

By Senator King

8-1572-00

See HB 957

1 A bill to be entitled
 2 An act relating to onsite sewage treatment and
 3 disposal systems; amending s. 381.0065, F.S.;
 4 providing for regulation by the Department of
 5 Health of maintenance entities for
 6 performance-based treatment systems and aerobic
 7 treatment unit systems; requiring such systems
 8 to contract with a permitted maintenance
 9 entity; providing duties of such entities;
 10 revising duties of the department; amending s.
 11 381.0066, F.S.; reducing the annual operating
 12 permit fee for aerobic treatment units and
 13 providing a fee for performance-based treatment
 14 systems; providing an effective date.

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

17
 18 Section 1. Paragraph (n) is added to subsection (3) of
 19 section 381.0065, Florida Statutes, paragraph (j) of
 20 subsection (4) of that section is amended, and paragraph (u)
 21 is added to subsection (4), to read:

22 381.0065 Onsite sewage treatment and disposal systems;
 23 regulation.--

24 (3) DUTIES AND POWERS OF THE DEPARTMENT OF
 25 HEALTH.--The department shall:

26 (n) Regulate and permit maintenance entities for
 27 performance-based treatment systems and aerobic treatment unit
 28 systems. To ensure systems are maintained and operated
 29 according to manufacturer's specifications and designs, the
 30 department shall establish by rule minimum qualifying criteria
 31 for maintenance entities. The criteria shall include:

1 training, access to approved spare parts and components,
2 access to manufacturer's maintenance and operation manuals,
3 and service response time. The maintenance entity shall employ
4 a contractor licensed under s. 489.105(3)(m), or part III of
5 chapter 489, or a state-licensed wastewater plant operator,
6 who is responsible for maintenance and repair of all systems
7 under contract. The maintenance entity shall file a surety
8 bond with the department in an amount equal to the cost of
9 annual permitting for all systems under maintenance contract.
10 The bond shall be executed by the maintenance entity as
11 principal and a surety company authorized and licensed to do
12 business in the state as surety. The bond shall be contingent
13 upon the faithful compliance of the maintenance entity with
14 this section or rules adopted under this section and shall run
15 to the department for benefit of any system owner who suffers
16 a financial loss as a result of the misuse or misappropriation
17 by the maintenance entity of funds collected pursuant to this
18 section and s. 381.0066. Any surety company which cancels or
19 does not renew the bond of any licensee shall notify the
20 department in writing not less than 30 days in advance of such
21 action, giving the reason for the cancellation or nonrenewal.

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, but shall not
27 make the issuance of such permits contingent upon prior
28 approval by the Department of Environmental Protection. A
29 construction permit is valid for 18 months from the issuance
30 date and may be extended by the department for one 90-day
31 period under rules adopted by the department. A repair permit

1 is valid for 90 days from the date of issuance. An operating
2 permit must be obtained prior to the use of any aerobic
3 treatment unit or if the establishment generates commercial
4 waste. Buildings or establishments that use an aerobic
5 treatment unit or generate commercial waste shall be inspected
6 by the department at least annually to assure compliance with
7 the terms of the operating permit. The operating permit is
8 valid for 1 year from the date of issuance and must be renewed
9 annually. If all information pertaining to the siting,
10 location, and installation conditions or repair of an onsite
11 sewage treatment and disposal system remains the same, a
12 construction or repair permit for the onsite sewage treatment
13 and disposal system may be transferred to another person, if
14 the transferee files, within 60 days after the transfer of
15 ownership, an amended application providing all corrected
16 information and proof of ownership of the property. There is
17 no fee associated with the processing of this supplemental
18 information. A person may not contract to construct, modify,
19 alter, repair, service, abandon, or maintain any portion of an
20 onsite sewage treatment and disposal system without being
21 registered under part III of chapter 489. A property owner
22 who personally performs construction, maintenance, or repairs
23 to a system serving his or her own owner-occupied
24 single-family residence is exempt from registration
25 requirements for performing such construction, maintenance, or
26 repairs on that residence, but is subject to all permitting
27 requirements. A municipality or political subdivision of the
28 state may not issue a building or plumbing permit for any
29 building that requires the use of an onsite sewage treatment
30 and disposal system unless the owner or builder has received a
31 construction permit for such system from the department. A

