

Bill No. CS for SB 2216

Barcode 723942

CHAMBER ACTION

Senate

House

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The Committee on General Government Appropriations (Clary)
recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

161.085 Rigid coastal armoring structures.--

(3) If erosion occurs as a result of a storm event
which threatens private structures or public infrastructure
and a permit has not been issued pursuant to subsection (2),
unless the authority has been revoked by order of the
department pursuant to subsection (8), an ~~the~~ agency,
political subdivision, or municipality having jurisdiction
over the impacted area may install or authorize installation
of rigid coastal armoring structures for the protection of
private structures or public infrastructure, or take other
measures to relieve the threat to private structures or public

Bill No. CS for SB 2216

Barcode 723942

1 infrastructure as long as the following items are considered
2 and incorporated into such emergency measures:

- 3 (a) Protection of the beach-dune system.
- 4 (b) Siting and design criteria for the protective
5 structure.
- 6 (c) Impacts on adjacent properties.
- 7 (d) Preservation of public beach access.
- 8 (e) Protection of native coastal vegetation and
9 nesting marine turtles and their hatchlings.

10 (8) If an agency, political subdivision, or
 11 municipality installs or authorizes installation of a rigid
 12 coastal armoring structure that does not comply with
 13 subsection (3), and if the department determines that the
 14 action harms or interferes with the protection of the
 15 beach-dune system, adversely impacts adjacent properties,
 16 interferes with public beach access, or harms native coastal
 17 vegetation or nesting marine turtles or their hatchlings, the
 18 department may revoke by order the authority of the agency,
 19 political subdivision, or municipality under subsection (3) to
 20 install or authorize the installation of rigid coastal
 21 armoring structures.

22 (9) The department, or an agency, political
 23 subdivision, or municipality described in subsection (3), may
 24 authorize sand-filled tubes or similar structures proposed as
 25 the core of a restored dune feature if the applicant meets the
 26 requirements of this part and:

27 (a) Demonstrates that the United States Fish and
 28 Wildlife Service has approved a habitat conservation plan that
 29 includes the shoreline where each structure will be placed;

30 (b) Provides reasonable assurance that adequate sand
 31 cover will be maintained over the structure such that the

Bill No. CS for SB 2216

Barcode 723942

1 structure will not interact with the beach dune system as
2 rigid coastal armoring or adversely affect marine turtle
3 nesting and provides for a responsible entity to conduct such
4 maintenance; and

5 (c) Provides reasonable assurance that each structure
6 will be removed if the maintenance required by paragraph (b)
7 proves to be not feasible.

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

11 163.3178 Coastal management.--

12 (2) Each coastal management element required by s.
13 163.3177(6)(g) shall be based on studies, surveys, and data;
14 be consistent with coastal resource plans prepared and adopted
15 pursuant to general or special law; and contain:

16 (d) A component which outlines principles for hazard
17 mitigation and protection of human life against the effects of
18 natural disaster, including population evacuation, which take
19 into consideration the capability to safely evacuate the
20 density of coastal population proposed in the future land use
21 plan element in the event of an impending natural disaster.
22 The Division of Emergency Management shall manage the update
23 of the regional hurricane evacuation studies, ensure such
24 studies are done in a consistent manner, and ensure that the
25 methodology used for modeling storm surge is that used by the
26 National Hurricane Center.

27 (h) Designation of coastal high-hazard ~~coastal~~ areas
28 and the criteria for mitigation for a comprehensive plan
29 amendment in the coastal high-hazard area as defined in
30 subsection (9), which for uniformity and planning purposes
31 herein, are defined as category 1 evacuation zones. The

Bill No. CS for SB 2216

Barcode 723942

1 coastal high-hazard area is the area below the elevation of
 2 the category 1 storm surge line as established by the Sea,
 3 Lake and Overland Surges from Hurricanes (SLOSH) computerized
 4 storm surge model. ~~However,~~ Application of mitigation and
 5 development and redevelopment policies, pursuant to s.
 6 380.27(2), and any rules adopted thereunder, shall be at the
 7 discretion of local government.

