

CHAMBER ACTION

1 The State Resources Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5
6 A bill to be entitled

7 An act relating to hazard mitigation for coastal
8 redevelopment; amending s. 161.085, F.S.; specifying
9 entities that are authorized to install or authorize
10 installation of rigid coastal armoring structures;
11 authorizing the Department of Environmental Protection to
12 revoke certain authority; authorizing the installation of
13 certain structures as the core of a restored dune feature
14 under specified conditions; amending s. 163.3178, F.S.;
15 requiring the Division of Emergency Management to manage
16 certain hurricane evacuation studies; requiring that such
17 studies be performed in a specified manner; defining the
18 term "coastal high-hazard area"; providing that the
19 application of development policies shall be at the
20 discretion of local government; authorizing local
21 governments to amend comprehensive plans to increase
22 residential densities for certain properties; providing
23 standards for certain comprehensive plan compliance;

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24 requiring local governments to adopt a certain level of
25 service for out-of-county hurricane evacuation under
26 certain circumstances; providing a deadline for local
27 governments to amend coastal management elements and
28 future land use maps; amending 163.336, F.S., relating to
29 the coastal resort area redevelopment pilot project;
30 revising the requirements for placement of certain coastal
31 redevelopment materials; authorizing the Department of
32 Environmental Protection to consider certain information
33 during certain permit review; deferring the expiration
34 date of the pilot project; requiring the department and
35 local governments to provide a specified analysis of
36 certain projects and to provide a report to the
37 Legislature by a certain date; amending s. 381.0065, F.S.;
38 requiring the issuance of certain permits by the
39 Department of Health to be contingent upon the receipt of
40 certain permits issued by the Department of Environmental
41 Protection; providing an effective date.

42
43 Be It Enacted by the Legislature of the State of Florida:

44
45 Section 1. Subsection (3) of section 161.085, Florida
46 Statutes, is amended, and subsections (8) and (9) are added to
47 that section, to read:

48 161.085 Rigid coastal armoring structures.--

49 (3) If erosion occurs as a result of a storm event which
50 threatens private structures or public infrastructure and a
51 permit has not been issued pursuant to subsection (2), unless

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52 | the authority has been revoked by order of the department
53 | pursuant to subsection (8), an ~~the~~ agency, political
54 | subdivision, or municipality having jurisdiction over the
55 | impacted area may install or authorize installation of rigid
56 | coastal armoring structures for the protection of private
57 | structures or public infrastructure, or take other measures to
58 | relieve the threat to private structures or public
59 | infrastructure as long as the following items are considered and
60 | incorporated into such emergency measures:

61 | (a) Protection of the beach-dune system.

62 | (b) Siting and design criteria for the protective
63 | structure.

64 | (c) Impacts on adjacent properties.

65 | (d) Preservation of public beach access.

66 | (e) Protection of native coastal vegetation and nesting
67 | marine turtles and their hatchlings.

68 | (8) If an agency, political subdivision, or municipality
69 | installs or authorizes installation of a rigid coastal armoring
70 | structure that does not comply with subsection (3), and if the
71 | department determines that the action harms or interferes with
72 | the protection of the beach-dune system, adversely impacts
73 | adjacent properties, interferes with public beach access, or
74 | harms native coastal vegetation or nesting marine turtles or
75 | their hatchlings, the department may revoke by order the
76 | authority of the agency, political subdivision, or municipality
77 | under subsection (3) to install or authorize the installation of
78 | rigid coastal armoring structures.

79 | (9) The department, or an agency, political subdivision,
 80 | or municipality described in subsection (3), may authorize sand-
 81 | filled tubes or similar structures proposed as the core of a
 82 | restored dune feature if the applicant meets the requirements of
 83 | this section and:

84 | (a) Demonstrates that the United States Fish and Wildlife
 85 | Service has approved a habitat conservation plan that includes
 86 | the shoreline where each structure will be placed;

87 | (b) Provides reasonable assurance that adequate sand cover
 88 | will be maintained over the structure such that the structure
 89 | will not interact with the beach dune system as rigid coastal
 90 | armoring or adversely affect marine turtle nesting and provides
 91 | for a responsible entity to conduct such maintenance; and

92 | (c) Provides reasonable assurance that each structure will
 93 | be removed if the maintenance required by paragraph (b) proves
 94 | to be not feasible.

