

By the Committee on Regulated Industries; and Senator Constantine

315-2002-03

1 A bill to be entitled
2 An act relating to environmental health;
3 creating s. 381.0069, F.S.; providing for the
4 regulation of portable restroom contracting;
5 providing definitions; requiring a portable
6 restroom contractor to apply for registration
7 with the Department of Health; providing
8 requirements for registration, including an
9 examination; providing for administration;
10 providing rulemaking authority; providing for
11 renewal of registration, including requirements
12 for continuing education; providing for
13 certification of partnerships and corporations;
14 providing grounds for suspension or revocation
15 of registration; providing fees; providing
16 penalties and prohibitions; amending s.
17 381.0066, F.S.; authorizing the continuation of
18 permit fees for system construction permits for
19 onsite sewage treatment and disposal systems;
20 providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Section 381.0069, Florida Statutes, is
25 created to read:

26 381.0069 Portable restroom contracting.--
27 (1) DEFINITIONS.--As used in this section, the term:
28 (a) "Department" means the Department of Health.
29 (b) "Portable restroom" means holding tanks,
30 transportable individual toilets, or restroom facilities that
31 are intended for use on a permanent or nonpermanent basis,

1 including such facilities placed on construction sites when
2 workers are present.

3 (c) "Portable restroom contractor" means a contractor
4 whose services are unlimited in the portable restroom trade
5 who has had at least 3 years' experience as a
6 Florida-registered portable restroom contractor; who has
7 knowledge of state health code law and rules; and who has the
8 experience, knowledge, and skills to handle, deliver, and pick
9 up sanitary portable restrooms, to install, safely handle, and
10 maintain portable holding tanks, and to handle, transport, and
11 dispose of domestic portable restroom and portable holding
12 tank wastewater.

13 (2) REGISTRATION REQUIRED.--A person may not hold
14 himself or herself out as a portable restroom contractor in
15 this state unless he or she is registered by the department in
16 accordance with this section. However, this section does not
17 prohibit any person licensed pursuant to s. 489.105(3)(m) or
18 ss. 489.551-489.558 from engaging in the profession for which
19 he or she is licensed.

20 (3) ADMINISTRATION OF SECTION; REGISTRATION
21 QUALIFICATIONS; EXAMINATION.--

22 (a) Each person desiring to be registered pursuant to
23 this section shall apply to the department in writing upon
24 forms prepared and furnished by the department.

25 (b) The department shall administer, coordinate, and
26 enforce the provisions of this section, provide qualifications
27 for applicants, administer the examination for applicants, and
28 be responsible for the granting of certificates of
29 registration to qualified persons.

30 (c) The department shall adopt rules pursuant to ss.
31 120.536(1) and 120.54 to administer this section, including,

1 but not limited to, rules that establish ethical standards of
2 practice, requirements for registering as a contractor,
3 requirements for obtaining an initial or renewal certificate
4 of registration, disciplinary guidelines, and requirements for
5 the certification of partnerships and corporations. The
6 department may amend or repeal the rules in accordance with
7 chapter 120.

8 (d) To be eligible for registration by the department
9 as a portable restroom contractor, the applicant shall:

10 1. Be of good moral character. In considering good
11 moral character, the department may consider any matter that
12 has a substantial connection between the good moral character
13 of the applicant and the professional responsibilities of a
14 registered contractor, including, but not limited to, the
15 applicant being convicted or found guilty of, or entering a
16 plea of nolo contendere to, regardless of adjudication, a
17 crime in any jurisdiction that directly relates to the
18 practice of contracting or the ability to practice contracting
19 and previous disciplinary action involving portable restroom
20 contracting for which all judicial reviews have been
21 completed.

22 2. Pass an examination approved by the department
23 which demonstrates that the applicant has a fundamental
24 knowledge of the state laws relating to the installation,
25 maintenance, and wastewater disposal of portable restrooms,
26 portable sinks, and portable holding tanks.

27 3. Be at least 18 years of age.

