

By Senator Dean

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1 A bill to be entitled
 2 An act relating to onsite sewage treatment and
 3 disposal systems; amending s. 381.0065, F.S.; revising
 4 legislative intent; eliminating provisions directing
 5 the Department of Health to create and administer a
 6 statewide septic tank evaluation program; eliminating
 7 procedures and criteria for the evaluation program;
 8 repealing s. 381.00656, F.S., to terminate the grant
 9 program for repair of onsite sewage treatment disposal
 10 systems identified pursuant to the evaluation program,
 11 to conform; amending s. 381.0066, F.S.; eliminating
 12 provisions authorizing the department to collect an
 13 evaluation report fee; eliminating provisions relating
 14 to disposition of fee proceeds and a revenue-neutral
 15 fee schedule; providing an effective date.

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

18
 19 Section 1. Subsections (1), (5), (6), and (7) of section
 20 381.0065, Florida Statutes, are amended to read:

21 381.0065 Onsite sewage treatment and disposal systems;
 22 regulation.—

23 (1) LEGISLATIVE INTENT.—

24 (a) It is the intent of the Legislature that proper
 25 management of onsite sewage treatment and disposal systems is
 26 paramount to the health, safety, and welfare of the public. ~~It~~
 27 ~~is further the intent of the Legislature that the department~~
 28 ~~shall administer an evaluation program to ensure the operational~~
 29 ~~condition of the system and identify any failure with the~~

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30 system.

31 (b) It is the intent of the Legislature that where a
32 publicly owned or investor-owned sewerage system is not
33 available, the department shall issue permits for the
34 construction, installation, modification, abandonment, or repair
35 of onsite sewage treatment and disposal systems under conditions
36 as described in this section and rules adopted under this
37 section. It is further the intent of the Legislature that the
38 installation and use of onsite sewage treatment and disposal
39 systems not adversely affect the public health or significantly
40 degrade the groundwater or surface water.

41 ~~(5) EVALUATION AND ASSESSMENT.—~~

42 ~~(a) Beginning January 1, 2011, the department shall~~
43 ~~administer an onsite sewage treatment and disposal system~~
44 ~~evaluation program for the purpose of assessing the fundamental~~
45 ~~operational condition of systems and identifying any failures~~
46 ~~within the systems. The department shall adopt rules~~
47 ~~implementing the program standards, procedures, and~~
48 ~~requirements, including, but not limited to, a schedule for a 5-~~
49 ~~year evaluation cycle, requirements for the pump-out of a system~~
50 ~~or repair of a failing system, enforcement procedures for~~
51 ~~failure of a system owner to obtain an evaluation of the system,~~
52 ~~and failure of a contractor to timely submit evaluation results~~
53 ~~to the department and the system owner. The department shall~~
54 ~~ensure statewide implementation of the evaluation and assessment~~
55 ~~program by January 1, 2016.~~

56 ~~(b) Owners of an onsite sewage treatment and disposal~~
57 ~~system, excluding a system that is required to obtain an~~
58 ~~operating permit, shall have the system evaluated at least once~~

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59 ~~every 5 years to assess the fundamental operational condition of~~
60 ~~the system, and identify any failure within the system.~~

61 ~~(c) All evaluation procedures must be documented and~~
62 ~~nothing in this subsection limits the amount of detail an~~
63 ~~evaluator may provide at his or her professional discretion. The~~
64 ~~evaluation must include a tank and drainfield evaluation, a~~
65 ~~written assessment of the condition of the system, and, if~~
66 ~~necessary, a disclosure statement pursuant to the department's~~
67 ~~procedure.~~

68 ~~(d)1. Systems being evaluated that were installed prior to~~
69 ~~January 1, 1983, shall meet a minimum 6-inch separation from the~~
70 ~~bottom of the drainfield to the wettest season water table~~
71 ~~elevation as defined by department rule. All drainfield repairs,~~
72 ~~replacements or modifications to systems installed prior to~~
73 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~
74 ~~the bottom of the drainfield to the wettest season water table~~
75 ~~elevation as defined by department rule.~~

76 ~~2. Systems being evaluated that were installed on or after~~
77 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~
78 ~~the bottom of the drainfield to the wettest season water table~~
79 ~~elevation as defined by department rule. All drainfield repairs,~~
80 ~~replacements or modification to systems developed on or after~~
81 ~~January 1, 1983, shall meet a minimum 24-inch separation from~~
82 ~~the bottom of the drainfield to the wettest season water table~~
83 ~~elevation.~~

84 ~~(e) If documentation of a tank pump-out or a permitted new~~
85 ~~installation, repair, or modification of the system within the~~
86 ~~previous 5 years is provided, and states the capacity of the~~
87 ~~tank and indicates that the condition of the tank is not a~~

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88 ~~sanitary or public health nuisance pursuant to department rule,~~
89 ~~a pump-out of the system is not required.~~

90 ~~(f) Owners are responsible for paying the cost of any~~
91 ~~required pump-out, repair, or replacement pursuant to department~~
92 ~~rule, and may not request partial evaluation or the omission of~~
93 ~~portions of the evaluation.~~

