

By Senators Lynn and Dean

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

17
18 Be It Enacted by the Legislature of the State of Florida:

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

22 381.0065 Onsite sewage treatment and disposal systems;
23 regulation.—

24 (1) LEGISLATIVE INTENT.—

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

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30 ~~condition of the system and identify any failure with the~~
31 ~~system.~~

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

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

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

57 ~~(b) Owners of an onsite sewage treatment and disposal~~
58 ~~system, excluding a system that is required to obtain an~~

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operating permit, shall have the system evaluated at least once every 5 years to assess the fundamental operational condition of the system, and identify any failure within the system.

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

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

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

(e) If documentation of a tank pump-out or a permitted new installation, repair, or modification of the system within the previous 5 years is provided, and states the capacity of the

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

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

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

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

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

113 (5)~~(6)~~ ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.-

114 (a) Department personnel who have reason to believe
115 noncompliance exists, may at any reasonable time, enter the
116 premises permitted under ss. 381.0065-381.0066, or the business

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

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

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

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

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

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

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

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

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

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175 III of chapter 489, or its rules, by any other means. However,
176 the department must elect to use only a single method of
177 enforcement for each violation.

178 (6)~~(7)~~ LAND APPLICATION OF SEPTAGE PROHIBITED.—Effective
179 January 1, 2016, the land application of septage from onsite
180 sewage treatment and disposal systems is prohibited. By February
181 1, 2011, the department, in consultation with the Department of
182 Environmental Protection, shall provide a report to the
183 Governor, the President of the Senate, and the Speaker of the
184 House of Representatives, recommending alternative methods to
185 establish enhanced treatment levels for the land application of
186 septage from onsite sewage and disposal systems. The report
187 shall include, but is not limited to, a schedule for the
188 reduction in land application, appropriate treatment levels,
189 alternative methods for treatment and disposal, enhanced
190 application site permitting requirements including any
191 requirements for nutrient management plans, and the range of
192 costs to local governments, affected businesses, and individuals
193 for alternative treatment and disposal methods. The report shall
194 also include any recommendations for legislation or rule
195 authority needed to reduce land application of septage.

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

198 381.0066 Onsite sewage treatment and disposal systems;
199 fees.—

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

203 (a) Application review, permit issuance, or system

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

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

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

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

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

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

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

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

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

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

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

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

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

251
252 ~~On or before January 1, 2011, the Surgeon General, after~~
253 ~~consultation with the Revenue Estimating Conference, shall~~
254 ~~determine a revenue neutral fee schedule for services provided~~
255 ~~pursuant to s. 381.0065(5) within the parameters set in~~
256 ~~paragraph (b). Such determination is not subject to the~~
257 ~~provisions of chapter 120. The funds collected pursuant to this~~
258 ~~subsection must be deposited in a trust fund administered by the~~
259 ~~department, to be used for the purposes stated in this section~~
260 ~~and ss. 381.0065 and 381.00655.~~

261 Section 3. Section 381.00656, Florida Statutes, is

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262 repealed.

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