28 4. Have a total of at least 3 years of active
29 experience serving an apprenticeship as a skilled worker under
30 the supervision and control of a registered portable restroom
31 contractor. Related work experience or educational experience

1 may be substituted for no more than 2 years of active
2 contracting experience. Each 30 hours of coursework approved
3 by the department shall be substituted for 6 months of work
4 experience. Out-of-state work experience shall be accepted on
5 a year-for-year basis for any applicant who demonstrates that
6 he or she holds a current license issued by another state for
7 portable restroom contracting which was issued upon
8 satisfactory completion of an examination and continuing
9 education courses that are equivalent to the requirements in
10 this state. Individuals from a state with no state
11 certification who have successfully completed a written
12 examination provided by the Portable Sanitation Association
13 International shall only be required to take the written
14 portion of the examination that includes state health code law
15 and rules. For purposes of this section, an equivalent
16 examination must include the topics of state health code law
17 and rules applicable to portable restrooms and the knowledge
18 required to handle, deliver, and pick up sanitary portable
19 restrooms; to install, handle, and maintain portable holding
20 tanks; and to handle, transport, and dispose of domestic
21 portable restroom and portable holding tank wastewater. A
22 person employed by and under the supervision of a licensed
23 contractor shall be granted up to 2 years of related work
24 experience.

25 5. Have not had a registration revoked the effective
26 date of which was less than 5 years before the application.

27 (e) The department shall provide each applicant for
28 registration pursuant to this section with a copy of this
29 section and any rules adopted under this section. The
30 department may also prepare and disseminate such other

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1 material and questionnaires as it deems necessary to
2 effectuate the registration provisions of this section.

3 (f) Any person who was employed 1 or more years in
4 this state by a portable restroom service holding a permit
5 issued by the department on or before October 1, 2003, has
6 until October 1, 2004, to be registered by the department in
7 accordance with this section and may continue to perform
8 portable restroom contracting services until that time. Such
9 persons are exempt until October 1, 2004, from the 3 years'
10 active work experience requirement of subparagraph (d)4.

11 (4) REGISTRATION RENEWAL.--

12 (a) The department shall prescribe by rule procedures
13 for approving continuing education courses, renewing annual
14 registrations and filing renewal applications, authorizing
15 contractors to hold a inactive registration for a specified
16 period, and reactivating inactive registrations. At a minimum,
17 the requirements for the annual renewal of registration shall
18 require at least 6 classroom hours of continuing education
19 each year for portable restroom contractors.

20 (b) A certificate of registration becomes inactive
21 when a renewal application is not filed in a timely manner. A
22 certificate that has become inactive may be reactivated under
23 this section by submitting an application to the department. A
24 registered contractor may apply to the department for
25 voluntary inactive status at any time during the period of
26 registration.

27 (5) CERTIFICATION OF PARTNERSHIPS AND CORPORATIONS.--

28 (a) The practice of or the offer to practice portable
29 restroom contracting services by registrants through a parent
30 corporation, corporation, subsidiary of a corporation, or
31 partnership offering portable restroom contracting services to

1 the public as agents, employers, officers, or partners is
2 permitted if one or more of the principal officers of the
3 corporation or one or more partners of the partnership and all
4 personnel of the corporation or partnership who act on its
5 behalf as portable restroom contractors in this state are
6 registered as provided by this section and if the corporation
7 or partnership has been issued a certificate of authorization
8 by the department as provided in this section. A registered
9 contractor may not be the sole qualifying contractor for more
10 than one business that requests a certificate of
11 authorization. A business organization that loses its
12 qualifying contractor has 60 days following the date the
13 qualifier terminates his or her affiliation within which to
14 obtain another qualifying contractor. During this period, the
15 business organization may complete any existing contract or
16 continuing contract, but may not undertake any new contract.
17 This period may be extended once by the department for an
18 additional 60 days upon a showing of good cause. This section
19 may not be construed to mean that a certificate of
20 registration to practice portable restroom contracting must be
21 held by a corporation. A corporation or partnership is not
22 relieved of responsibility for the conduct or acts of its
23 agents, employees, or officers by reason of its compliance
24 with this section, and an individual practicing portable
25 restroom contracting is not relieved of responsibility for
26 professional services performed by reason of his or her
27 employment or relationship with a corporation or partnership.
28 (b) For the purposes of this section, a certificate of
29 authorization shall be required for a corporation, a
30 partnership, an association, or a person practicing under a
31 fictitious name when offering portable restroom contracting