95 | Section 2. Paragraphs (d) and (h) of subsection (2) of
 96 | section 163.3178, Florida Statutes, are amended, and subsection
 97 | (9) is added to that section, to read:

98 | 163.3178 Coastal management.--

99 | (2) Each coastal management element required by s.
 100 | 163.3177(6)(g) shall be based on studies, surveys, and data; be
 101 | consistent with coastal resource plans prepared and adopted
 102 | pursuant to general or special law; and contain:

103 | (d) A component which outlines principles for hazard
 104 | mitigation and protection of human life against the effects of
 105 | natural disaster, including population evacuation, which take
 106 | into consideration the capability to safely evacuate the density

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107 of coastal population proposed in the future land use plan
108 element in the event of an impending natural disaster. The
109 Division of Emergency Management shall manage the update of the
110 regional hurricane evacuation studies, ensure such studies are
111 done in a consistent manner, and ensure that the methodology
112 used for modeling storm surge is that used by the National
113 Hurricane Center.

114 (h) Designation of coastal high-hazard coastal areas and
115 the criteria for mitigation for a comprehensive plan amendment
116 in a coastal high-hazard area as defined in subsection (9),
117 ~~which for uniformity and planning purposes herein, are defined~~
118 ~~as category 1 evacuation zones.~~ The coastal high-hazard area is
119 the area below the elevation of the category 1 storm surge line
120 as established by a Sea, Lake and Overland Surges from
121 Hurricanes (SLOSH) computerized storm surge model. However,
122 Application of mitigation and the application of development and
123 redevelopment policies, pursuant to s. 380.27(2), and any rules
124 adopted thereunder, shall be at the discretion of local
125 government.

126 (9) (a) Local governments may elect to comply with rules
127 9J-5.012(3)(b)(6) and 9J-5.012(3)(b)(7), Florida Administrative
128 Code, through the process provided in this section. A proposed
129 comprehensive plan amendment shall be found in compliance with
130 state coastal high-hazard standards pursuant to rules 9J-
131 5.012(3)(b)(6) and 9J-5.012(3)(b)(7), Florida Administrative
132 Code, if:

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- 133 1. The adopted level of service for out-of-county
134 hurricane evacuation is maintained for a category 5 storm event
135 as measured on the Saffir-Simpson scale;
- 136 2. A 12-hour evacuation time to shelter is maintained for
137 a category 5 storm event as measured on the Saffir-Simpson scale
138 and shelter space reasonably expected to accommodate the
139 residents of the development contemplated by a proposed
140 comprehensive plan amendment is available; or
- 141 3. Appropriate mitigation to satisfy the provisions of
142 subparagraph 1. or subparagraph 2. is provided. Appropriate
143 mitigation shall include, without limitation, payment of money,
144 contribution of land, and construction of hurricane shelters and
145 transportation facilities. Required mitigation shall not exceed
146 the amount required for a developer to accommodate impacts
147 reasonably attributable to its development. For those local
148 governments that have not established a level of service for
149 out-of-county hurricane evacuation by July 1, 2008, the level of
150 service shall be no greater than 16 hours for a category 5 storm
151 event as measured on the Saffir-Simpson scale.
- 152 (b) For those local governments that have not established
153 a level of service for out-of-county hurricane evacuation by
154 July 1, 2008, the level of service shall be no greater than 16
155 hours.
- 156 (c) This subsection shall become effective immediately and
157 shall apply to all local governments. No later than July 1,
158 2008, local governments shall amend their future land use map
159 and coastal management element to include the new definition of

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160 | coastal high-hazard area and to depict the coastal high-hazard
 161 | area on the future land use map.

162 | Section 3. Subsections (2) and (3) of section 163.336,
 163 | Florida Statutes, are amended to read:

164 | 163.336 Coastal resort area redevelopment pilot project.--

165 | (2) PILOT PROJECT ADMINISTRATION.--

166 | (a) To be eligible to participate in this pilot project,
 167 | all or a portion of the area must be within:

168 | 1. The coastal building zone as defined in s. 161.54; and

169 | 2. A community redevelopment area, enterprise zone,
 170 | brownfield area, empowerment zone, or other such economically
 171 | deprived areas as designated by the county or municipality with
 172 | jurisdiction over the area.

173 | (b) Local governments are encouraged to use the full range
 174 | of economic and tax incentives available to facilitate and
 175 | promote redevelopment and revitalization within the pilot
 176 | project areas.

177 | (c) The Office of the Governor, Department of
 178 | Environmental Protection, and the Department of Community
 179 | Affairs are directed to provide technical assistance to expedite
 180 | permitting for redevelopment projects and construction
 181 | activities within the pilot project areas consistent with the
 182 | principles, processes, and timeframes provided in s. 403.973.

