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LEGISLATIVE ACTION

Senate	.	House
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Senator Dean moved the following:

1 **Senate Amendment to Amendment (857888) (with title**
2 **amendment)**

3
4 Between lines 181 and 182
5 insert:

6 Section 2. Section 381.00651, Florida Statutes, is created
7 to read:

8 381.00651 Periodic evaluation and assessment of onsite
9 sewage treatment and disposal systems.-

10 (1) Effective July 1, 2011, any county or municipality that
11 has not adopted an onsite sewage treatment and disposal system
12 evaluation and assessment program, or that does not opt out of
13 this section, shall develop and adopt by ordinance a local



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14 onsite sewage treatment and disposal system evaluation and
15 assessment program within all or part of its geographic area
16 which meets the requirements of this section. Any county or
17 municipality that has adopted such a program before July 1,
18 2011, may continue to enforce its provisions. Any county or
19 municipality that does not opt out of this section shall notify
20 the Secretary of State by letter of the adoption of the
21 ordinance pursuant to this section. By a majority of the local
22 elected body, a county or municipality may opt out of the
23 requirements of this section at any time before January 1, 2012,
24 by adopting a separate resolution. The resolution shall be
25 directed to and filed with the Secretary of State and shall
26 state the intent of the county or municipality not to adopt an
27 onsite sewage treatment and disposal system evaluation and
28 assessment program. Absent an interlocal agreement or county
29 charter provision to the contrary, a municipality may elect to
30 opt out of the requirements of this section notwithstanding the
31 decision of the county in which it is located. A county or
32 municipality may subsequently adopt an ordinance imposing an
33 onsite sewage treatment and disposal system evaluation and
34 assessment program if the program meets the requirements of this
35 section. A county or municipality may repeal an ordinance
36 adopted pursuant to this section if the county or municipality
37 notifies the Secretary of State by letter of the repeal. A
38 county identified as having a first magnitude spring within its
39 boundaries is prohibited from opting out of this section, but
40 the county may determine what portion of its geographic area is
41 proximate to the first magnitude spring to determine where to
42 apply its ordinance. This section sets forth the uniform



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43 procedure for local governments to follow in establishing an
44 onsite sewage treatment and disposal system evaluation and
45 assessment program. Except as otherwise provided in this
46 section, a local ordinance may not deviate from or exceed the
47 substantive requirements of the evaluation and assessment
48 program as provided in this section. This section does not
49 derogate or limit county and municipal home rule authority to
50 act outside the scope of this program and does not repeal or
51 affect any other law that may relate to the subject matter in
52 this section. This section does not prohibit counties and
53 municipalities from enforcing existing ordinances or adopting
54 new ordinances relating to onsite sewage treatment facilities to
55 address public health and safety or from adopting local
56 environmental and pollution abatement measures for water quality
57 improvement consistent with and provided for by law if such
58 ordinances do not alter the prescriptive requirements or
59 limitations within the evaluation and assessment program as
60 provided in this section. This subsection is not intended to
61 alter the ability of a local government to exercise its
62 independent and existing authority to meet the requirements of
63 s. 381.00655. The evaluation and assessment program ordinance
64 shall provide the following:

65 (a) *Evaluations.*—An evaluation of any septic tank within
66 all or part of the county's or municipality's jurisdiction must
67 take place once every 5 years to assess the fundamental
68 operational condition of the system and to identify system
69 failures. The ordinance may not mandate an evaluation at the
70 point of sale in a real estate transaction and may not require a
71 soil examination. The location of the system shall be



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72 identified. A tank and drainfield evaluation and a written
73 assessment of the overall condition of the system pursuant to
74 the assessment procedure prescribed in paragraph (2) (d) are
75 required.

76 (b) *Qualified contractors.*—Each evaluation required under
77 this subsection must be performed by a septic tank contractor or
78 master septic tank contractor registered under part III of
79 chapter 489, a professional engineer having wastewater treatment
80 system experience and licensed pursuant to chapter 471, or an
81 environmental health professional certified under this chapter
82 in the area of onsite sewage treatment and disposal system
83 evaluation. Evaluations and pump outs may also be performed by
84 an authorized employee working under the supervision of the
85 individuals listed in this paragraph; however, all evaluation
86 forms must be written or electronically signed by a qualified
87 contractor.

