

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: SB 1698

INTRODUCER: Senator Dean

SUBJECT: Onsite Sewage Treatment

DATE: March 25, 2011                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	O'Callaghan	Stovall	HR	<b>Pre-meeting</b>
2.	_____	_____	EP	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This bill repeals the onsite sewage treatment and disposal system evaluation program, including program requirements, and the Department of Health's (DOH) attendant rulemaking authority to implement the program. The bill also repeals a prohibition against the land application of septage from onsite sewage and disposal systems along with a requirement that DOH provide a report to the Governor and Legislature recommending alternative methods of treatment and disposal and recommendations that would reduce the land application of septage.

This bill creates within the DOH, beginning January 1, 2012, an evaluation pilot program for onsite sewage and treatment and disposal systems. The pilot program is only to be implemented within certain counties identified by the Department of Environmental Protection (DEP). The bill provides the DOH with limited rulemaking authority to establish enforcement procedures, procedures to ensure consistent implementation, inspection and tracking procedures, and an evaluation form. The bill also provides the DOH with enforcement authority to administer the program.

This bill allows counties outside of the counties identified by the DEP to voluntarily participate in the pilot program, regardless if the participation is county-wide or in select areas of the county. The bill exempts counties from the program if the counties have their own inspection program by ordinance that has been in effect for at least 1 year.

This bill requires the owner of an onsite sewage treatment and disposal system within the county participating in the pilot program to have the system pumped out and evaluated at least once every 5 years. However, a pump out is not required if the owner can provide documentation to

show a pump out has been performed within the previous 5 years and the capacity and condition of the tank.

This bill requires an owner to repair, modify, or replace a system, depending on whether there is a system failure or obstruction and the owner is responsible for paying the cost of the repair, modification, or replacement.

This bill prescribes who is authorized to perform an evaluation or pump out. The system evaluator is required to collect and remit an evaluation report fee along with the required evaluation report to the DOH.

This bill requires the DOH to notify an owner of an onsite sewage treatment and disposal system within a certain time before the evaluation deadline that the owner's system is due for an evaluation. The DOH may include in its notice educational materials that provide information about the proper maintenance of onsite sewage treatment and disposal systems.

This bill requires the DOH and the DEP to collaborate to notify counties of federal program funds that are available under the Clean Water Act and collaborate to create a revolving loan program to provide low-interest loans to homeowners with failing systems.

This bill requires the DOH to contract with a qualified private entity to develop a uniform statewide computerized evaluation, tracking, and reporting system for each county participating in the pilot program. The system is to be continually updated and used to identify systems due for inspection.

This bill provides that a grant program will be available January 1, 2013 to assist low-income owners of onsite sewage treatment and disposal systems with the costs associated with any required inspection, pump out, repair, or system replacement. The bill also reduces the range of the fee amount that may be assessed by the DOH for an evaluation report.

This bill substantially amends the following sections of the Florida Statutes: 381.0065, 381.00656, and 381.0066.

This bill creates s. 381.00651, F.S.

## **II. Present Situation:**

### **Nutrient Management in Florida's Water Bodies**

With over 50,000 miles of rivers and streams, 7,800 lakes, and 4,000 square miles of estuaries, Florida has an abundance of surface waters that are used for a variety of purposes by the people who live and work in the state, by those who are visiting, and by the fish and wildlife that depend on these waters.<sup>1</sup>

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<sup>1</sup> Florida Department of Environmental Protection, *Surface Water Quality Standards*, last updated on February 9, 2011, available at <http://www.dep.state.fl.us/water/wqssp/index.htm> (Last visited on March 24, 2011).