183 | (d) The Department of Environmental Protection shall
 184 | exempt construction activities within the pilot project area in
 185 | locations seaward of a coastal construction control line and
 186 | landward of existing armoring from certain siting and design
 187 | criteria pursuant to s. 161.053. However, such exemption shall

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188 | not be deemed to exempt property within the pilot project area
189 | from applicable local land development regulations, including
190 | but not limited to, setback, side lot line, and lot coverage
191 | requirements. Such exemption shall apply to construction and
192 | redevelopment of structures involving the coverage, excavation,
193 | and impervious surface criteria of s. 161.053, and related
194 | adopted rules, as follows:

195 | 1. This review by the department of applications for
196 | permits for coastal construction within the pilot project area
197 | must apply to construction and redevelopment of structures
198 | subject to the coverage, excavation, and impervious surface
199 | criteria of s. 161.053, and related adopted rules. It is the
200 | intent of these provisions that the pilot project area be
201 | enabled to redevelop in a manner which meets the economic needs
202 | of the area while preserving public safety and existing
203 | resources, including natural resources.

204 | 2. The criteria for review under s. 161.053 are applicable
205 | within the pilot project area, except that the structures within
206 | the pilot project area shall not be subject to specific shore
207 | parallel coverage requirements and are allowed to exceed the 50
208 | percent impervious surface requirement. In no case shall
209 | stormwater discharge be allowed onto, or seaward of, the frontal
210 | dune. Structures are also not bound by the restrictions on
211 | excavation unless the construction will adversely affect the
212 | integrity of the existing seawall or rigid coastal armoring
213 | structure or stability of the existing beach and dune system. It
214 | is specifically contemplated that underground structures,
215 | including garages, will be permitted. All beach-compatible

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216 material excavated under this subparagraph must be maintained on
217 site seaward of the coastal construction control line. However,
218 during the permit review process under s. 161.053, the
219 department may favorably consider authorized sand placement on
220 adjacent properties if the permittee has demonstrated every
221 reasonable effort to effectively use all beach-quality material
222 on site to enhance the beach and dune system and has prepared a
223 comprehensive plan for beach and dune nourishment for the
224 adjoining area.

225 3. The review criteria in subparagraph 2. will apply to
226 all construction within the pilot project area lying seaward of
227 the coastal construction control line and landward of an
228 existing viable seawall or rigid coastal armoring structure, if
229 such construction is fronted by a seawall or rigid coastal
230 armoring structure extending at least 1,000 feet without any
231 interruptions other than beach access points. For purposes of
232 this section, a viable seawall or rigid coastal armoring
233 structure is a structure that has not deteriorated, dilapidated,
234 or been damaged to such a degree that it no longer provides
235 adequate protection to the upland property when considering the
236 following criteria, including, but not limited to:

237 a. The top must be at or above the still water level,
238 including setup, for the design storm of 30-year return storm
239 plus the breaking wave calculated at its highest achievable
240 level based on the maximum eroded beach profile and highest
241 surge level combination, and must be high enough to preclude
242 runup overtopping;

243 b. The armoring must be stable under the design storm of
244 30-year return storm including maximum localized scour, with
245 adequate penetration; and

246 c. The armoring must have sufficient continuity or return
247 walls to prevent flooding under the design storm of 30-year
248 return storm from impacting the proposed construction.

249 4. Where there exists a continuous line of rigid coastal
250 armoring structure on either side of unarmored property and the
251 adjacent line of rigid coastal armoring structures are having an
252 adverse effect on or threaten the unarmored property, and the
253 gap does not exceed 100 feet, the department may grant the
254 necessary permits under s. 161.085 to close the gap.

255 5. Structures approved pursuant to this section shall not
256 cause flooding of or result in adverse impacts to existing
257 upland structures or properties and shall comply with all other
258 requirements of s. 161.053 and its implementing rules.

259 6. Where there exists a continuous line of viable rigid
260 coastal armoring structure on either side of a nonviable rigid
261 coastal armoring structure, the department shall grant the
262 necessary permits under s. 161.085 to replace such nonviable
263 rigid coastal armoring structure with a viable rigid coastal
264 armoring structure as defined in this section. This shall not
265 apply to rigid coastal armoring structures constructed after May
266 1, 1998, unless such structures have been permitted pursuant to
267 s. 161.085(2).