88 (c) *Repair of systems.*—The local ordinance may not require
89 a repair, modification, or replacement of a system as a result
90 of an evaluation unless the evaluation identifies a system
91 failure. For purposes of this subsection, the term “system
92 failure” is defined as a condition existing within an onsite
93 sewage treatment and disposal system which results in the
94 discharge of untreated or partially treated wastewater onto the
95 ground surface or into surface water, or which results in a
96 sanitary nuisance caused by the failure of building plumbing to
97 discharge properly. A system is not a failure if the system does
98 not have a minimum separation distance between the drainfield
99 and the wet season water table, or if an obstruction in a
100 sanitary line or an effluent screen or filter prevents effluent



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101 from flowing into a drainfield. If a system failure is
102 identified and several remedial options are available to resolve
103 the failure, the local ordinance may not require more than the
104 least costly remedial measure to resolve the system failure. The
105 homeowner may choose the remedial measure to fix the system.
106 There may be instances in which a pump out is sufficient to
107 resolve a system failure. Remedial measures to resolve a system
108 failure must meet the requirements in effect at the times
109 specified in s. 381.0065(4)(g).

110 (d) Exemptions.—The local ordinance shall exempt from the
111 evaluation requirements any system that is required to obtain an
112 operating permit pursuant to state law or that is inspected by
113 the department pursuant to the annual permit inspection
114 requirements of chapter 513.

115 (2) The following procedures shall be used for conducting
116 evaluations:

117 (a) Tank evaluation.—The tank evaluation shall assess the
118 apparent structural condition and water tightness of the tank
119 and shall estimate the size of the tank. The evaluation must
120 include a pump out. However, an ordinance may not require a pump
121 out if there is documentation that a tank pump out or a
122 permitted new installation, repair, or modification of the
123 system has occurred within the previous 5 years, and that
124 identifies the capacity of the tank and indicates that the
125 condition of the tank is structurally sound and watertight.
126 Visual inspection of the tank must be made when the tank is
127 empty to detect cracks, leaks, or other defects. Baffles or tees
128 must be checked to ensure that they are intact and secure. The
129 evaluation shall note the presence and condition of outlet



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130 devices, effluent filters, and compartment walls; any structural
131 defect in the tank; and the condition and fit of the tank lid,
132 including manholes. If the tank, in the opinion of the qualified
133 contractor, is in danger of being damaged by leaving the tank
134 empty after inspection, the tank shall be refilled before
135 concluding the inspection.

136 (b) Drainfield evaluation.—The drainfield evaluation must
137 include a determination of the approximate size and location of
138 the drainfield. The evaluation shall state the condition of
139 surface vegetation, identify whether there is any sewage or
140 effluent visible on the ground or discharging to a ditch or
141 other water body, and identify the location of any downspout or
142 other source of water near or in the vicinity of the drainfield.

143 (c) Special circumstances.—If the system contains pumps,
144 siphons, or alarms, the following information must be provided:

145 1. An assessment of dosing tank integrity, including the
146 approximate volume and the type of material used in
147 construction;

148 2. Whether the pump is elevated off of the bottom of the
149 chamber and its operational status;

150 3. Whether there are a check valve and purge hole; whether
151 there is a high-water alarm, including whether the type of alarm
152 is audio or visual or both, the location of the alarm, and its
153 operational condition; and whether electrical connections appear
154 satisfactory; and

155 4. Whether surface water can infiltrate into the tank and
156 whether the tank was pumped out.

157 (d) Assessment procedure.—All evaluation procedures used by
158 a qualified contractor shall be documented. The qualified



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159 contractor shall provide a copy of a written, signed evaluation
160 report to the property owner upon completion of the evaluation
161 and to the county health department within 30 days after the
162 evaluation. The report shall contain the name and license number
163 of the company providing the report. A copy of the evaluation
164 report shall be retained by the local county health department
165 for a minimum of 5 years until a subsequent inspection report is
166 filed. The front cover of the report must identify any system
167 failure and include a clear and conspicuous notice to the owner
168 that the owner has a right to have any remediation of the
169 failure performed by a qualified contractor other than the
170 contractor performing the evaluation. The report must further
171 identify any crack, leak, improper fit, or other defect in the
172 tank, manhole, or lid, and any other damaged or missing
173 component; any sewage or effluent visible on the ground or
174 discharging to a ditch or other surface water body; any
175 downspout, stormwater, or other source of water directed onto or
176 toward the system; and any other maintenance need or condition
177 of the system at the time of the evaluation which, in the
178 opinion of the qualified contractor, would possibly interfere
179 with or restrict any future repair or modification to the
180 existing system. The report shall conclude with an overall
181 assessment of the fundamental operational condition of the
182 system.