The Federal Clean Water Act<sup>2</sup> is the basis for state water quality standards programs. The federal regulatory requirements governing these programs are published in 40 CFR 131, the Water Quality Standards Regulation. States are responsible for reviewing, establishing, and revising water quality standards. Florida's surface water quality standards system is published in Chapter 62-302 and Rule 62-302.530 of the Florida Administrative Code (F.A.C.). The components of this system include: classifications; criteria, including site specific criteria; an anti-degradation policy; and special protection of certain waters.<sup>3</sup>

The DEP has initiated rulemaking to adopt quantitative nutrient water quality standards to facilitate the assessment of designated use attainment for its waters and to provide a better means to protect state waters from the adverse effects of nutrient pollution. The addition of excess nutrients, often associated with human alterations to watersheds, including leaking septic tanks,<sup>4</sup> can negatively impact water body health and interfere with designated uses of waters. Impacts include noxious tastes and odors in drinking water, algal blooms and excessive aquatic weeds in swimming and boating waters, and altering the natural community of flora and fauna.<sup>5</sup>

The DEP plans to develop numeric criteria for phosphorus and nitrogen and possibly for their response variables, recognizing the differences in Florida's hydrology and geology, the nutrient levels of the state's waters, and the variability in ecosystem response to nutrient concentrations. The DEP's preferred approach is to develop cause and affect relationships between nutrients and valued ecological attributes and to establish nutrient criteria that ensure that the designated uses of Florida's waters are maintained.<sup>6</sup>

Florida's law contains a narrative nutrient standard, which guides the management and protection of its waters. Rule 62-302.530, F.A.C., states, "In no case shall nutrient concentrations of a body of water be altered so as to cause an imbalance in natural populations of flora or fauna." The narrative criteria also states that, for all waters of the state, "the discharge of nutrients shall continue to be limited as needed to prevent violations of other standards contained in this chapter [Chapter 62-302, F.A.C.]. Man-induced nutrient enrichment (total nitrogen or total phosphorus) shall be considered degradation in relation to the provisions of Rules 62-302.300, 62-302.700, and 62-4.242, F.A.C."

The DEP has relied on this narrative for many years because nutrients are unlike any other "pollutant" regulated by the Federal Clean Water Act. Most water quality criteria are based on a toxicity threshold, evidenced by a dose-response relationship, where higher concentrations can be demonstrated to be harmful, and acceptable concentrations can be established at a level below

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<sup>2</sup> 33 U.S.C. 1251 *et seq.*

<sup>3</sup> *Supra* fn. 1.

<sup>4</sup> Septic systems are designed to treat wastewater by separating solids from liquids and then draining the liquid into the ground. Sewage flows into the tank where settling and bacterial decomposition of larger particles takes place, while treated liquid filters into the soil. When system failures occur, untreated wastewater and sewage can be introduced into groundwater or nearby streams and water bodies. Source: *Pollution Prevention Fact Sheet: Septic System Controls*, available at [http://www.stormwatercenter.net/Pollution\\_Prevention\\_Factsheets/SepticSystemControls.htm](http://www.stormwatercenter.net/Pollution_Prevention_Factsheets/SepticSystemControls.htm) (Last visited on March 24, 2011).

<sup>5</sup> Florida Department of Environmental Protection, *Development of Numeric Nutrient Criteria for Florida's Waters*, last updated on November 15, 2010, available at <http://www.dep.state.fl.us/water/wqssp/nutrients/> (Last visited on March 24, 2011).

<sup>6</sup> *Id.*

which adverse responses are seen. In contrast, nutrients are not only naturally present in aquatic systems, they are necessary for the proper functioning of life.<sup>7</sup>

The DEP actively worked with the U.S. Environmental Protection Agency (EPA) on the development of numeric nutrient criteria. The DEP submitted its initial Draft Numeric Nutrient Criteria Development Plan to the EPA in May 2002, and received mutual agreement on the Numeric Nutrient Criteria Development Plan from EPA in July 2004. The DEP revised its plan in September 2007 to more accurately reflect its evolved strategy and technical approach, and received mutual agreement on the 2007 revisions from the EPA.<sup>8</sup>