268 (3) PILOT PROJECT EXPIRATION.--The authorization for the
269 pilot project and the provisions of this section expire December
270 31, 2014 ~~2006~~. The department and affected local governments

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271 shall provide for an independent analysis of the economic value
272 and environmental impact of the pilot project and provide a
273 report to the Speaker of the House of Representatives and the
274 President of the Senate on or before February 1, 2008 ~~The~~
275 ~~Legislature shall review these requirements before their~~
276 ~~scheduled expiration.~~

277 Section 4. Subsection (4) of section 381.0065, Florida
278 Statutes, is amended to read:

279 381.0065 Onsite sewage treatment and disposal systems;
280 regulation.--

281 (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person may
282 not construct, repair, modify, abandon, or operate an onsite
283 sewage treatment and disposal system without first obtaining a
284 permit approved by the department. The department may issue
285 permits to carry out this section, but shall not make the
286 issuance of such permits contingent upon prior approval by the
287 Department of Environmental Protection, except that the issuance
288 of a permit for work seaward of the coastal construction control
289 line established under s. 161.053 shall be contingent upon
290 receipt of any required coastal construction control line permit
291 from the Department of Environmental Protection. A construction
292 permit is valid for 18 months from the issuance date and may be
293 extended by the department for one 90-day period under rules
294 adopted by the department. A repair permit is valid for 90 days
295 from the date of issuance. An operating permit must be obtained
296 prior to the use of any aerobic treatment unit or if the
297 establishment generates commercial waste. Buildings or
298 establishments that use an aerobic treatment unit or generate

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299 commercial waste shall be inspected by the department at least
300 annually to assure compliance with the terms of the operating
301 permit. The operating permit for a commercial wastewater system
302 is valid for 1 year from the date of issuance and must be
303 renewed annually. The operating permit for an aerobic treatment
304 unit is valid for 2 years from the date of issuance and must be
305 renewed every 2 years. If all information pertaining to the
306 siting, location, and installation conditions or repair of an
307 onsite sewage treatment and disposal system remains the same, a
308 construction or repair permit for the onsite sewage treatment
309 and disposal system may be transferred to another person, if the
310 transferee files, within 60 days after the transfer of
311 ownership, an amended application providing all corrected
312 information and proof of ownership of the property. There is no
313 fee associated with the processing of this supplemental
314 information. A person may not contract to construct, modify,
315 alter, repair, service, abandon, or maintain any portion of an
316 onsite sewage treatment and disposal system without being
317 registered under part III of chapter 489. A property owner who
318 personally performs construction, maintenance, or repairs to a
319 system serving his or her own owner-occupied single-family
320 residence is exempt from registration requirements for
321 performing such construction, maintenance, or repairs on that
322 residence, but is subject to all permitting requirements. A
323 municipality or political subdivision of the state may not issue
324 a building or plumbing permit for any building that requires the
325 use of an onsite sewage treatment and disposal system unless the
326 owner or builder has received a construction permit for such

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327 system from the department. A building or structure may not be
328 occupied and a municipality, political subdivision, or any state
329 or federal agency may not authorize occupancy until the
330 department approves the final installation of the onsite sewage
331 treatment and disposal system. A municipality or political
332 subdivision of the state may not approve any change in occupancy
333 or tenancy of a building that uses an onsite sewage treatment
334 and disposal system until the department has reviewed the use of
335 the system with the proposed change, approved the change, and
336 amended the operating permit.

337 (a) Subdivisions and lots in which each lot has a minimum
338 area of at least one-half acre and either a minimum dimension of
339 100 feet or a mean of at least 100 feet of the side bordering
340 the street and the distance formed by a line parallel to the
341 side bordering the street drawn between the two most distant
342 points of the remainder of the lot may be developed with a water
343 system regulated under s. 381.0062 and onsite sewage treatment
344 and disposal systems, provided the projected daily sewage flow
345 does not exceed an average of 1,500 gallons per acre per day,
346 and provided satisfactory drinking water can be obtained and all
347 distance and setback, soil condition, water table elevation, and
348 other related requirements of this section and rules adopted
349 under this section can be met.

350 (b) Subdivisions and lots using a public water system as
351 defined in s. 403.852 may use onsite sewage treatment and
352 disposal systems, provided there are no more than four lots per
353 acre, provided the projected daily sewage flow does not exceed
354 an average of 2,500 gallons per acre per day, and provided that

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355 | all distance and setback, soil condition, water table elevation,
356 | and other related requirements that are generally applicable to
357 | the use of onsite sewage treatment and disposal systems are met.