183 (3) It shall be the responsibility of the county health
184 department to administer any evaluation program on behalf of a
185 county, or a local government within the county, which has
186 adopted an evaluation program pursuant to this section. In order
187 to administer the evaluation program, a local government, in



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188 consultation with the county health department, may develop a
189 reasonable fee schedule to be used solely to pay for the costs
190 of administering the evaluation program. Such fee schedule shall
191 be identified in the local ordinance that adopts the evaluation
192 program. When arriving at a reasonable fee schedule, the
193 estimated annual revenues to be derived from fees may not exceed
194 reasonable estimated annual costs of the program. Fees shall be
195 assessed to the septic tank owner during an inspection and
196 separately identified on the invoice of the qualified
197 contractor. Fees shall be remitted by the qualified contractor
198 to the county health department. The county health department's
199 administrative responsibilities include the following:

200 (a) Providing a notice to the septic tank owner at least 60
201 days before the septic tank is due for an evaluation. The notice
202 may include information on the proper maintenance of onsite
203 sewage treatment and disposal systems.

204 (b) In consultation with the Department of Health,
205 providing uniform disciplinary procedures and penalties for
206 qualified contractors who do not comply with the requirements of
207 the adopted ordinance, including, but not limited to, failure to
208 provide the evaluation report as required in this subsection to
209 the septic tank owner and the county health department. The
210 county health department may also assess penalties against
211 septic tank owners for failure to comply with the adopted
212 ordinance, consistent with existing requirements of law.

213 (c) Developing its own database and tracking systems to
214 encompass evaluation programs adopted by the county or
215 municipalities within its jurisdiction. The database shall also
216 be used to collect, store, and index information obtained from



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217 the evaluation reports filed by each qualified contractor with
218 the county health department. The tracking system must include
219 the ability to collect and store:

220 1. The description, addresses, or locations of the onsite
221 systems;

222 2. An inventory of the number of onsite systems within the
223 local jurisdiction;

224 3. The total number and types of system failures; and

225 4. Any other trends deemed relevant by the county health
226 department resulting from an assessment and evaluation of the
227 overall condition of systems.

228
229 The tracking system may be Internet-based and may be designed to
230 be used by contractors to report all service and evaluation
231 events and by the county health department to notify homeowners
232 when evaluations are due. Data and information shall be recorded
233 and updated as service and evaluations are conducted and
234 reported

235 (4) A county or municipality that adopts an onsite sewage
236 treatment and disposal system evaluation and assessment program
237 pursuant to this section shall notify the Secretary of
238 Environmental Protection, the Department of Health, and the
239 applicable county health department upon the adoption of an
240 ordinance. The Department of Environmental Protection shall,
241 within existing resources and upon receipt of such notice,
242 notify the county or municipality of the potential use of, and
243 access to, program funds under the Clean Water State Revolving
244 Fund or s. 319 of the Clean Water Act. Upon request by a county
245 or municipality, the Department of Environmental Protection



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246 shall provide guidance in the application process to receive
247 moneys under the Clean Water State Revolving Fund or s. 319 of
248 the Clean Water Act. The Department of Environmental Protection
249 shall also, within existing resources and upon request by a
250 county or municipality, provide advice and technical assistance
251 to the county or municipality on how to establish a low-interest
252 revolving loan program or how to model a revolving loan program
253 after the low-interest loan program of the Clean Water State
254 Revolving Fund. This subsection does not obligate the Department
255 of Environmental Protection to provide any money to fund such
256 programs.

257
258 ===== T I T L E A M E N D M E N T =====

259 And the title is amended as follows:

260 Between lines 279 and 280

261 insert:

262 creating s. 381.00651, F.S.; requiring a county or
263 municipality to adopt by ordinance under certain
264 circumstances the program for the periodic evaluation
265 and assessment of onsite sewage treatment and disposal
266 systems; requiring the county or municipality to
267 notify the Secretary of State of the ordinance;
268 authorizing a county or municipality, in specified
269 circumstances, to opt out of certain requirements by a
270 specified date; prohibiting a county having a first
271 magnitude spring from opting out of the provisions of
272 the act; authorizing a county or municipality to adopt
273 or repeal, after a specified date, an ordinance
274 creating an evaluation and assessment program;



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275 providing criteria for evaluations, qualified
276 contractors, repair of systems, exemptions, and
277 notifications; requiring that certain procedures be
278 used for conducting tank and drainfield evaluations;
279 providing for certain procedures in special
280 circumstances; providing for assessment procedures;
281 requiring the county or municipality to develop a
282 system for tracking the evaluations; providing
283 criteria; requiring counties and municipalities to
284 notify the Secretary of Environmental Protection that
285 an evaluation program ordinance is adopted; requiring
286 the department to notify those counties or
287 municipalities of the use of, and access to, certain
288 state and federal program funds; requiring that the
289 department provide certain guidance and technical
290 assistance to a county or municipality upon request;