The Florida Wildlife Federation filed a lawsuit in 2008, seeking to require the EPA to promulgate numeric nutrient water quality standards for Florida waters. The EPA settled the lawsuit and entered into a consent decree with the Florida Wildlife Federation. After EPA's analyses of the facts in Florida, and discussions with the DEP on January 14, 2009, the EPA made a determination that numeric nutrient criteria in Florida were necessary to meet the requirements of the Federal Clean Water Act. The EPA determined that Florida's existing narrative criteria on nutrients in water was insufficient to ensure protection of the State's water bodies. The determination recognized that, despite Florida's intensive efforts to diagnose and control nutrient pollution, substantial water quality degradation from nutrient pollution remains a significant challenge in Florida and is likely to worsen with continued population growth and land-use changes. The January 14, 2009, EPA determination stated the EPA's intent to propose numeric nutrient standards for lakes and flowing waters in Florida within 12 months of the determination, and for estuaries and coastal waters, within 24 months of the determination.<sup>9</sup>

On November 14, 2010, EPA Administrator Lisa P. Jackson signed Final "Water Quality Standards for the State of Florida's Lakes and Flowing Waters." The final standards set numeric limits, or criteria, on the amount of nutrient pollution allowed in Florida's lakes, rivers, streams and springs. The final action seeks to improve water quality, protect public health, aquatic life and the long term recreational uses of Florida's waters, which are a critical part of Florida's economy. The rule will take effect on March 6, 2012 except for the site-specific alternative criteria (SSAC) provision, which is effective February 4, 2011. The EPA extended the effective date for the rule for 15 months to allow cities, towns, businesses and other stakeholders as well as the State of Florida a full opportunity to review the standards and develop flexible strategies for implementation.<sup>10</sup> The State of Florida is currently challenging the EPA standards in a lawsuit asking for declaratory and injunctive relief.<sup>11</sup>

There are several entities in Florida that research Florida's water quality or provide funding for such research. The Florida Water Pollution Control Financing Corporation (corporation) is a nonprofit public-benefit corporation that was created in 2001, to finance or refinance water

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> U.S. Environmental Protection Agency, *Water Quality Standards for the State of Florida's Lakes and Flowing Waters*, January 2010, available at [http://water.epa.gov/lawsregs/rulesregs/florida\\_factsheet.cfm](http://water.epa.gov/lawsregs/rulesregs/florida_factsheet.cfm) (Last visited on March 24, 2011).

<sup>10</sup> *Id.*

<sup>11</sup> *State v. U.S. Environmental Protection Agency*, Case No. 3:10-cv-00503-RV-MD, U.S. District Court, Northern District of Florida, available at [http://myfloridalegal.com/webfiles.nsf/WF/CRUE-8BWPPD/\\$file/epacompliant.pdf](http://myfloridalegal.com/webfiles.nsf/WF/CRUE-8BWPPD/$file/epacompliant.pdf) (Last visited on March 24, 2011).

pollution control activities.<sup>12</sup> The corporation's purpose is to issue bonds that increase the capacity of the State Revolving Fund to provide low-interest loans to local governments. Additionally, the University of Florida Water Institute (Institute) brings together talent from throughout the University of Florida to address complex water issues through innovative interdisciplinary research, education, and public outreach programs.<sup>13</sup> The Institute's vision is to create interdisciplinary teams, comprised of leading water researchers, educators, and students to develop scientific breakthroughs; engineer creative solutions for water problems; recommend policy and legal solutions for complex issues; and pioneer educational programs that are renowned for addressing state, national, and global water resource problems.<sup>14</sup>

### **Florida Senate Select Committee on Florida's Inland Waters**

On October 7, 2009, Senate President Jeff Atwater created the Florida Senate Select Committee on Florida's Inland Waters. The task set before the committee was to travel the state and listen and learn from constituents. To that end, six meetings were scheduled around the state.<sup>15</sup>