8 (9)(a) A local government may elect to comply with
 9 rules 9J-5.012(3)(b)(6) and 9J-5.012(3)(b)(7), Florida
 10 Administrative Code, through the process provided in this
 11 section. A proposed amendment to a comprehensive plan is in
 12 compliance with state coastal high-hazard provisions as
 13 provided in rule 9J-5.012(3)(b)(6) and 9J-5.012(3)(b)(7) if:

14 1. The adopted level of service for out-of-county
 15 hurricane evacuation is maintained for a category 5 storm
 16 event, as measured by the Saffir-Simpson Scale;

17 2. A 12-hour evacuation time-to-shelter is maintained
 18 for the category 5 storm event, as measured by the
 19 Saffir-Simpson Scale, and shelter space reasonably
 20 attributable to the development contemplated by a proposed
 21 amendment to the comprehensive plan is available; or

22 3. Appropriate mitigation to satisfy the provisions of
 23 subparagraph 1. or subparagraph 2. is provided. For the
 24 purpose of this subparagraph, the term "appropriate
 25 mitigation" includes, without limitation, payment of money,
 26 contributions of land, and construction of hurricane shelters
 27 and transportation facilities. Mitigation by the developer as
 28 required by the local government may not exceed the amount
 29 required for a developer to accommodate impacts reasonably
 30 attributable to its development. For those local governments
 31 that have not established a level of service for an

Bill No. CS for SB 2216

Barcode 723942

1 out-of-county hurricane evacuation by July 1, 2008, the level
2 of service shall be no greater than 16 hours for a category 5
3 storm event, as measured on the Saffir-Simpson Scale.

4 (b) New adult congregate living facilities, community
5 residential homes, group homes, homes for the aged, hospitals,
6 or nursing homes may not be located within the coastal
7 high-hazard area.

8 (c) By July 1, 2008, each local government must amend
9 its future land use map and coastal management element to
10 include the new definition of coastal high-hazard area and to
11 depict the coastal high-hazard area on the future land use
12 maps.

13 (d) This subsection shall take effect upon this act
14 becoming a law and applies to all local governments.

15 Section 3. Subsections (2) and (3) of section 163.336,
16 Florida Statutes, are amended to read:

17 163.336 Coastal resort area redevelopment pilot
18 project.--

19 (2) PILOT PROJECT ADMINISTRATION.--

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

22 1. The coastal building zone as defined in s. 161.54;
23 and

24 2. A community redevelopment area, enterprise zone,
25 brownfield area, empowerment zone, or other such economically
26 deprived areas as designated by the county or municipality
27 with jurisdiction over the area.

28 (b) Local governments are encouraged to use the full
29 range of economic and tax incentives available to facilitate
30 and promote redevelopment and revitalization within the pilot
31 project areas.

Bill No. CS for SB 2216

Barcode 723942

1 (c) The Office of the Governor, Department of
 2 Environmental Protection, and the Department of Community
 3 Affairs are directed to provide technical assistance to
 4 expedite permitting for redevelopment projects and
 5 construction activities within the pilot project areas
 6 consistent with the principles, processes, and timeframes
 7 provided in s. 403.973.

8 (d) The Department of Environmental Protection shall
 9 exempt construction activities within the pilot project area
 10 in locations seaward of a coastal construction control line
 11 and landward of existing armoring from certain siting and
 12 design criteria pursuant to s. 161.053. However, such
 13 exemption shall not be deemed to exempt property within the
 14 pilot project area from applicable local land development
 15 regulations, including but not limited to, setback, side lot
 16 line, and lot coverage requirements. Such exemption shall
 17 apply to construction and redevelopment of structures
 18 involving the coverage, excavation, and impervious surface
 19 criteria of s. 161.053, and related adopted rules, as follows:

20 1. This review by the department of applications for
 21 permits for coastal construction within the pilot project area
 22 must apply to construction and redevelopment of structures
 23 subject to the coverage, excavation, and impervious surface
 24 criteria of s. 161.053, and related adopted rules. It is the
 25 intent of these provisions that the pilot project area be
 26 enabled to redevelop in a manner which meets the economic
 27 needs of the area while preserving public safety and existing
 28 resources, including natural resources.

