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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/28/2011	.	
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The Committee on Health Regulation (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 243 - 371
and insert:

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

(1) Effective January 1, 2012, any county or municipality
that does not opt out of this section shall develop and adopt by
ordinance a local onsite sewage treatment and disposal system
evaluation and assessment program within all or part of its
geographic area which meets the requirements of this subsection.
The county or municipality shall notify the Secretary of State



923064

13 by letter of the adoption of such an ordinance pursuant to this
14 section. By a majority of the local elected body, a county or
15 municipality may opt out of the requirements of this section at
16 any time before January 1, 2012, by adopting a separate
17 resolution. The resolution shall be directed to and filed with
18 the Secretary of State and shall state the intent of the county
19 or municipality not to adopt an onsite sewage treatment and
20 disposal system evaluation and assessment program. A county or
21 municipality may subsequently adopt an ordinance imposing an
22 onsite sewage treatment and disposal system evaluation and
23 assessment program if the program meets the requirements of this
24 subsection. A county or municipality may repeal an ordinance
25 adopted pursuant to this section if the county or municipality
26 notifies the Secretary of State by letter of the repeal. The
27 local ordinances may not deviate from or exceed the substantive
28 requirements of this subsection. Such adopted ordinance shall
29 provide for the following:

30 (a) *Evaluations.*—An evaluation of any septic tank within
31 all or part of the county's or municipality's jurisdiction must
32 take place once every 5 years to assess the fundamental
33 operational condition of the system and to identify system
34 failures. The ordinance may not mandate an evaluation at the
35 point of sale in a real estate transaction and may not require a
36 soil examination. The location of the system shall be
37 identified. A tank and drainfield evaluation and a written
38 assessment of the overall condition of the system pursuant to
39 the assessment procedure prescribed in paragraph (2) (d) are
40 required.

41 (b) *Qualified contractors.*—Each evaluation required under



923064

42 this subsection must be performed by a septic tank contractor or
43 master septic tank contractor registered under part III of
44 chapter 489, a professional engineer having wastewater treatment
45 system experience and licensed pursuant to chapter 471, or an
46 environmental health professional certified under this chapter
47 in the area of onsite sewage treatment and disposal system
48 evaluation. Evaluations and pump outs may also be performed by
49 an authorized employee working under the supervision of the
50 individuals listed in this paragraph; however, all evaluation
51 forms must be signed by a qualified contractor.

52 (c) *Repair of systems.*—A local ordinance may not require a
53 repair, modification, or replacement of a system as a result of
54 an evaluation unless the evaluation identifies a system failure.
55 For purposes of this subsection, the term "system failure" is
56 defined as a condition existing within an onsite sewage
57 treatment and disposal system which results in the discharge of
58 untreated or partially treated wastewater onto the ground
59 surface or into surface water, or which results in a sanitary
60 nuisance caused by the failure of building plumbing to discharge
61 properly. A system is not a failure if the system does not have
62 a minimum separation distance between the drainfield and the wet
63 season water table, or if an obstruction in a sanitary line or
64 an effluent screen or filter prevents effluent from flowing into
65 a drainfield. If a system failure is identified and several
66 remedial options are available to resolve the failure, the local
67 ordinance may not require more than the least costly remedial
68 measure to resolve the system failure. The homeowner may choose
69 the remedial measure to fix the system. There may be instances
70 in which a pump out is sufficient to resolve a system failure.



923064

71 Remedial measures to resolve a system failure must meet the
72 requirements of the code in effect at the time the system was
73 originally permitted and installed, and are not required to meet
74 the current code requirements.

75 (d) Exemptions.—The local ordinance may exempt from the
76 evaluation requirements any system that is required to obtain an
77 operating permit or that is inspected by the department pursuant
78 to the annual permit inspection requirements of chapter 513.

79 (e) Notifications.—The local ordinance must require that
80 notice be given to the septic tank owner at least 60 days before
81 the septic tank is due for an evaluation. The notice may include
82 information on the proper maintenance of onsite sewage treatment
83 and disposal systems.

84 (f) Fees.—The local ordinance may authorize the assessment
85 of a fee not to exceed \$30 paid by the owner of the septic tank
86 in order to cover the costs of administering the evaluation
87 program.

88 (g) Penalties.—The local ordinance must provide penalties
89 for qualified contractors and septic tank owners who do not
90 comply with requirements of the adopted ordinance.

91 (2) The following procedures shall be used for conducting
92 evaluations:

93 (a) Tank evaluation.—The tank evaluation shall assess the
94 apparent structural condition and water tightness of the tank
95 and shall estimate the size of the tank. The evaluation must
96 include a pump out. However, an ordinance may not require a pump
97 out if there is documentation that a tank pump out or a
98 permitted new installation, repair, or modification of the
99 system has occurred within the previous 5 years, and that



923064

100 identifies the capacity of the tank and indicates that the
101 condition of the tank is structurally sound and watertight.
102 Visual inspection of the tank must be made when the tank is
103 empty to detect cracks, leaks, or other defects. Baffles or tees
104 must be checked to ensure that they are intact and secure. The
105 evaluation shall note the presence and condition of outlet
106 devices, effluent filters, and compartment walls; any structural
107 defect in the tank; and the condition and fit of the tank lid,
108 including manholes. If the tank, in the opinion of the qualified
109 contractor, is in danger of being damaged by leaving the tank
110 empty after inspection, the tank shall be refilled before
111 concluding the inspection.