In conjunction with the public hearings, the members of the committee and staff were invited on several site visits. Each site visited exemplified a unique challenge for Florida's water resources, from agricultural best-management practices to saltwater intrusion.<sup>16</sup>

At the end of the hearings, the select committee unanimously adopted a final report containing 13 recommendations, including the recommendation that the Legislature should consider the creation of regional management entities to effectuate a septic tank inspection and maintenance program and that counties and municipalities should have authority over the regional management entities.<sup>17</sup>

### **The Department of Health's Regulation of Septic Tanks**

The DOH oversees an environmental health program as part of fulfilling the state's public health mission. The purpose of this program is to detect and prevent disease caused by natural and manmade factors in the environment. One component of the program is an onsite sewage treatment and disposal function.<sup>18</sup>

An "onsite sewage treatment and disposal system" is a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solid or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit

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<sup>12</sup> Chapter 2000-271, L.O.F.

<sup>13</sup> University of Florida Water Institute, *About*, last updated on December 15, 2010, available at <http://waterinstitute.ufl.edu/about/index.html> (Last visited on March 24, 2011).

<sup>14</sup> *Id.*

<sup>15</sup> Florida Senate Select Committee on Florida's Inland Waters, *Report on the Florida Senate Select Committee on Florida's Inland Waters*, Meeting Packet, March 11, 2010, available at <http://waterinstitute.ufl.edu/symposium2010/downloads/FloridaSelectCommitteeonInlandWaterssummary.pdf> (Last visited on March 24, 2011).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> Section 381.006, F.S. (2010).

privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. The term includes any item placed within, or intended to be used as a part of or in conjunction with, the system. The term does not include package sewage treatment facilities and other treatment works regulated under ch. 403, F.S.<sup>19</sup>

The DOH estimates there are approximately 2.6 million septic tanks in use statewide.<sup>20</sup> The DOH's Bureau of Onsite Sewage develops statewide rules and provides training and standardization for county health department employees responsible for permitting the installation and repair of onsite sewage treatment and disposal systems (septic tanks) within the state. The bureau also licenses septic tank contractors, approves continuing education courses and courses provided for septic tank contractors, funds a hands-on training center, and mediates onsite sewage treatment and disposal systems contracting complaints. The bureau manages a state-funded research program, prepares research grants, and reviews and approves innovative products and septic tank designs.<sup>21</sup>

In 2008, the Legislature directed the DOH to submit a report to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives by no later than October 1, 2008, which identifies the range of costs to implement a mandatory statewide 5-year septic tank inspection program to be phased in over 10 years pursuant to the DOH's procedure for voluntary inspection, including use of fees to offset costs.<sup>22</sup> This resulted in the "Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program" (Report).<sup>23</sup> According to the report, three Florida counties, Charlotte, Escambia and Santa Rosa, have implemented mandatory septic tank inspections at a cost of \$83.93 to \$215 per inspection.

The Report stated that 99 percent of septic tanks in Florida are not under any management or maintenance requirements. Also, the Report found that while these systems were designed and installed in accordance with the regulations at the time of construction and installation, many are aging and by today's standards and may be under-designed. The DOH's statistics indicate that approximately 2 million septic tanks are 20 years or older, which is the average lifespan of a septic tank in Florida.<sup>24</sup> Because repairs of onsite systems were not regulated until 1987, many systems may have been unlawfully modified. Furthermore, 1.3 million onsite systems were installed prior to 1983 and a significant fraction of the pre-1983 systems may have been installed with a 6-inch separation from the bottom of the drainfield to the estimated seasonal high water

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<sup>19</sup> Section 381.0065(2)(j), F.S. (2010).

<sup>20</sup> Florida Department of Health, *Onsite Sewage Treatment and Disposal Systems Installed in Florida*, available at <http://www.myfloridaeh.com/ostds/statistics/newInstallations.pdf> (Last visited on March 24, 2011).