29 2. The criteria for review under s. 161.053 are
 30 applicable within the pilot project area, except that the
 31 structures within the pilot project area shall not be subject

Bill No. CS for SB 2216

Barcode 723942

1 to specific shore parallel coverage requirements and are
 2 allowed to exceed the 50 percent impervious surface
 3 requirement. In no case shall stormwater discharge be allowed
 4 onto, or seaward of, the frontal dune. Structures are also not
 5 bound by the restrictions on excavation unless the
 6 construction will adversely affect the integrity of the
 7 existing seawall or rigid coastal armoring structure or
 8 stability of the existing beach and dune system. It is
 9 specifically contemplated that underground structures,
 10 including garages, will be permitted. All beach-compatible
 11 material excavated under this subparagraph must be maintained
 12 on site seaward of the coastal construction control line.
 13 However, during the permit-review process, pursuant to s.
 14 161.053, the department may favorably consider authorized sand
 15 placement on adjacent properties if the permittee has
 16 demonstrated every reasonable effort to effectively use all
 17 beach-quality material on site to enhance the beach and dune
 18 system, and has prepared a comprehensive plan for beach and
 19 dune nourishment for the adjoining area.

20 3. The review criteria in subparagraph 2. will apply
 21 to all construction within the pilot project area lying
 22 seaward of the coastal construction control line and landward
 23 of an existing viable seawall or rigid coastal armoring
 24 structure, if such construction is fronted by a seawall or
 25 rigid coastal armoring structure extending at least 1,000 feet
 26 without any interruptions other than beach access points. For
 27 purposes of this section, a viable seawall or rigid coastal
 28 armoring structure is a structure that has not deteriorated,
 29 dilapidated, or been damaged to such a degree that it no
 30 longer provides adequate protection to the upland property
 31 when considering the following criteria, including, but not

Bill No. CS for SB 2216

Barcode 723942

1 limited to:

2 a. The top must be at or above the still water level,
3 including setup, for the design storm of 30-year return storm
4 plus the breaking wave calculated at its highest achievable
5 level based on the maximum eroded beach profile and highest
6 surge level combination, and must be high enough to preclude
7 runoff overtopping;

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

11 c. The armoring must have sufficient continuity or
12 return walls to prevent flooding under the design storm of
13 30-year return storm from impacting the proposed construction.

14 4. Where there exists a continuous line of rigid
15 coastal armoring structure on either side of unarmored
16 property and the adjacent line of rigid coastal armoring
17 structures are having an adverse effect on or threaten the
18 unarmored property, and the gap does not exceed 100 feet, the
19 department may grant the necessary permits under s. 161.085 to
20 close the gap.

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

25 6. Where there exists a continuous line of viable
26 rigid coastal armoring structure on either side of a nonviable
27 rigid coastal armoring structure, the department shall grant
28 the necessary permits under s. 161.085 to replace such
29 nonviable rigid coastal armoring structure with a viable rigid
30 coastal armoring structure as defined in this section. This
31 shall not apply to rigid coastal armoring structures

Bill No. CS for SB 2216

Barcode 723942

1 constructed after May 1, 1998, unless such structures have
2 been permitted pursuant to s. 161.085(2).

3 (3) PILOT PROJECT EXPIRATION.--The authorization for
4 the pilot project and the provisions of this section expire
5 December 31, 2014 ~~2006~~. The department and affected local
6 governments shall provide for an independent analysis of the
7 economic value and environmental impact of the pilot project
8 and provide a report to the Legislature on or before February
9 1, 2008.