1 services to the public, except that when an individual is
2 practicing portable restroom contracting in his or her own
3 given name, he or she is not required to register under this
4 section.

5 (c) Each certification of authorization shall be
6 renewed every 2 years. Each partnership and corporation
7 certified under this section shall notify the department
8 within 1 month after any change in the information contained
9 in the application upon which the certification is based.

10 (d) Disciplinary action against a corporation or
11 partnership shall be administered in the same manner and on
12 the same grounds as disciplinary action against a registered
13 portable restroom contractor.

14 (e) When a certificate of authorization has been
15 revoked, any person authorized by law to provide portable
16 restroom contracting services may not use the name or
17 fictitious name of the entity whose certificate was revoked,
18 or any other identifiers for the entity, including telephone
19 numbers, advertisements, or logos.

20 (6) SUSPENSION OR REVOCATION OF REGISTRATION.--A
21 certificate of registration may be suspended or revoked upon a
22 showing that the registrant has:

23 (a) Violated any provision of this section.

24 (b) Violated any lawful order or rule rendered or
25 adopted by the department.

26 (c) Obtained his or her registration or any other
27 order, ruling, or authorization by means of fraud,
28 misrepresentation, or concealment of material facts.

29 (d) Been found guilty of gross misconduct in the
30 pursuit of his or her profession.

31 (7) FEES; ESTABLISHMENT.--

1 (a) The department shall, by rule, establish fees as
2 follows:

3 1. For registration as a portable restroom contractor:

4 a. Application and examination fee: not less than \$25
5 nor more than \$75.

6 b. Initial registration fee: not less than \$50 nor
7 more than \$100.

8 c. Renewal of registration fee: not less than \$50 nor
9 more than \$100.

10 2. For certification of a partnership or corporation:
11 not less than \$100 nor more than \$250.

12 (b) Fees established pursuant to paragraph (a) shall
13 be based on the actual costs incurred by the department in
14 carrying out its registration and other related
15 responsibilities under this section.

16 (8) PENALTIES AND PROHIBITIONS.--

17 (a) Any person who violates any provision of this
18 section commits a misdemeanor of the first degree, punishable
19 as provided in s. 775.082 or s. 775.083.

20 (b) The department may deny a registration,
21 authorization, or registration renewal if it determines that
22 an applicant does not meet all requirements of this section,
23 has violated any provision of this section, or has been
24 assessed an administrative penalty by the department which
25 remains outstanding if the penalty is final agency action and
26 all judicial review have been exhausted. Any applicant
27 aggrieved by such denial is entitled to a hearing, after
28 reasonable notice thereof, upon filing a written request for
29 such hearing in accordance with chapter 120.

30 Section 2. Paragraph (k) of subsection (2) of section
31 381.0066, Florida Statutes, is amended to read:

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 (k) Research: An additional \$5 fee shall be added to
7 each new system construction permit issued ~~during fiscal years~~
8 ~~1996-2003~~ to be used for onsite sewage treatment and disposal
9 system research, demonstration, and training projects. Five
10 dollars from any repair permit fee collected under this
11 section shall be used for funding the hands-on training
12 centers described in s. 381.0065(3)(j).

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

18 Section 3. This act shall take effect October 1, 2003.

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20 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
21 COMMITTEE SUBSTITUTE FOR
22 SB 476

23 The Committee Substitute places the provisions of the bill s.
24 381.0069, F.S., rather than creating Part IV of ch. 489, F.S.