<sup>21</sup> Department of Health Bureau of Onsite Sewage, *Description*, available at <http://www.myfloridaeh.com/ostds/OSTDSdescription.html> (Last visited on March 24, 2011).

<sup>22</sup> Chapter 2008-152, L.O.F.

<sup>23</sup> Florida Department of Health, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, October 1, 2008, available at <http://www.doh.state.fl.us/environment/ostds/pdf/files/forms/MSIP.pdf> (Last visited on March 24, 2011).

<sup>24</sup> Department of Health, *Onsite Sewage Treatment and Disposal Systems in Florida (2010)*, available at <http://www.doh.state.fl.us/Environment/ostds/statistics/newInstallations.pdf> (Last visited on March 24, 2011). *See also* Department of Health, Bureau of Onsite Sewage, *What's New?*, available at <http://www.doh.state.fl.us/environment/ostds/New.htm> (Last visited on March 24, 2011).

table. The current water table separation requirement is 24 inches and is based on research findings compiled by the DOH in 1989 that indicate for septic tank effluent, the presence of at least 2 feet (24 inches) of unsaturated fine sandy soil is needed to provide a relatively high degree of treatment for most wastewater constituents. Therefore, Florida's pre-1983 systems may not provide the same level of protection expected from systems installed under current construction standards.<sup>25</sup>

### **Chapter 2010-205, Laws of Florida**

In 2010, the Legislature enacted CS/CS/CS/SB 550, which became ch. 2010-205, Laws of Florida, and amended s. 381.0065, F.S. This newly enacted law provides for additional legislative intent on the importance of properly managing the State's septic tanks and creates a septic tank evaluation program. The DOH was to implement the evaluation program beginning January 1, 2011, with full implementation by January 1, 2016.<sup>26</sup> The evaluation program is to:

- Require all septic tanks to be evaluated for functionality at least once every 5 years.
- Provide proper notice to septic owners that their evaluations are due.
- Ensure proper separations from the wettest season water table.
- Specify the professional qualifications necessary to carry out an evaluation.

This law also establishes a grant program under s. 381.00656, F.S., for owners of septic tanks earning less than or equal to 133 percent of the federal poverty level. The grant program is to provide funding for inspections, pump-outs, repairs, or system replacements. The DOH is authorized under the law to adopt rules to establish the application and award process for grant funds.

Finally, ch. 2010-205, Laws of Florida, amends s. 381.0066, F.S., establishing a minimum and maximum evaluation fee that the DOH may collect, but no more than \$5 of each evaluation fee may be used to fund the grant program. It also requires the State's Surgeon General, in consultation with the Revenue Estimating Conference, to determine a revenue neutral evaluation fee.

### **III. Effect of Proposed Changes:**

SB 1698 effectively repeals the sections of ch. 2010-205, Laws of Florida, relating to the onsite sewage treatment and disposal system (septic tank) evaluation program. Instead, the bill creates a pilot program under which counties selected by the DEP must participate and under which other counties may elect to participate.

**Section 1** amends s. 381.0056, F.S., by repealing legislative intent that proper management of onsite sewage treatment and disposal systems is paramount to the health, safety, and welfare of the public and legislative intent to have the DOH administer an evaluation program to ensure the proper operational condition of the State's onsite sewage treatment and disposal system and identify any failures of that system.

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<sup>25</sup> *Id.*

<sup>26</sup> However, implementation was delayed until July 1, 2011, by the Legislature's enactment of SB 2-A (2010). *See also* ch. 2010-283, L.O.F.