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

12 381.0065 Onsite sewage treatment and disposal systems;
13 regulation.--

14 (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person
15 may not construct, repair, modify, abandon, or operate an
16 onsite sewage treatment and disposal system without first
17 obtaining a permit approved by the department. The department
18 may issue permits to carry out this section, but shall not
19 make the issuance of such permits contingent upon prior
20 approval by the Department of Environmental Protection, except
21 that the issuance of a permit for work seaward of the coastal
22 construction control line established under s. 161.053 shall
23 be contingent upon receipt of any required coastal
24 construction control line permit from the Department of
25 Environmental Protection. A construction permit is valid for
26 18 months from the issuance date and may be extended by the
27 department for one 90-day period under rules adopted by the
28 department. A repair permit is valid for 90 days from the date
29 of issuance. An operating permit must be obtained prior to the
30 use of any aerobic treatment unit or if the establishment
31 generates commercial waste. Buildings or establishments that

Bill No. CS for SB 2216

Barcode 723942

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

Bill No. CS for SB 2216

Barcode 723942

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

10 (a) Subdivisions and lots in which each lot has a
 11 minimum area of at least one-half acre and either a minimum
 12 dimension of 100 feet or a mean of at least 100 feet of the
 13 side bordering the street and the distance formed by a line
 14 parallel to the side bordering the street drawn between the
 15 two most distant points of the remainder of the lot may be
 16 developed with a water system regulated under s. 381.0062 and
 17 onsite sewage treatment and disposal systems, provided the
 18 projected daily sewage flow does not exceed an average of
 19 1,500 gallons per acre per day, and provided satisfactory
 20 drinking water can be obtained and all distance and setback,
 21 soil condition, water table elevation, and other related
 22 requirements of this section and rules adopted under this
 23 section can be met.

24 (b) Subdivisions and lots using a public water system
 25 as defined in s. 403.852 may use onsite sewage treatment and
 26 disposal systems, provided there are no more than four lots
 27 per acre, provided the projected daily sewage flow does not
 28 exceed an average of 2,500 gallons per acre per day, and
 29 provided that all distance and setback, soil condition, water
 30 table elevation, and other related requirements that are
 31 generally applicable to the use of onsite sewage treatment and

Bill No. CS for SB 2216

Barcode 723942

1 disposal systems are met.

2 (c) Notwithstanding the provisions of paragraphs (a)
3 and (b), for subdivisions platted of record on or before
4 October 1, 1991, when a developer or other appropriate entity
5 has previously made or makes provisions, including financial
6 assurances or other commitments, acceptable to the Department
7 of Health, that a central water system will be installed by a
8 regulated public utility based on a density formula, private
9 potable wells may be used with onsite sewage treatment and
10 disposal systems until the agreed-upon densities are reached.
11 The department may consider assurances filed with the
12 Department of Business and Professional Regulation under
13 chapter 498 in determining the adequacy of the financial
14 assurance required by this paragraph. In a subdivision
15 regulated by this paragraph, the average daily sewage flow may
16 not exceed 2,500 gallons per acre per day. This section does
17 not affect the validity of existing prior agreements. After
18 October 1, 1991, the exception provided under this paragraph
19 is not available to a developer or other appropriate entity.

20 (d) Paragraphs (a) and (b) do not apply to any
21 proposed residential subdivision with more than 50 lots or to
22 any proposed commercial subdivision with more than 5 lots
23 where a publicly owned or investor-owned sewerage system is
24 available. It is the intent of this paragraph not to allow
25 development of additional proposed subdivisions in order to
26 evade the requirements of this paragraph.

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

- 29 1. Seventy-five feet from a private potable well.
- 30 2. Two hundred feet from a public potable well serving
- 31 a residential or nonresidential establishment having a total

Bill No. CS for SB 2216

Barcode 723942

1 sewage flow of greater than 2,000 gallons per day.

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

5 4. Fifty feet from any nonpotable well.

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

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

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

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

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

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

27 1. Any residential lot that was platted and recorded
28 on or after January 1, 1972, or that is part of a residential
29 subdivision that was approved by the appropriate permitting
30 agency on or after January 1, 1972, and that was eligible for
31 an onsite sewage treatment and disposal system construction

Bill No. CS for SB 2216

Barcode 723942

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

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

24 a. Two thousand five hundred gallons per acre per day
25 for lots served by public water systems as defined in s.
26 403.852.

