-designed site-specific system
14 which is certified by the engineer to meet the
15 performance-based criteria adopted by the department.

16 (l)~~(k)~~ For the Florida Keys, the department shall
17 adopt a special rule for the construction, installation,
18 modification, operation, repair, maintenance, and performance
19 of onsite sewage treatment and disposal systems which
20 considers the unique soil conditions and which considers water
21 table elevations, densities, and setback requirements. On
22 lots where a setback distance of 75 feet from surface waters,
23 saltmarsh, and buttonwood association habitat areas cannot be
24 met, an injection well, approved and permitted by the
25 department, may be used for disposal of effluent from onsite
26 sewage treatment and disposal systems. The department shall
27 require effluent from onsite sewage treatment and disposal
28 systems to meet advanced waste treatment concentrations, as
29 defined in s. 403.086.

30 (m)~~(l)~~ No product sold in the state for use in onsite
31 sewage treatment and disposal systems may contain any

1 substance in concentrations or amounts that would interfere
2 with or prevent the successful operation of such system, or
3 that would cause discharges from such systems to violate
4 applicable water quality standards. The department shall
5 publish criteria for products known or expected to meet the
6 conditions of this paragraph. In the event a product does not
7 meet such criteria, such product may be sold if the
8 manufacturer satisfactorily demonstrates to the department
9 that the conditions of this paragraph are met.

10 (n)~~(m)~~ Evaluations for determining the seasonal
11 high-water table elevations or the suitability of soils for
12 the use of a new onsite sewage treatment and disposal system
13 shall be performed by department personnel, professional
14 engineers registered in the state, or such other persons with
15 expertise, as defined by rule, in making such evaluations.
16 Evaluations for determining mean annual flood lines and the
17 accuracy of seasonally inundated area designations shall be
18 performed by those persons identified in paragraphs (2)(i) and
19 (2)(o), respectively.The department shall accept evaluations
20 submitted by professional engineers and such other persons as
21 meet the expertise established by rule unless the department
22 has a reasonable scientific basis for questioning the accuracy
23 or completeness of the evaluation.

24 (o)~~(n)~~ The department shall appoint a research review
25 and advisory committee, which shall meet at least
26 semiannually. The committee shall advise the department on
27 directions for new research, review and rank proposals for
28 research contracts, and review draft research reports and make
29 comments. The committee is comprised of:

30 1. A representative of the Division of Environmental
31 Health of the Department of Health.

- 1 2. A representative from the septic tank industry.
- 2 3. A representative from the home building industry.
- 3 4. A representative from an environmental interest
- 4 group.
- 5 5. A representative from the State University System,
- 6 from a department knowledgeable about onsite sewage treatment
- 7 and disposal systems.
- 8 6. A professional engineer registered in this state
- 9 who has work experience in onsite sewage treatment and
- 10 disposal systems.
- 11 7. A representative from the real estate profession.
- 12 8. A representative from the restaurant industry.
- 13 9. A consumer.
- 14
- 15 Members shall be appointed for a term of 3 years, with the
- 16 appointments being staggered so that the terms of no more than
- 17 four members expire in any one year. Members shall serve
- 18 without remuneration, but are entitled to reimbursement for
- 19 per diem and travel expenses as provided in s. 112.061.
- 20 (p)~~(o)~~ An application for an onsite sewage treatment
- 21 and disposal system permit shall be completed in full, signed
- 22 by the owner or the owner's authorized representative, or by a
- 23 contractor licensed under chapter 489, and shall be
- 24 accompanied by all required exhibits and fees. No specific
- 25 documentation of property ownership shall be required as a
- 26 prerequisite to the review of an application or the issuance
- 27 of a permit. The issuance of a permit does not constitute
- 28 determination by the department of property ownership.
- 29 (q)~~(r)~~ The department may not require any form of
- 30 subdivision analysis of property by an owner, developer, or
- 31

1 subdivider prior to submission of an application for an onsite
2 sewage treatment and disposal system.

3 (r)~~(q)~~ Nothing in this section limits the power of a
4 municipality or county to enforce other laws for the
5 protection of the public health and safety.