This section also repeals the state-wide onsite sewage treatment and disposal system evaluation program, including the DOH's authority to administer, implement, and enforce the requirements of the program. Repealed provisions of the program also include the following program requirements:

- Owners of an onsite sewage treatment and disposal system, except those required to obtain an operating permit, must have the system evaluated at least once every 5 years to assess the functionality of the system or any failure within the system. However, those owners with documentation of a new installation, repair, or modification of their system within the last 5 years are exempt from the pump-out requirement, if such systems are determined not to be a public health nuisance.
- Evaluation procedures must be documented and include a tank and drainfield evaluation, a written assessment of the system's condition, and a disclosure statement if required by the DOH.
- Minimum separation standards from the bottom of the drainfield to the wettest season water table elevation for systems installed prior to January 1, 1983, and for systems installed on or after January 1, 1983.
- Owners are responsible for paying the cost of any system pump-out, repair, or replacement.
- Septic tank contractor professional requirements that must be met for an evaluation to be performed under the program.
- The payment of evaluation report fees to the DOH at the time the evaluation report is submitted.
- The DOH must provide a minimum 60 days' notice to owners that their systems must be evaluated.

This section also repeals a prohibition against the land application of septage from onsite sewage and disposal systems along with a requirement that DOH provide a report to the Governor and Legislature recommending alternative methods of treatment and disposal and recommendations that would reduce the land application of septage.

**Section 2** creates s. 381.00651, F.S., to require the DOH, beginning January 1, 2012, to begin implementing and administering an evaluation pilot program for onsite sewage treatment and disposal systems in order to assess the fundamental operational condition of the systems and identify any system failures. The pilot program is only to be implemented within counties identified by the DEP as having a first magnitude spring<sup>27</sup> or an impaired watershed basin.

This section provides that the DOH has limited rulemaking authority to establish:

- Enforcement procedures for a system owner whose system does not comply with the evaluation program requirements or for a contractor who fails to timely submit the evaluation results to the DOH and the system owner.

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<sup>27</sup> A "first-magnitude spring" means a spring that discharges at least 100 cubic feet of water per second (cfs), or about 64.6 million gallons per day (mgd). First-magnitude springs are the largest types of springs and there are 33 of these types of springs in Florida. This data is based on the January 2000 flyer from the Florida Department of Environmental Protection, *Status of the First Magnitude Springs in Florida*, compiled by Jim Stevenson and Frank Rupert, available at: <http://apalacheehills.com/springs/Springbook/FirstMagnitude.htm> (Last visited on March 24, 2011). *See also* Florida Geological Survey Open File Report No. 85, *First Magnitude Springs of Florida*, 2002, available at: <http://publicfiles.dep.state.fl.us/FGS/WEB/listpubs/OFR-85.pdf> (Last visited on March 24, 2011).

- Procedures necessary to ensure a uniform, orderly, and consistent implementation of the program by the DOH in affected counties, including volunteer counties.
- Inspection and tracking procedures and an evaluation form.

This section provides that the DOH has all of the enforcement powers granted under s. 381.0065(5), including the authority to issue citations and the right of entry to permitted entities or business premises; however, the DOH must obtain permission from the owner or occupant or secure an inspection warrant to gain entry to a residence or private building.

This section allows counties outside the pilot program area to elect to participate in the program, either county-wide or in specific areas of the county, by adopting an ordinance and providing written notice to the DOH. Counties that have established their own onsite sewage treatment and disposal inspection programs by ordinance, are not required to participate in the program. However, the county must show that the ordinance has been in effect for at least 1 year and it must provide written notice to the DOH.

This section requires any system owner subject to the program to have the system pumped out and evaluated at least once every 5 years to assess the fundamental operational condition of the system and to identify system failures. The term “system failure” is defined to mean a condition existing within an onsite sewage treatment and disposal system which results in the discharge of untreated or partially treated wastewater onto the ground surface or into surface water, or which results in the failure of building plumbing to discharge properly. A system failure does not exist solely because the system does not have the minimum separation distance between the drainfield and the wet season water table.

