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LEGISLATIVE ACTION

Senate	.	House
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Senators Evers, Gaetz, Montford, and Lynn moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (1), (5), (6), and (7) of section
381.0065, Florida Statutes, as amended by chapter 2010-283, Laws
of Florida, are amended to read:

381.0065 Onsite sewage treatment and disposal systems;
regulation.—

(1) LEGISLATIVE INTENT.—

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



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14 ~~is further the intent of the Legislature that the department~~
15 ~~shall administer an evaluation program to ensure the operational~~
16 ~~condition of the system and identify any failure with the~~
17 ~~system.~~

18 (b) It is the intent of the Legislature that where a
19 publicly owned or investor-owned sewerage system is not
20 available, the department shall issue permits for the
21 construction, installation, modification, abandonment, or repair
22 of onsite sewage treatment and disposal systems under conditions
23 as described in this section and rules adopted under this
24 section. It is further the intent of the Legislature that the
25 installation and use of onsite sewage treatment and disposal
26 systems not adversely affect the public health or significantly
27 degrade the groundwater or surface water.

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

29 ~~(a) Beginning July 1, 2011, the department shall administer~~
30 ~~an onsite sewage treatment and disposal system evaluation~~
31 ~~program for the purpose of assessing the fundamental operational~~
32 ~~condition of systems and identifying any failures within the~~
33 ~~systems. The department shall adopt rules implementing the~~
34 ~~program standards, procedures, and requirements, including, but~~
35 ~~not limited to, a schedule for a 5-year evaluation cycle,~~
36 ~~requirements for the pump-out of a system or repair of a failing~~
37 ~~system, enforcement procedures for failure of a system owner to~~
38 ~~obtain an evaluation of the system, and failure of a contractor~~
39 ~~to timely submit evaluation results to the department and the~~
40 ~~system owner. The department shall ensure statewide~~
41 ~~implementation of the evaluation and assessment program by~~
42 ~~January 1, 2016.~~



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43 ~~(b) Owners of an onsite sewage treatment and disposal~~
44 ~~system, excluding a system that is required to obtain an~~
45 ~~operating permit, shall have the system evaluated at least once~~
46 ~~every 5 years to assess the fundamental operational condition of~~
47 ~~the system, and identify any failure within the system.~~

48 ~~(c) All evaluation procedures must be documented and~~
49 ~~nothing in this subsection limits the amount of detail an~~
50 ~~evaluator may provide at his or her professional discretion. The~~
51 ~~evaluation must include a tank and drainfield evaluation, a~~
52 ~~written assessment of the condition of the system, and, if~~
53 ~~necessary, a disclosure statement pursuant to the department's~~
54 ~~procedure.~~

55 ~~(d)1. Systems being evaluated that were installed prior to~~
56 ~~January 1, 1983, shall meet a minimum 6-inch separation from the~~
57 ~~bottom of the drainfield to the wettest season water table~~
58 ~~elevation as defined by department rule. All drainfield repairs,~~
59 ~~replacements or modifications to systems installed prior to~~
60 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~
61 ~~the bottom of the drainfield to the wettest season water table~~
62 ~~elevation as defined by department rule.~~

63 ~~2. Systems being evaluated that were installed on or after~~
64 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~
65 ~~the bottom of the drainfield to the wettest season water table~~
66 ~~elevation as defined by department rule. All drainfield repairs,~~
67 ~~replacements or modification to systems developed on or after~~
68 ~~January 1, 1983, shall meet a minimum 24-inch separation from~~
69 ~~the bottom of the drainfield to the wettest season water table~~
70 ~~elevation.~~

71 ~~(e) If documentation of a tank pump-out or a permitted new~~



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72 ~~installation, repair, or modification of the system within the~~
73 ~~previous 5 years is provided, and states the capacity of the~~
74 ~~tank and indicates that the condition of the tank is not a~~
75 ~~sanitary or public health nuisance pursuant to department rule,~~
76 ~~a pump-out of the system is not required.~~