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

29 (h)1. The department may grant variances in hardship
30 cases which may be less restrictive than the provisions
31 specified in this section. If a variance is granted and the

Bill No. CS for SB 2216

Barcode 723942

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

- 13 a. The hardship was not caused intentionally by the
 14 action of the applicant;
- 15 b. No reasonable alternative, taking into
 16 consideration factors such as cost, exists for the treatment
 17 of the sewage; and
- 18 c. The discharge from the onsite sewage treatment and
 19 disposal system will not adversely affect the health of the
 20 applicant or the public or significantly degrade the
 21 groundwater or surface waters.

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

27 2. The department shall appoint and staff a variance
 28 review and advisory committee, which shall meet monthly to
 29 recommend agency action on variance requests. The committee
 30 shall make its recommendations on variance requests at the
 31 meeting in which the application is scheduled for

Bill No. CS for SB 2216

Barcode 723942

1 consideration, except for an extraordinary change in
 2 circumstances, the receipt of new information that raises new
 3 issues, or when the applicant requests an extension. The
 4 committee shall consider the criteria in subparagraph 1. in
 5 its recommended agency action on variance requests and shall
 6 also strive to allow property owners the full use of their
 7 land where possible. The committee consists of the following:

8 a. The Division Director for Environmental Health of
 9 the department or his or her designee.

10 b. A representative from the county health
 11 departments.

12 c. A representative from the home building industry
 13 recommended by the Florida Home Builders Association.

14 d. A representative from the septic tank industry
 15 recommended by the Florida Onsite Wastewater Association.

16 e. A representative from the Department of
 17 Environmental Protection.

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

22 g. A representative from the engineering profession
 23 recommended by the Florida Engineering Society.

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

30 (i) A construction permit may not be issued for an
 31 onsite sewage treatment and disposal system in any area zoned

Bill No. CS for SB 2216

Barcode 723942

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

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

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

Bill No. CS for SB 2216

Barcode 723942

1 tenancy, the new owner or operator must notify the department
 2 of the change, and the new owner or operator must obtain an
 3 annual system operating permit, regardless of the date that
 4 the system was installed or approved.

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

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

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

Bill No. CS for SB 2216

Barcode 723942

1 domestic wastewater. However, performance criteria shall
2 address only the performance of a system and not a system's
3 design.

4 2. The technical review and advisory panel shall
5 assist the department in the development of performance
6 criteria applicable to engineer-designed systems.

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

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

Bill No. CS for SB 2216

Barcode 723942

1 maintenance entity shall obtain a biennial system operating
 2 permit from the department for each system under service
 3 contract. The department shall inspect the system at least
 4 annually, or on such periodic basis as the fee collected
 5 permits, and may collect system-effluent samples if
 6 appropriate to determine compliance with the performance
 7 criteria. The fee for the biennial operating permit shall be
 8 collected beginning with the second year of system operation.
 9 The maintenance entity shall inspect each system at least
 10 twice each year and shall report quarterly to the department
 11 on the number of systems inspected and serviced.

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

16 (k) An innovative system may be approved in
 17 conjunction with an engineer-designed site-specific system
 18 which is certified by the engineer to meet the
 19 performance-based criteria adopted by the department.

20 (1) For the Florida Keys, the department shall adopt a
 21 special rule for the construction, installation, modification,
 22 operation, repair, maintenance, and performance of onsite
 23 sewage treatment and disposal systems which considers the
 24 unique soil conditions and which considers water table
 25 elevations, densities, and setback requirements. On lots where
 26 a setback distance of 75 feet from surface waters, saltmarsh,
 27 and buttonwood association habitat areas cannot be met, an
 28 injection well, approved and permitted by the department, may
 29 be used for disposal of effluent from onsite sewage treatment
 30 and disposal systems.