This section requires the DOH to adopt by rule an evaluation form that is developed by the DOH’s technical review and advisory panel. The evaluation procedures must be documented by a contractor using the standardized form and at a minimum, the form must include a basic tank and drainfield evaluation and a written assessment of the condition of the system. The DOH is required to allow the contractor to submit the information required in the form via a secure Internet connection, which must be directly entered into a tracking and reporting database system.

This section provides that a pump out of a system is not required when a system owner provides documentation that the tank has been pumped out within the previous 5 years or the tank is a permitted new installation, repair, or modification of the system and the documentation states the capacity of the tank and that it is structurally sound and watertight.

This section also provides that the DOH must require a system to be repaired, modified, or replaced if the evaluation identifies a system failure, but the DOH must select the least costly remedial measure to repair or resolve the system failure. An obstruction in a sanitary line, an effluent screen, or a filter which prevents effluent from flowing into a drainfield is not a system failure. The system owner is responsible for paying for any required repair, modification, or replacement and such repair or modification must bring the system into compliance with the code in place at the time the system was originally permitted and installed.

This section requires evaluations or pump outs to be performed by a septic tank contractor or master septic tank contractor registered under part III of ch. 489, F.S.; a professional engineer licensed pursuant to ch. 471, F.S., who has experience with wastewater treatment systems; an environmental health professional certified under ch. 381, F.S., in the area of onsite sewage treatment and disposal system evaluation; or an employee working under the supervision of these individuals. The evaluator is required to remit the evaluation report along with the requisite fee to the DOH.

This section requires the DOH to provide notice to system owners at least 60 days before an evaluation deadline that their systems must be evaluated by the deadline. The DOH may include in its notice educational materials which provide information on the proper maintenance of onsite sewage treatment and disposal systems.

This section also requires the DOH and DEP to collaborate to notify counties of program funds available under s. 319 of the Clean Water Act and collaborate to create a revolving loan program modeled after the low-interest loan program of the state revolving fund which provides low-interest loans to residents for the repair of failing systems. Counties are encouraged to sponsor remediation of area-wide system failures and the DOH is required to provide assistance in the application process to those counties that participate in and establish low-interest loan programs for homeowners having failing systems.

This section requires the DOH to contract with a qualified private entity to develop a uniform statewide comprehensive computerized evaluation, tracking, and reporting system for each county that adopts a system evaluation program. The tracking system must identify within each county the address, location, and total number of onsite systems; document and categorize the number and types of failures; and assess the overall condition of systems using the information as reported and contained in the inspection form. The data collected must be continuously updated and used for the identification and categorization of onsite systems, used to identify systems due for inspection, and used to notify the DOH when the inspections are to take place.

**Section 3** amends s. 381.00656, F.S., to require the DOH to administer a grant program, effective January 1, 2013, to assist low-income owners of onsite sewage treatment and disposal systems with the cost of required inspections, pump outs, repairs, or system replacements.

**Section 4** amends s. 381.0066, F.S., to require system owners to pay a fee of not less than \$10 or more than \$15 to be used to fund the pilot program, including a fee up to \$5 to be used toward the grant program under s. 381.00656, F.S.

**Section 5** provides that the bill will take effect upon becoming a law.

**Other Potential Implications:**

If the onsite sewage treatment and disposal system evaluation program is not repealed, the DOH is statutorily required to implement the program beginning on July 1, 2011.<sup>28</sup>

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<sup>28</sup> *Supra* fn. 26.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

**B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

**C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Owners of onsite sewage treatment and disposal systems subject to the pilot program will have to pay to have their systems evaluated every 5 years, which would include an evaluation report fee up to \$15 and any cost for pump-outs, repairs, or replacements of the system.

**C. Government Sector Impact:**

The cost of the pilot program is indeterminate as it depends on the number of counties that are identified by the DEP to be included in the program and the number of counties that elect to participate in the program. Any costs incurred by the DOH to implement the pilot program should be offset by the requisite evaluation report fee.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

This pilot program does not appear to have an expiration date or a date set for review of the program.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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