358 | (c) Notwithstanding the provisions of paragraphs (a) and
359 | (b), for subdivisions platted of record on or before October 1,
360 | 1991, when a developer or other appropriate entity has
361 | previously made or makes provisions, including financial
362 | assurances or other commitments, acceptable to the Department of
363 | Health, that a central water system will be installed by a
364 | regulated public utility based on a density formula, private
365 | potable wells may be used with onsite sewage treatment and
366 | disposal systems until the agreed-upon densities are reached.
367 | The department may consider assurances filed with the Department
368 | of Business and Professional Regulation under chapter 498 in
369 | determining the adequacy of the financial assurance required by
370 | this paragraph. In a subdivision regulated by this paragraph,
371 | the average daily sewage flow may not exceed 2,500 gallons per
372 | acre per day. This section does not affect the validity of
373 | existing prior agreements. After October 1, 1991, the exception
374 | provided under this paragraph is not available to a developer or
375 | other appropriate entity.

376 | (d) Paragraphs (a) and (b) do not apply to any proposed
377 | residential subdivision with more than 50 lots or to any
378 | proposed commercial subdivision with more than 5 lots where a
379 | publicly owned or investor-owned sewerage system is available.
380 | It is the intent of this paragraph not to allow development of
381 | additional proposed subdivisions in order to evade the
382 | requirements of this paragraph.

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

385 1. Seventy-five feet from a private potable well.

386 2. Two hundred feet from a public potable well serving a
387 residential or nonresidential establishment having a total
388 sewage flow of greater than 2,000 gallons per day.

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

392 4. Fifty feet from any nonpotable well.

393 5. Ten feet from any storm sewer pipe, to the maximum
394 extent possible, but in no instance shall the setback be less
395 than 5 feet.

396 6. Seventy-five feet from the mean high-water line of a
397 tidally influenced surface water body.

398 7. Seventy-five feet from the mean annual flood line of a
399 permanent nontidal surface water body.

400 8. Fifteen feet from the design high-water line of
401 retention areas, detention areas, or swales designed to contain
402 standing or flowing water for less than 72 hours after a
403 rainfall or the design high-water level of normally dry drainage
404 ditches or normally dry individual lot stormwater retention
405 areas.

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

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410 (g) All provisions of this section and rules adopted under
411 this section relating to soil condition, water table elevation,
412 distance, and other setback requirements must be equally applied
413 to all lots, with the following exceptions:

414 1. Any residential lot that was platted and recorded on or
415 after January 1, 1972, or that is part of a residential
416 subdivision that was approved by the appropriate permitting
417 agency on or after January 1, 1972, and that was eligible for an
418 onsite sewage treatment and disposal system construction permit
419 on the date of such platting and recording or approval shall be
420 eligible for an onsite sewage treatment and disposal system
421 construction permit, regardless of when the application for a
422 permit is made. If rules in effect at the time the permit
423 application is filed cannot be met, residential lots platted and
424 recorded or approved on or after January 1, 1972, shall, to the
425 maximum extent possible, comply with the rules in effect at the
426 time the permit application is filed. At a minimum, however,
427 those residential lots platted and recorded or approved on or
428 after January 1, 1972, but before January 1, 1983, shall comply
429 with those rules in effect on January 1, 1983, and those
430 residential lots platted and recorded or approved on or after
431 January 1, 1983, shall comply with those rules in effect at the
432 time of such platting and recording or approval. In determining
433 the maximum extent of compliance with current rules that is
434 possible, the department shall allow structures and
435 appurtenances thereto which were authorized at the time such
436 lots were platted and recorded or approved.

437 2. Lots platted before 1972 are subject to a 50-foot
438 minimum surface water setback and are not subject to lot size
439 requirements. The projected daily flow for onsite sewage
440 treatment and disposal systems for lots platted before 1972 may
441 not exceed:

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

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

446 (h)1. The department may grant variances in hardship cases
447 which may be less restrictive than the provisions specified in
448 this section. If a variance is granted and the onsite sewage
449 treatment and disposal system construction permit has been
450 issued, the variance may be transferred with the system
451 construction permit, if the transferee files, within 60 days
452 after the transfer of ownership, an amended construction permit
453 application providing all corrected information and proof of
454 ownership of the property and if the same variance would have
455 been required for the new owner of the property as was
456 originally granted to the original applicant for the variance.
457 There is no fee associated with the processing of this
458 supplemental information. A variance may not be granted under
459 this section until the department is satisfied that:

460 a. The hardship was not caused intentionally by the action
461 of the applicant;

462 b. No reasonable alternative, taking into consideration
463 factors such as cost, exists for the treatment of the sewage;
464 and

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465 c. The discharge from the onsite sewage treatment and
466 disposal system will not adversely affect the health of the
467 applicant or the public or significantly degrade the groundwater
468 or surface waters.

