

By Senator Evers

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

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Subsections (1), (5), (6), and (7) of section
22 381.0065, Florida Statutes, are amended to read:

23 381.0065 Onsite sewage treatment and disposal systems;
24 regulation.—

25 (1) LEGISLATIVE INTENT.—

26 ~~(a) It is the intent of the Legislature that proper~~
27 ~~management of onsite sewage treatment and disposal systems is~~
28 ~~paramount to the health, safety, and welfare of the public. It~~
29 ~~is further the intent of the Legislature that the department~~

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30 ~~shall administer an evaluation program to ensure the operational~~
31 ~~condition of the system and identify any failure with the~~
32 ~~system.~~

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

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

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

58 ~~(b) Owners of an onsite sewage treatment and disposal~~

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59 ~~system, excluding a system that is required to obtain an~~
60 ~~operating permit, shall have the system evaluated at least once~~
61 ~~every 5 years to assess the fundamental operational condition of~~
62 ~~the system, and identify any failure within the system.~~

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

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

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

86 ~~(e) If documentation of a tank pump-out or a permitted new~~
87 ~~installation, repair, or modification of the system within the~~

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88 ~~previous 5 years is provided, and states the capacity of the~~
89 ~~tank and indicates that the condition of the tank is not a~~
90 ~~sanitary or public health nuisance pursuant to department rule,~~
91 ~~a pump-out of the system is not required.~~

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

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

104 ~~(h) The evaluation report fee collected pursuant to s.~~
105 ~~381.0066(2)(b) shall be remitted to the department by the~~
106 ~~evaluator at the time the report is submitted.~~

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

114 ~~(5)(6) ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.-~~

115 (a) Department personnel who have reason to believe
116 noncompliance exists, may at any reasonable time, enter the

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117 premises permitted under ss. 381.0065-381.0066, or the business
118 premises of any septic tank contractor or master septic tank
119 contractor registered under part III of chapter 489, or any
120 premises that the department has reason to believe is being
121 operated or maintained not in compliance, to determine
122 compliance with the provisions of this section, part I of
123 chapter 386, or part III of chapter 489 or rules or standards
124 adopted under ss. 381.0065-381.0067, part I of chapter 386, or
125 part III of chapter 489. As used in this paragraph, the term
126 "premises" does not include a residence or private building. To
127 gain entry to a residence or private building, the department
128 must obtain permission from the owner or occupant or secure an
129 inspection warrant from a court of competent jurisdiction.

130 (b)1. The department may issue citations that may contain
131 an order of correction or an order to pay a fine, or both, for
132 violations of ss. 381.0065-381.0067, part I of chapter 386, or
133 part III of chapter 489 or the rules adopted by the department,
134 when a violation of these sections or rules is enforceable by an
135 administrative or civil remedy, or when a violation of these
136 sections or rules is a misdemeanor of the second degree. A
137 citation issued under ss. 381.0065-381.0067, part I of chapter
138 386, or part III of chapter 489 constitutes a notice of proposed
139 agency action.

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

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

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146 be issued.

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

156 5. The department may reduce or waive the fine imposed by
157 the citation. In determining whether to reduce or waive the
158 fine, the department must consider the gravity of the violation,
159 the person's attempts at correcting the violation, and the
160 person's history of previous violations including violations for
161 which enforcement actions were taken under ss. 381.0065-
162 381.0067, part I of chapter 386, part III of chapter 489, or
163 other provisions of law or rule.

164 6. Any person who willfully refuses to sign and accept a
165 citation issued by the department commits a misdemeanor of the
166 second degree, punishable as provided in s. 775.082 or s.
167 775.083.

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

172 8. This section provides an alternative means of enforcing
173 ss. 381.0065-381.0067, part I of chapter 386, and part III of
174 chapter 489. This section does not prohibit the department from

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175 enforcing ss. 381.0065-381.0067, part I of chapter 386, or part
176 III of chapter 489, or its rules, by any other means. However,
177 the department must elect to use only a single method of
178 enforcement for each violation.

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

197 Section 2. Subsection (2) of section 381.0066, Florida
198 Statutes, is amended to read:

199 381.0066 Onsite sewage treatment and disposal systems;
200 fees.—

201 (2) The minimum fees in the following fee schedule apply
202 until changed by rule by the department within the following
203 limits:

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

208 ~~(b) A 5-year evaluation report submitted pursuant to s.~~
209 ~~381.0065(5): a fee not less than \$15, or more than \$30. At least~~
210 ~~\$1 and no more than \$5 collected pursuant to this paragraph~~
211 ~~shall be used to fund a grant program established under s.~~
212 ~~381.00656.~~

213 (b)~~(e)~~ Site evaluation, site reevaluation, evaluation of a
214 system previously in use, or a per annum septage disposal site
215 evaluation: a fee of not less than \$40, or more than \$115.

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

219 (d)~~(e)~~ Annual operating permit for systems located in areas
220 zoned for industrial manufacturing or equivalent uses or where
221 the system is expected to receive wastewater which is not
222 domestic in nature: a fee of not less than \$150, or more than
223 \$300.

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

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

229 (g)~~(h)~~ Application for variance: a fee of not less than
230 \$150, or more than \$300.

231 (h)~~(i)~~ Annual operating permit for waterless, incinerating,
232 or organic waste composting toilets: a fee of not less than \$50,

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233 or more than \$150.

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

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

241 (k)~~(l)~~ Research: An additional \$5 fee shall be added to
242 each new system construction permit issued to be used to fund
243 onsite sewage treatment and disposal system research,
244 demonstration, and training projects. Five dollars from any
245 repair permit fee collected under this section shall be used for
246 funding the hands-on training centers described in s.
247 381.0065(3)(j).

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

252
253 ~~On or before January 1, 2011, the Surgeon General, after~~
254 ~~consultation with the Revenue Estimating Conference, shall~~
255 ~~determine a revenue neutral fee schedule for services provided~~
256 ~~pursuant to s. 381.0065(5) within the parameters set in~~
257 ~~paragraph (b). Such determination is not subject to the~~
258 ~~provisions of chapter 120.~~ The funds collected pursuant to this
259 subsection must be deposited in a trust fund administered by the
260 department, to be used for the purposes stated in this section
261 and ss. 381.0065 and 381.00655.

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262 Section 3. Section 381.00656, Florida Statutes, is
263 repealed.

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