112 (b) *Drainfield evaluation.*—The drainfield evaluation must
113 include a determination of the approximate size and location of
114 the drainfield. The evaluation shall state the condition of
115 surface vegetation, including whether there is any seepage
116 visible or excessively lush vegetation; state whether there is
117 ponding water within the drainfield; and identify the location
118 of any downspout or drain that encroaches or drains into the
119 drainfield area. The evaluation must contain an overall
120 assessment of the drainfield.

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

123 1. An assessment of dosing tank integrity, including the
124 approximate volume and the type of material used in
125 construction;

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

128 3. Whether there are a check valve and purge hole; whether



923064

129 there is a high-water alarm, including whether the type of alarm
130 is audio or visual or both, the location of the alarm, and its
131 operational condition; and whether electrical connections appear
132 satisfactory; and

133 4. Whether surface water can infiltrate into the tank and
134 whether the tank was pumped out.

135 (d) *Assessment procedure.*—All evaluation procedures used by
136 a qualified contractor shall be documented. The qualified
137 contractor shall provide a copy of a written, signed evaluation
138 report to the property owner, the county or municipality, and
139 the county health department. A copy of the evaluation report
140 shall be retained by the local county health department for a
141 minimum of 5 years until a subsequent inspection report is
142 filed. The front cover of the report must identify any system
143 failure and include a clear and conspicuous notice to the owner
144 that the owner has a right to have any remediation of the
145 failure performed by a qualified contractor other than the
146 contractor performing the evaluation. The report must further
147 identify any crack, leak, improper fit or other defect in the
148 tank, manhole, or lid, and any other damaged or missing
149 component; any ponding of the drainfield or uneven distribution
150 of effluent and the extent of such effluent; any downspout or
151 other stormwater or source of water directed onto or toward the
152 system, including recommendations that such sources be
153 redirected away from the system; and any other maintenance need
154 or condition of the system at the time of the evaluation which,
155 in the opinion of the qualified contractor, would possibly
156 interfere with or restrict any future repair or modification to
157 the existing system. The report shall conclude with an overall



923064

158 assessment of the fundamental operational condition of the
159 system.

160 (e) Tracking system.—A county or municipality that adopts
161 an evaluation program pursuant to this section shall develop,
162 accumulate, and assimilate its own database and establish a
163 computerized tracking system within its jurisdiction. Such
164 information shall be based upon information obtained from
165 written, signed evaluation reports given to property owners by
166 qualified contractors and filed with the county or municipality
167 and the county health department following an evaluation. The
168 information tracked must include:

- 169 1. The addresses or locations of the onsite systems;
170 2. The number of onsite systems within the local
171 jurisdiction;
172 3. The total number and types of system failures; and
173 4. Any other trends deemed relevant by the county or
174 municipality resulting from an assessment of the overall
175 condition of systems.

176
177 The computerized tracking system may be Internet-based and shall
178 be used by the county or municipality to notify homeowners when
179 evaluations are due. Data and information shall be recorded and
180 updated as evaluations are conducted and reported to the county
181 or municipality and the county health department.

182 (3) A county or municipality that adopts an onsite sewage
183 treatment and disposal system evaluation and assessment program
184 pursuant to this section shall notify the Secretary of
185 Environmental Protection upon the adoption of an ordinance. The
186 Department of Environmental Protection shall, within existing



923064

187 resources and upon receipt of such notice, notify the county or
188 municipality of the potential use of, and access to, program
189 funds under the Clean Water State Revolving Fund or s. 319 of
190 the Clean Water Act. Upon request by a county or municipality,
191 the Department of Environmental Protection shall provide direct
192 technical assistance in the application process to receive
193 moneys under the Clean Water State Revolving Fund or s. 319 of
194 the Clean Water Act. The Department of Environmental Protection
195 shall also, within existing resources and upon request by a
196 county or municipality, provide advice and technical assistance
197 to the county or municipality on how to establish a low-interest
198 revolving loan program, how to model a revolving loan program
199 after the low-interest loan program of the Clean Water State
200 Revolving Fund, or how to provide low-interest loans to
201 residents for the repair of failing systems. This subsection
202 does not obligate the Department of Environmental Protection to
203 provide any money to fund such programs.

204
205 ===== T I T L E A M E N D M E N T =====

206 And the title is amended as follows:

207 Delete lines 14 - 52

208 and insert:

209 requiring a county or municipality to adopt under
210 certain circumstances a local ordinance creating a
211 program for the periodic evaluation and assessment of
212 onsite sewage treatment and disposal systems;
213 requiring the county or municipality to notify the
214 Secretary of State of the ordinance; authorizing a
215 county or municipality, in specified circumstances, to



923064

216 opt out of certain requirements by a specified date;
217 authorizing a county or municipality to adopt or
218 repeal, after a specified date, an ordinance creating
219 an evaluation and assessment program; providing
220 criteria for evaluations, qualified contractors,
221 repair of systems, exemptions, notifications, fees,
222 and penalties; requiring that certain procedures be
223 used for conducting tank and drainfield evaluations;
224 providing for certain procedures in special
225 circumstances; providing for assessment procedures;
226 requiring the county or municipality to develop a
227 system for tracking the evaluations; providing
228 criteria; requiring counties and municipalities to
229 notify the Secretary of Environmental Protection that
230 an evaluation program ordinance is adopted; requiring
231 the department to notify those counties or
232 municipalities of the use of, and access to, certain
233 state and federal program funds; requiring the
234 department to provide certain advice and technical
235 assistance, within existing resources, upon request
236 from a county or municipality; amending s.