469

470 Where soil conditions, water table elevation, and setback
471 provisions are determined by the department to be satisfactory,
472 special consideration must be given to those lots platted before
473 1972.

474 2. The department shall appoint and staff a variance
475 review and advisory committee, which shall meet monthly to
476 recommend agency action on variance requests. The committee
477 shall make its recommendations on variance requests at the
478 meeting in which the application is scheduled for consideration,
479 except for an extraordinary change in circumstances, the receipt
480 of new information that raises new issues, or when the applicant
481 requests an extension. The committee shall consider the criteria
482 in subparagraph 1. in its recommended agency action on variance
483 requests and shall also strive to allow property owners the full
484 use of their land where possible. The committee consists of the
485 following:

486 a. The Division Director for Environmental Health of the
487 department or his or her designee.

488 b. A representative from the county health departments.

489 c. A representative from the home building industry
490 recommended by the Florida Home Builders Association.

491 d. A representative from the septic tank industry
492 recommended by the Florida Onsite Wastewater Association.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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493 e. A representative from the Department of Environmental
494 Protection.

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

499 g. A representative from the engineering profession
500 recommended by the Florida Engineering Society.

501

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

507 (i) A construction permit may not be issued for an onsite
508 sewage treatment and disposal system in any area zoned or used
509 for industrial or manufacturing purposes, or its equivalent,
510 where a publicly owned or investor-owned sewage treatment system
511 is available, or where a likelihood exists that the system will
512 receive toxic, hazardous, or industrial waste. An existing
513 onsite sewage treatment and disposal system may be repaired if a
514 publicly owned or investor-owned sewerage system is not
515 available within 500 feet of the building sewer stub-out and if
516 system construction and operation standards can be met. This
517 paragraph does not require publicly owned or investor-owned
518 sewerage treatment systems to accept anything other than
519 domestic wastewater.

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520 1. A building located in an area zoned or used for
521 industrial or manufacturing purposes, or its equivalent, when
522 such building is served by an onsite sewage treatment and
523 disposal system, must not be occupied until the owner or tenant
524 has obtained written approval from the department. The
525 department shall not grant approval when the proposed use of the
526 system is to dispose of toxic, hazardous, or industrial
527 wastewater or toxic or hazardous chemicals.

528 2. Each person who owns or operates a business or facility
529 in an area zoned or used for industrial or manufacturing
530 purposes, or its equivalent, or who owns or operates a business
531 that has the potential to generate toxic, hazardous, or
532 industrial wastewater or toxic or hazardous chemicals, and uses
533 an onsite sewage treatment and disposal system that is installed
534 on or after July 5, 1989, must obtain an annual system operating
535 permit from the department. A person who owns or operates a
536 business that uses an onsite sewage treatment and disposal
537 system that was installed and approved before July 5, 1989, need
538 not obtain a system operating permit. However, upon change of
539 ownership or tenancy, the new owner or operator must notify the
540 department of the change, and the new owner or operator must
541 obtain an annual system operating permit, regardless of the date
542 that the system was installed or approved.

543 3. The department shall periodically review and evaluate
544 the continued use of onsite sewage treatment and disposal
545 systems in areas zoned or used for industrial or manufacturing
546 purposes, or its equivalent, and may require the collection and
547 analyses of samples from within and around such systems. If the

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548 | department finds that toxic or hazardous chemicals or toxic,
549 | hazardous, or industrial wastewater have been or are being
550 | disposed of through an onsite sewage treatment and disposal
551 | system, the department shall initiate enforcement actions
552 | against the owner or tenant to ensure adequate cleanup,
553 | treatment, and disposal.

554 | (j) An onsite sewage treatment and disposal system for a
555 | single-family residence that is designed by a professional
556 | engineer registered in the state and certified by such engineer
557 | as complying with performance criteria adopted by the department
558 | must be approved by the department subject to the following:

559 | 1. The performance criteria applicable to engineer-
560 | designed systems must be limited to those necessary to ensure
561 | that such systems do not adversely affect the public health or
562 | significantly degrade the groundwater or surface water. Such
563 | performance criteria shall include consideration of the quality
564 | of system effluent, the proposed total sewage flow per acre,
565 | wastewater treatment capabilities of the natural or replaced
566 | soil, water quality classification of the potential surface-
567 | water-receiving body, and the structural and maintenance
568 | viability of the system for the treatment of domestic
569 | wastewater. However, performance criteria shall address only the
570 | performance of a system and not a system's design.