94 ~~(g) Each evaluation or pump-out required under this~~
95 ~~subsection must be performed by a septic tank contractor or~~
96 ~~master septic tank contractor registered under part III of~~
97 ~~chapter 489, a professional engineer with wastewater treatment~~
98 ~~system experience licensed pursuant to chapter 471, or an~~
99 ~~environmental health professional certified under chapter 381 in~~
100 ~~the area of onsite sewage treatment and disposal system~~
101 ~~evaluation.~~

102 ~~(h) The evaluation report fee collected pursuant to s.~~
103 ~~381.0066(2)(b) shall be remitted to the department by the~~
104 ~~evaluator at the time the report is submitted.~~

105 ~~(i) Prior to any evaluation deadline, the department must~~
106 ~~provide a minimum of 60 days' notice to owners that their~~
107 ~~systems must be evaluated by that deadline. The department may~~
108 ~~include a copy of any homeowner educational materials developed~~
109 ~~pursuant to this section which provides information on the~~
110 ~~proper maintenance of onsite sewage treatment and disposal~~
111 ~~systems.~~

112 (5)~~(6)~~ ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.—

113 (a) Department personnel who have reason to believe
114 noncompliance exists, may at any reasonable time, enter the
115 premises permitted under ss. 381.0065-381.0066, or the business
116 premises of any septic tank contractor or master septic tank

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117 contractor registered under part III of chapter 489, or any
118 premises that the department has reason to believe is being
119 operated or maintained not in compliance, to determine
120 compliance with the provisions of this section, part I of
121 chapter 386, or part III of chapter 489 or rules or standards
122 adopted under ss. 381.0065-381.0067, part I of chapter 386, or
123 part III of chapter 489. As used in this paragraph, the term
124 "premises" does not include a residence or private building. To
125 gain entry to a residence or private building, the department
126 must obtain permission from the owner or occupant or secure an
127 inspection warrant from a court of competent jurisdiction.

128 (b)1. The department may issue citations that may contain
129 an order of correction or an order to pay a fine, or both, for
130 violations of ss. 381.0065-381.0067, part I of chapter 386, or
131 part III of chapter 489 or the rules adopted by the department,
132 when a violation of these sections or rules is enforceable by an
133 administrative or civil remedy, or when a violation of these
134 sections or rules is a misdemeanor of the second degree. A
135 citation issued under ss. 381.0065-381.0067, part I of chapter
136 386, or part III of chapter 489 constitutes a notice of proposed
137 agency action.

138 2. A citation must be in writing and must describe the
139 particular nature of the violation, including specific reference
140 to the provisions of law or rule allegedly violated.

141 3. The fines imposed by a citation issued by the department
142 may not exceed \$500 for each violation. Each day the violation
143 exists constitutes a separate violation for which a citation may
144 be issued.

145 4. The department shall inform the recipient, by written

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146 notice pursuant to ss. 120.569 and 120.57, of the right to an
147 administrative hearing to contest the citation within 21 days
148 after the date the citation is received. The citation must
149 contain a conspicuous statement that if the recipient fails to
150 pay the fine within the time allowed, or fails to appear to
151 contest the citation after having requested a hearing, the
152 recipient has waived the recipient's right to contest the
153 citation and must pay an amount up to the maximum fine.

154 5. The department may reduce or waive the fine imposed by
155 the citation. In determining whether to reduce or waive the
156 fine, the department must consider the gravity of the violation,
157 the person's attempts at correcting the violation, and the
158 person's history of previous violations including violations for
159 which enforcement actions were taken under ss. 381.0065-
160 381.0067, part I of chapter 386, part III of chapter 489, or
161 other provisions of law or rule.

162 6. Any person who willfully refuses to sign and accept a
163 citation issued by the department commits a misdemeanor of the
164 second degree, punishable as provided in s. 775.082 or s.
165 775.083.

166 7. The department, pursuant to ss. 381.0065-381.0067, part
167 I of chapter 386, or part III of chapter 489, shall deposit any
168 fines it collects in the county health department trust fund for
169 use in providing services specified in those sections.

170 8. This section provides an alternative means of enforcing
171 ss. 381.0065-381.0067, part I of chapter 386, and part III of
172 chapter 489. This section does not prohibit the department from
173 enforcing ss. 381.0065-381.0067, part I of chapter 386, or part
174 III of chapter 489, or its rules, by any other means. However,

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175 the department must elect to use only a single method of
176 enforcement for each violation.

177 (6)~~(7)~~ LAND APPLICATION OF SEPTAGE PROHIBITED.—Effective
178 January 1, 2016, the land application of septage from onsite
179 sewage treatment and disposal systems is prohibited. By February
180 1, 2011, the department, in consultation with the Department of
181 Environmental Protection, shall provide a report to the
182 Governor, the President of the Senate, and the Speaker of the
183 House of Representatives, recommending alternative methods to
184 establish enhanced treatment levels for the land application of
185 septage from onsite sewage and disposal systems. The report
186 shall include, but is not limited to, a schedule for the
187 reduction in land application, appropriate treatment levels,
188 alternative methods for treatment and disposal, enhanced
189 application site permitting requirements including any
190 requirements for nutrient management plans, and the range of
191 costs to local governments, affected businesses, and individuals
192 for alternative treatment and disposal methods. The report shall
193 also include any recommendations for legislation or rule
194 authority needed to reduce land application of septage.