6 (s)~~(r)~~ In the siting of onsite sewage treatment and
7 disposal systems, including drainfields, shoulders, and
8 slopes, guttering shall not be required on single-family
9 residential dwelling units for systems located greater than 5
10 feet from the roof drip line of the house. If guttering is
11 used on residential dwelling units, the downspouts shall be
12 directed away from the drainfield.

13 (t)~~(s)~~ Notwithstanding the provisions of subparagraph
14 (f)1., onsite sewage treatment and disposal systems located in
15 floodways of the Suwannee and Aucilla Rivers must adhere to
16 the following requirements:

17 1. The absorption surface of the drainfield shall not
18 be subject to flooding based on 10-year flood elevations.
19 Provided, however, for lots or parcels created by the
20 subdivision of land in accordance with applicable local
21 government regulations prior to January 17, 1990, if an
22 applicant cannot construct a drainfield system with the
23 absorption surface of the drainfield at an elevation equal to
24 or above 10-year flood elevation, the department shall issue a
25 permit for an onsite sewage treatment and disposal system
26 within the 10-year floodplain of rivers, streams, and other
27 bodies of flowing water if all of the following criteria are
28 met:

- 29 a. The lot is at least one-half acre in size;
30 b. The bottom of the drainfield is at least 36 inches
31 above the 2-year flood elevation; and

1 c. The applicant installs either: a waterless,
2 incinerating, or organic waste composting toilet and a
3 graywater system and drainfield in accordance with department
4 rules; an aerobic treatment unit and drainfield in accordance
5 with department rules; a system approved by the State Health
6 Office that is capable of reducing effluent nitrate by at
7 least 50 percent; or a system approved by the county health
8 department pursuant to department rule other than a system
9 using alternative drainfield materials. The United States
10 Department of Agriculture Soil Conservation Service soil maps,
11 State of Florida Water Management District data, and Federal
12 Emergency Management Agency Flood Insurance maps are resources
13 that shall be used to identify flood-prone areas.

14 2. The use of fill or mounding to elevate a drainfield
15 system out of the 10-year floodplain of rivers, streams, or
16 other bodies of flowing water shall not be permitted if such a
17 system lies within a regulatory floodway of the Suwannee and
18 Aucilla Rivers. In cases where the 10-year flood elevation
19 does not coincide with the boundaries of the regulatory
20 floodway, the regulatory floodway will be considered for the
21 purposes of this subsection to extend at a minimum to the
22 10-year flood elevation.

23 Section 2. Paragraph (k) of subsection (2) of section
24 381.0066, Florida Statutes, is amended to read:

25 381.0066 Onsite sewage treatment and disposal systems;
26 fees.--

27 (1) The department may collect fees for services
28 provided with respect to onsite sewage treatment and disposal
29 systems. The total fees assessed under this section must be
30 sufficient to meet the cost of administering this section and
31 ss. 381.0065 and 381.00655.

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

4 (k) Research: An additional \$5 fee shall be added to
5 each new system construction permit issued during fiscal years
6 1996-2002 to be used for onsite sewage treatment and disposal
7 system research, demonstration, and training projects. Five
8 dollars from any repair permit fee collected under this
9 section shall be used for funding the hands-on training
10 centers described in s. 381.0065(3)(j).

11
12 The funds collected pursuant to this subsection must be
13 deposited in a trust fund administered by the department, to
14 be used for the purposes stated in this section and ss.
15 381.0065 and 381.00655.

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

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HOUSE SUMMARY

With respect to onsite sewage and disposal systems, provides definitions of "mean annual flood line," "permanent nontidal surface water body," "seasonally inundated area," and "tidally influenced surface water body."

Provides that the Department of Health shall not make the issuance of a permit to construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system contingent upon prior approval by the Department of Environmental Protection. Revises certain limitations with respect to the placement of onsite sewage treatment and disposal systems. Provides that no limitations shall be imposed by rule, relating to the distance between an onsite disposal system and any area that either permanently or temporarily has viable surface water. Specifies persons required to perform evaluations for determining mean annual flood lines and the accuracy of seasonally inundated area designations.

Provides that \$5 of any onsite sewage treatment and disposal repair permit fees shall be used for the funding of specified hands-on training centers. See bill for details.