571 | 2. The technical review and advisory panel shall assist
572 | the department in the development of performance criteria
573 | applicable to engineer-designed systems.

574 | 3. A person electing to utilize an engineer-designed
575 | system shall, upon completion of the system design, submit such

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576 design, certified by a registered professional engineer, to the
577 county health department. The county health department may
578 utilize an outside consultant to review the engineer-designed
579 system, with the actual cost of such review to be borne by the
580 applicant. Within 5 working days after receiving an engineer-
581 designed system permit application, the county health department
582 shall request additional information if the application is not
583 complete. Within 15 working days after receiving a complete
584 application for an engineer-designed system, the county health
585 department either shall issue the permit or, if it determines
586 that the system does not comply with the performance criteria,
587 shall notify the applicant of that determination and refer the
588 application to the department for a determination as to whether
589 the system should be approved, disapproved, or approved with
590 modification. The department engineer's determination shall
591 prevail over the action of the county health department. The
592 applicant shall be notified in writing of the department's
593 determination and of the applicant's rights to pursue a variance
594 or seek review under the provisions of chapter 120.

595 4. The owner of an engineer-designed performance-based
596 system must maintain a current maintenance service agreement
597 with a maintenance entity permitted by the department. The
598 maintenance entity shall obtain a biennial system operating
599 permit from the department for each system under service
600 contract. The department shall inspect the system at least
601 annually, or on such periodic basis as the fee collected
602 permits, and may collect system-effluent samples if appropriate
603 to determine compliance with the performance criteria. The fee

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604 for the biennial operating permit shall be collected beginning
605 with the second year of system operation. The maintenance entity
606 shall inspect each system at least twice each year and shall
607 report quarterly to the department on the number of systems
608 inspected and serviced.

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

613 (k) An innovative system may be approved in conjunction
614 with an engineer-designed site-specific system which is
615 certified by the engineer to meet the performance-based criteria
616 adopted by the department.

617 (l) For the Florida Keys, the department shall adopt a
618 special rule for the construction, installation, modification,
619 operation, repair, maintenance, and performance of onsite sewage
620 treatment and disposal systems which considers the unique soil
621 conditions and which considers water table elevations,
622 densities, and setback requirements. On lots where a setback
623 distance of 75 feet from surface waters, saltmarsh, and
624 buttonwood association habitat areas cannot be met, an injection
625 well, approved and permitted by the department, may be used for
626 disposal of effluent from onsite sewage treatment and disposal
627 systems.

628 (m) No product sold in the state for use in onsite sewage
629 treatment and disposal systems may contain any substance in
630 concentrations or amounts that would interfere with or prevent
631 the successful operation of such system, or that would cause

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632 discharges from such systems to violate applicable water quality
633 standards. The department shall publish criteria for products
634 known or expected to meet the conditions of this paragraph. In
635 the event a product does not meet such criteria, such product
636 may be sold if the manufacturer satisfactorily demonstrates to
637 the department that the conditions of this paragraph are met.

638 (n) Evaluations for determining the seasonal high-water
639 table elevations or the suitability of soils for the use of a
640 new onsite sewage treatment and disposal system shall be
641 performed by department personnel, professional engineers
642 registered in the state, or such other persons with expertise,
643 as defined by rule, in making such evaluations. Evaluations for
644 determining mean annual flood lines shall be performed by those
645 persons identified in paragraph (2)(i). The department shall
646 accept evaluations submitted by professional engineers and such
647 other persons as meet the expertise established by this section
648 or by rule unless the department has a reasonable scientific
649 basis for questioning the accuracy or completeness of the
650 evaluation.

651 (o) The department shall appoint a research review and
652 advisory committee, which shall meet at least semiannually. The
653 committee shall advise the department on directions for new
654 research, review and rank proposals for research contracts, and
655 review draft research reports and make comments. The committee
656 is comprised of:

- 657 1. A representative of the Division of Environmental
658 Health of the Department of Health.
- 659 2. A representative from the septic tank industry.