195 Section 2. Section 381.00656, Florida Statutes, is
196 repealed:

197 ~~381.00656 Grant program for repair of onsite sewage~~
198 ~~treatment disposal systems.—Effective January 1, 2012, the~~
199 ~~department shall administer a grant program to assist owners of~~
200 ~~onsite sewage treatment and disposal systems identified pursuant~~
201 ~~to s. 381.0065 or the rules adopted thereunder. A grant under~~
202 ~~the program may be awarded to an owner only for the purpose of~~
203 ~~inspecting, pumping, repairing, or replacing a system serving a~~

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204 ~~single-family residence occupied by an owner with a family~~
205 ~~income of less than or equal to 133 percent of the federal~~
206 ~~poverty level at the time of application. The department may~~
207 ~~prioritize applications for an award of grant funds based upon~~
208 ~~the severity of a system's failure, its relative environmental~~
209 ~~impact, the income of the family, or any combination thereof.~~
210 ~~The department shall adopt rules establishing the grant~~
211 ~~application and award process, including an application form.~~
212 ~~The department shall seek to make grants in each fiscal year~~
213 ~~equal to the total amount of grant funds available, with any~~
214 ~~excess funds used for grant awards in subsequent fiscal years.~~

215 Section 3. Subsection (2) of section 381.0066, Florida
216 Statutes, is amended to read:

217 381.0066 Onsite sewage treatment and disposal systems;
218 fees.—

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

222 (a) Application review, permit issuance, or system
223 inspection, including repair of a subsurface, mound, filled, or
224 other alternative system or permitting of an abandoned system: a
225 fee of not less than \$25, or more than \$125.

226 ~~(b) A 5-year evaluation report submitted pursuant to s.~~
227 ~~381.0065(5): a fee not less than \$15, or more than \$30. At least~~
228 ~~\$1 and no more than \$5 collected pursuant to this paragraph~~
229 ~~shall be used to fund a grant program established under s.~~
230 ~~381.00656.~~

231 (b) ~~(e)~~ Site evaluation, site reevaluation, evaluation of a
232 system previously in use, or a per annum septage disposal site

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233 evaluation: a fee of not less than \$40, or more than \$115.

234 (c)~~(d)~~ Biennial Operating permit for aerobic treatment
235 units or performance-based treatment systems: a fee of not more
236 than \$100.

237 (d)~~(e)~~ Annual operating permit for systems located in areas
238 zoned for industrial manufacturing or equivalent uses or where
239 the system is expected to receive wastewater which is not
240 domestic in nature: a fee of not less than \$150, or more than
241 \$300.

242 (e)~~(f)~~ Innovative technology: a fee not to exceed \$25,000.

243 (f)~~(g)~~ Septage disposal service, septage stabilization
244 facility, portable or temporary toilet service, tank
245 manufacturer inspection: a fee of not less than \$25, or more
246 than \$200, per year.

247 (g)~~(h)~~ Application for variance: a fee of not less than
248 \$150, or more than \$300.

249 (h)~~(i)~~ Annual operating permit for waterless, incinerating,
250 or organic waste composting toilets: a fee of not less than \$50,
251 or more than \$150.

252 (i)~~(j)~~ Aerobic treatment unit or performance-based
253 treatment system maintenance entity permit: a fee of not less
254 than \$25, or more than \$150, per year.

255 (j)~~(k)~~ Reinspection fee per visit for site inspection after
256 system construction approval or for noncompliant system
257 installation per site visit: a fee of not less than \$25, or more
258 than \$100.

259 (k)~~(l)~~ Research: An additional \$5 fee shall be added to
260 each new system construction permit issued to be used to fund
261 onsite sewage treatment and disposal system research,

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262 demonstration, and training projects. Five dollars from any
263 repair permit fee collected under this section shall be used for
264 funding the hands-on training centers described in s.
265 381.0065(3)(j).

266 (1)~~(m)~~ Annual operating permit, including annual inspection
267 and any required sampling and laboratory analysis of effluent,
268 for an engineer-designed performance-based system: a fee of not
269 less than \$150, or more than \$300.

270
271 ~~On or before January 1, 2011, the Surgeon General, after~~
272 ~~consultation with the Revenue Estimating Conference, shall~~
273 ~~determine a revenue neutral fee schedule for services provided~~
274 ~~pursuant to s. 381.0065(5) within the parameters set in~~
275 ~~paragraph (b). Such determination is not subject to the~~
276 ~~provisions of chapter 120.~~ The funds collected pursuant to this
277 subsection must be deposited in a trust fund administered by the
278 department, to be used for the purposes stated in this section
279 and ss. 381.0065 and 381.00655.

280 Section 4. This act shall take effect upon becoming a law.