31 (m) No product sold in the state for use in onsite

Bill No. CS for SB 2216

Barcode 723942

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

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

24 (o) The department shall appoint a research review and
 25 advisory committee, which shall meet at least semiannually.
 26 The committee shall advise the department on directions for
 27 new research, review and rank proposals for research
 28 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.

Bill No. CS for SB 2216

Barcode 723942

- 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) An application for an onsite sewage treatment and

21 disposal system permit shall be completed in full, signed by

22 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) The department may not require any form of

30 subdivision analysis of property by an owner, developer, or

31 subdivider prior to submission of an application for an onsite

Bill No. CS for SB 2216

Barcode 723942

1 sewage treatment and disposal system.

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

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

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

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

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

31 c. The applicant installs either: a waterless,

Bill No. CS for SB 2216

Barcode 723942

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

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

22 (u) The owner of an aerobic treatment unit system
 23 shall maintain a current maintenance service agreement with an
 24 aerobic treatment unit maintenance entity permitted by the
 25 department. The maintenance entity shall obtain a system
 26 operating permit from the department for each aerobic
 27 treatment unit under service contract. The maintenance entity
 28 shall inspect each aerobic treatment unit system at least
 29 twice each year and shall report quarterly to the department
 30 on the number of aerobic treatment unit systems inspected and
 31 serviced. The owner shall allow the department to inspect

Bill No. CS for SB 2216

Barcode 723942

1 during reasonable hours each aerobic treatment unit system at
 2 least annually, and such inspection may include collection and
 3 analysis of system-effluent samples for performance criteria
 4 established by rule of the department.

5 (v) The department may require the submission of
 6 detailed system construction plans that are prepared by a
 7 professional engineer registered in this state. The department
 8 shall establish by rule criteria for determining when such a
 9 submission is required.

10 Section 5. This act shall take effect upon becoming a
 11 law.

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 13

14 ===== T I T L E A M E N D M E N T =====

15 And the title is amended as follows:

16 Delete everything before the enacting clause

17
 18

and insert:

19 A bill to be entitled
 20 An act relating to hazard mitigation for
 21 coastal development; amending s. 161.085, F.S.;
 22 authorizing an agency, political subdivision,
 23 or municipality having jurisdiction over an
 24 impacted area to install rigid coastal armoring
 25 structures; authorizing the Department of
 26 Environmental Protection to revoke the
 27 authority of an agency, political subdivision,
 28 or municipality to install rigid coastal
 29 armoring structures; specifying conditions
 30 under which sand filled tubes or similar
 31 structures may be authorized as the core of a

Bill No. CS for SB 2216

Barcode 723942

1 restored dune feature; amending s. 163.3178,
2 F.S.; requiring the Division of Emergency
3 Management to manage the update of regional
4 hurricane evacuation studies; defining the term
5 "coastal high-hazard area"; requiring the
6 Department of Community Affairs to find that an
7 application to amend a local government
8 comprehensive plan which meets specified
9 conditions concerning hurricane evacuation,
10 evacuation time, and related mitigation
11 complies with state coastal high-hazard
12 standards; requiring each local government to
13 amend its future land use map and comprehensive
14 plan by a certain date to reflect such
15 requirement and conditions; requiring certain
16 local governments to adopt a specified level of
17 service for out-of-county hurricane evacuation;
18 prohibiting new hospitals and certain new
19 congregate living facilities in a coastal
20 high-hazard area; amending s. 163.336, F.S.;
21 revising the requirements for the placement of
22 beach-compatible material that is excavated
23 during the coastal resort area redevelopment
24 pilot project; extending the expiration date of
25 the pilot project; requiring a report; amending
26 s. 381.0065, F.S.; requiring the issuance of
27 certain permits by the Department of Health for
28 work seaward of the coastal construction
29 control line to be contingent upon receipt of a
30 coastal construction control line permit from
31 the Department of Environmental Protection;

Bill No. CS for SB 2216

Barcode 723942

1 providing an effective date.

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