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- 660 3. A representative from the home building industry.
- 661 4. A representative from an environmental interest group.
- 662 5. A representative from the State University System, from
- 663 a department knowledgeable about onsite sewage treatment and
- 664 disposal systems.
- 665 6. A professional engineer registered in this state who
- 666 has work experience in onsite sewage treatment and disposal
- 667 systems.
- 668 7. A representative from the real estate profession.
- 669 8. A representative from the restaurant industry.
- 670 9. A consumer.

671

672 Members shall be appointed for a term of 3 years, with the

673 appointments being staggered so that the terms of no more than

674 four members expire in any one year. Members shall serve without

675 remuneration, but are entitled to reimbursement for per diem and

676 travel expenses as provided in s. 112.061.

677 (p) An application for an onsite sewage treatment and

678 disposal system permit shall be completed in full, signed by the

679 owner or the owner's authorized representative, or by a

680 contractor licensed under chapter 489, and shall be accompanied

681 by all required exhibits and fees. No specific documentation of

682 property ownership shall be required as a prerequisite to the

683 review of an application or the issuance of a permit. The

684 issuance of a permit does not constitute determination by the

685 department of property ownership.

686 (q) The department may not require any form of subdivision

687 analysis of property by an owner, developer, or subdivider prior

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688 to submission of an application for an onsite sewage treatment
689 and disposal system.

690 (r) Nothing in this section limits the power of a
691 municipality or county to enforce other laws for the protection
692 of the public health and safety.

693 (s) In the siting of onsite sewage treatment and disposal
694 systems, including drainfields, shoulders, and slopes, guttering
695 shall not be required on single-family residential dwelling
696 units for systems located greater than 5 feet from the roof drip
697 line of the house. If guttering is used on residential dwelling
698 units, the downspouts shall be directed away from the
699 drainfield.

700 (t) Notwithstanding the provisions of subparagraph (g)1.,
701 onsite sewage treatment and disposal systems located in
702 floodways of the Suwannee and Aucilla Rivers must adhere to the
703 following requirements:

704 1. The absorption surface of the drainfield shall not be
705 subject to flooding based on 10-year flood elevations. Provided,
706 however, for lots or parcels created by the subdivision of land
707 in accordance with applicable local government regulations prior
708 to January 17, 1990, if an applicant cannot construct a
709 drainfield system with the absorption surface of the drainfield
710 at an elevation equal to or above 10-year flood elevation, the
711 department shall issue a permit for an onsite sewage treatment
712 and disposal system within the 10-year floodplain of rivers,
713 streams, and other bodies of flowing water if all of the
714 following criteria are met:

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

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

718 c. The applicant installs either: a waterless,
719 incinerating, or organic waste composting toilet and a graywater
720 system and drainfield in accordance with department rules; an
721 aerobic treatment unit and drainfield in accordance with
722 department rules; a system approved by the State Health Office
723 that is capable of reducing effluent nitrate by at least 50
724 percent; or a system approved by the county health department
725 pursuant to department rule other than a system using
726 alternative drainfield materials. The United States Department
727 of Agriculture Soil Conservation Service soil maps, State of
728 Florida Water Management District data, and Federal Emergency
729 Management Agency Flood Insurance maps are resources that shall
730 be used to identify flood-prone areas.

731 2. The use of fill or mounding to elevate a drainfield
732 system out of the 10-year floodplain of rivers, streams, or
733 other bodies of flowing water shall not be permitted if such a
734 system lies within a regulatory floodway of the Suwannee and
735 Aucilla Rivers. In cases where the 10-year flood elevation does
736 not coincide with the boundaries of the regulatory floodway, the
737 regulatory floodway will be considered for the purposes of this
738 subsection to extend at a minimum to the 10-year flood
739 elevation.

740 (u) The owner of an aerobic treatment unit system shall
741 maintain a current maintenance service agreement with an aerobic
742 treatment unit maintenance entity permitted by the department.
743 The maintenance entity shall obtain a system operating permit

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744 | from the department for each aerobic treatment unit under
745 | service contract. The maintenance entity shall inspect each
746 | aerobic treatment unit system at least twice each year and shall
747 | report quarterly to the department on the number of aerobic
748 | treatment unit systems inspected and serviced. The owner shall
749 | allow the department to inspect during reasonable hours each
750 | aerobic treatment unit system at least annually, and such
751 | inspection may include collection and analysis of system-
752 | effluent samples for performance criteria established by rule of
753 | the department.

754 | (v) The department may require the submission of detailed
755 | system construction plans that are prepared by a professional
756 | engineer registered in this state. The department shall
757 | establish by rule criteria for determining when such a
758 | submission is required.

759 | Section 5. This act shall take effect upon becoming a law.