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

81 ~~(g) Each evaluation or pump-out required under this~~
82 ~~subsection must be performed by a septic tank contractor or~~
83 ~~master septic tank contractor registered under part III of~~
84 ~~chapter 489, a professional engineer with wastewater treatment~~
85 ~~system experience licensed pursuant to chapter 471, or an~~
86 ~~environmental health professional certified under chapter 381 in~~
87 ~~the area of onsite sewage treatment and disposal system~~
88 ~~evaluation.~~

89 ~~(h) The evaluation report fee collected pursuant to s.~~
90 ~~381.0066(2)(b) shall be remitted to the department by the~~
91 ~~evaluator at the time the report is submitted.~~

92 ~~(i) Prior to any evaluation deadline, the department must~~
93 ~~provide a minimum of 60 days' notice to owners that their~~
94 ~~systems must be evaluated by that deadline. The department may~~
95 ~~include a copy of any homeowner educational materials developed~~
96 ~~pursuant to this section which provides information on the~~
97 ~~proper maintenance of onsite sewage treatment and disposal~~
98 ~~systems.~~

99 ~~(5)(6) ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.-~~

100 (a) Department personnel who have reason to believe



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101 noncompliance exists, may at any reasonable time, enter the
102 premises permitted under ss. 381.0065-381.0066, or the business
103 premises of any septic tank contractor or master septic tank
104 contractor registered under part III of chapter 489, or any
105 premises that the department has reason to believe is being
106 operated or maintained not in compliance, to determine
107 compliance with the provisions of this section, part I of
108 chapter 386, or part III of chapter 489 or rules or standards
109 adopted under ss. 381.0065-381.0067, part I of chapter 386, or
110 part III of chapter 489. As used in this paragraph, the term
111 "premises" does not include a residence or private building. To
112 gain entry to a residence or private building, the department
113 must obtain permission from the owner or occupant or secure an
114 inspection warrant from a court of competent jurisdiction.

115 (b)1. The department may issue citations that may contain
116 an order of correction or an order to pay a fine, or both, for
117 violations of ss. 381.0065-381.0067, part I of chapter 386, or
118 part III of chapter 489 or the rules adopted by the department,
119 when a violation of these sections or rules is enforceable by an
120 administrative or civil remedy, or when a violation of these
121 sections or rules is a misdemeanor of the second degree. A
122 citation issued under ss. 381.0065-381.0067, part I of chapter
123 386, or part III of chapter 489 constitutes a notice of proposed
124 agency action.

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

128 3. The fines imposed by a citation issued by the department
129 may not exceed \$500 for each violation. Each day the violation



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130 exists constitutes a separate violation for which a citation may
131 be issued.

132 4. The department shall inform the recipient, by written
133 notice pursuant to ss. 120.569 and 120.57, of the right to an
134 administrative hearing to contest the citation within 21 days
135 after the date the citation is received. The citation must
136 contain a conspicuous statement that if the recipient fails to
137 pay the fine within the time allowed, or fails to appear to
138 contest the citation after having requested a hearing, the
139 recipient has waived the recipient's right to contest the
140 citation and must pay an amount up to the maximum fine.

141 5. The department may reduce or waive the fine imposed by
142 the citation. In determining whether to reduce or waive the
143 fine, the department must consider the gravity of the violation,
144 the person's attempts at correcting the violation, and the
145 person's history of previous violations including violations for
146 which enforcement actions were taken under ss. 381.0065-
147 381.0067, part I of chapter 386, part III of chapter 489, or
148 other provisions of law or rule.

149 6. Any person who willfully refuses to sign and accept a
150 citation issued by the department commits a misdemeanor of the
151 second degree, punishable as provided in s. 775.082 or s.
152 775.083.

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

157 8. This section provides an alternative means of enforcing
158 ss. 381.0065-381.0067, part I of chapter 386, and part III of



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159 chapter 489. This section does not prohibit the department from
160 enforcing ss. 381.0065-381.0067, part I of chapter 386, or part
161 III of chapter 489, or its rules, by any other means. However,
162 the department must elect to use only a single method of
163 enforcement for each violation.