1 building or structure may not be occupied and a municipality,
2 political subdivision, or any state or federal agency may not
3 authorize occupancy until the department approves the final
4 installation of the onsite sewage treatment and disposal
5 system. A municipality or political subdivision of the state
6 may not approve any change in occupancy or tenancy of a
7 building that uses an onsite sewage treatment and disposal
8 system until the department has reviewed the use of the system
9 with the proposed change, approved the change, and amended the
10 operating permit.

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

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

30 2. The technical review and advisory panel shall
31 assist the department in the development of performance

1 criteria applicable to engineer-designed systems. Workshops
2 on the development of the rules delineating such criteria
3 shall commence not later than September 1, 1996, and the
4 department shall advertise such rules for public hearing no
5 later than October 1, 1997.

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

28 4. The owner of an engineer-designed performance-based
29 system must maintain a current maintenance service agreement
30 with a maintenance entity permitted by the department. The
31 maintenance entity shall obtain an annual system operating

1 permit from the department for each system under service
2 contract. The department shall inspect the system at least
3 annually, or on such periodic basis as the fee collected
4 permits, 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 The maintenance entity shall inspect each system at least
9 twice each year and shall report quarterly to the department
10 on the number of systems inspected and serviced.

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

15 (u) The owner of an aerobic treatment unit system
16 shall maintain a current maintenance service agreement with an
17 aerobic treatment unit maintenance entity permitted by the
18 department. The maintenance entity shall obtain an annual
19 system operating permit from the department for each aerobic
20 treatment unit under service contract. The maintenance entity
21 shall inspect each aerobic treatment unit system at least
22 twice each year and shall report quarterly to the department
23 on the number of aerobic treatment unit systems inspected and
24 serviced. The owner shall allow the department to inspect
25 during reasonable hours each aerobic treatment unit system at
26 least twice each year and annually collect and analyze
27 system-effluent samples for performance criteria established
28 by rule of the department.

29 Section 2. Paragraphs (c) and (i) of subsection (2) of
30 section 381.0066, Florida Statutes, are amended to read:

31

1 381.0066 Onsite sewage treatment and disposal systems;
2 fees.--

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

6 (c) Annual operating permit for aerobic treatment
7 units or performance-based treatment systems, including
8 ~~quarterly evaluation, annual sampling, and laboratory analysis~~
9 ~~of effluent from aerobic treatment units:~~ a fee of not less
10 than ~~\$150, or more than~~\$50~~\$300~~.

11 (i) Aerobic treatment unit or performance-based
12 treatment system maintenance entity permit: a fee of not less
13 than \$25, or more than \$150, per year.

14
15 The funds collected pursuant to this subsection must be
16 deposited in a trust fund administered by the department, to
17 be used for the purposes stated in this section and ss.
18 381.0065 and 381.00655.

19 Section 3. This act shall take effect July 1, 2000.

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22 LEGISLATIVE SUMMARY

23
24 Provides for regulation by the Department of Health of
25 maintenance entities for performance-based onsite sewage
26 treatment and disposal systems and aerobic treatment unit
27 systems. Provides minimum qualifying criteria for such
28 entities and requires a surety bond. Requires such system
29 to contract with a permitted maintenance entity. Requires
30 such entities to obtain the annual system operating
31 permits from the department, perform twice-yearly system
inspections, and report quarterly to the department.
Revises the department's annual inspection requirement.
Requires a \$50 annual permit fee for performance-based
treatment systems and reduces from \$300 to \$50 the annual
permit fee for aerobic treatment unit systems.