164 (6)~~(7)~~ LAND APPLICATION OF SEPTAGE PROHIBITED.—Effective
165 January 1, 2016, the land application of septage from onsite
166 sewage treatment and disposal systems is prohibited. By February
167 1, 2011, the department, in consultation with the Department of
168 Environmental Protection, shall provide a report to the
169 Governor, the President of the Senate, and the Speaker of the
170 House of Representatives, recommending alternative methods to
171 establish enhanced treatment levels for the land application of
172 septage from onsite sewage and disposal systems. The report
173 shall include, but is not limited to, a schedule for the
174 reduction in land application, appropriate treatment levels,
175 alternative methods for treatment and disposal, enhanced
176 application site permitting requirements including any
177 requirements for nutrient management plans, and the range of
178 costs to local governments, affected businesses, and individuals
179 for alternative treatment and disposal methods. The report shall
180 also include any recommendations for legislation or rule
181 authority needed to reduce land application of septage.

182 Section 2. Section 381.00656, Florida Statutes, is
183 repealed:

184 ~~381.00656 Grant program for repair of onsite sewage~~
185 ~~treatment disposal systems.—Effective January 1, 2012, the~~
186 ~~department shall administer a grant program to assist owners of~~
187 ~~onsite sewage treatment and disposal systems identified pursuant~~



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188 ~~to s. 381.0065 or the rules adopted thereunder. A grant under~~
189 ~~the program may be awarded to an owner only for the purpose of~~
190 ~~inspecting, pumping, repairing, or replacing a system serving a~~
191 ~~single-family residence occupied by an owner with a family~~
192 ~~income of less than or equal to 133 percent of the federal~~
193 ~~poverty level at the time of application. The department may~~
194 ~~prioritize applications for an award of grant funds based upon~~
195 ~~the severity of a system's failure, its relative environmental~~
196 ~~impact, the income of the family, or any combination thereof.~~
197 ~~The department shall adopt rules establishing the grant~~
198 ~~application and award process, including an application form.~~
199 ~~The department shall seek to make grants in each fiscal year~~
200 ~~equal to the total amount of grant funds available, with any~~
201 ~~excess funds used for grant awards in subsequent fiscal years.~~

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

204 381.0066 Onsite sewage treatment and disposal systems;
205 fees.—

206 (2) The minimum fees in the following fee schedule apply
207 until changed by rule by the department within the following
208 limits:

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

213 ~~(b) A 5-year evaluation report submitted pursuant to s.~~
214 ~~381.0065(5): a fee not less than \$15, or more than \$30. At least~~
215 ~~\$1 and no more than \$5 collected pursuant to this paragraph~~
216 ~~shall be used to fund a grant program established under s.~~



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217 ~~381.00656.~~

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

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

224 **(d)**~~(e)~~ Annual operating permit for systems located in areas
225 zoned for industrial manufacturing or equivalent uses or where
226 the system is expected to receive wastewater which is not
227 domestic in nature: a fee of not less than \$150, or more than
228 \$300.

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

230 **(f)**~~(g)~~ Septage disposal service, septage stabilization
231 facility, portable or temporary toilet service, tank
232 manufacturer inspection: a fee of not less than \$25, or more
233 than \$200, per year.

234 **(g)**~~(h)~~ Application for variance: a fee of not less than
235 \$150, or more than \$300.

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

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

242 **(j)**~~(k)~~ Reinspection fee per visit for site inspection after
243 system construction approval or for noncompliant system
244 installation per site visit: a fee of not less than \$25, or more
245 than \$100.



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275 disposal systems; amending s. 381.0065, F.S.; revising
276 legislative intent; eliminating provisions directing
277 the Department of Health to create and administer a
278 statewide septic tank evaluation program; eliminating
279 procedures and criteria for the evaluation program;
280 repealing s. 381.00656, F.S., to terminate the grant
281 program for repair of onsite sewage treatment disposal
282 systems identified pursuant to the evaluation program,
283 to conform; amending s. 381.0066, F.S.; eliminating
284 provisions authorizing the department to collect an
285 evaluation report fee; eliminating provisions relating
286 to disposition of fee proceeds and a revenue-neutral
287 fee schedule; providing an effective date.