

By Senator Evers

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

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Subsection (1), paragraph (j) of subsection (3),
 23 and subsections (5), (6), and (7) of section 381.0065, Florida
 24 Statutes, are amended to read:

25 381.0065 Onsite sewage treatment and disposal systems;
 26 regulation.—

27 (1) LEGISLATIVE INTENT.—

28 ~~(a) It is the intent of the Legislature that proper~~
 29 ~~management of onsite sewage treatment and disposal systems is~~

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30 ~~paramount to the health, safety, and welfare of the public. It~~
31 ~~is further the intent of the Legislature that the department~~
32 ~~shall administer an evaluation program to ensure the operational~~
33 ~~condition of the system and identify any failure with the~~
34 ~~system.~~

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

45 (3) DUTIES AND POWERS OF THE DEPARTMENT OF HEALTH.—The
46 department shall:

47 (j) Supervise research on, demonstration of, and training
48 on the performance, environmental impact, and public health
49 impact of onsite sewage treatment and disposal systems within
50 this state. Research fees collected under s. 381.0066(2)(k)
51 ~~381.0066(2)(l)~~ must be used to develop and fund hands-on
52 training centers designed to provide practical information about
53 onsite sewage treatment and disposal systems to septic tank
54 contractors, master septic tank contractors, contractors,
55 inspectors, engineers, and the public and must also be used to
56 fund research projects which focus on improvements of onsite
57 sewage treatment and disposal systems, including use of
58 performance-based standards and reduction of environmental

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59 impact. Research projects shall be initially approved by the
60 technical review and advisory panel and shall be applicable to
61 and reflect the soil conditions specific to Florida. Such
62 projects shall be awarded through competitive negotiation, using
63 the procedures provided in s. 287.055, to public or private
64 entities that have experience in onsite sewage treatment and
65 disposal systems in Florida and that are principally located in
66 Florida. Research projects shall not be awarded to firms or
67 entities that employ or are associated with persons who serve on
68 either the technical review and advisory panel or the research
69 review and advisory committee.

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

71 ~~(a) Beginning July 1, 2011, the department shall administer~~
72 ~~an onsite sewage treatment and disposal system evaluation~~
73 ~~program for the purpose of assessing the fundamental operational~~
74 ~~condition of systems and identifying any failures within the~~
75 ~~systems. The department shall adopt rules implementing the~~
76 ~~program standards, procedures, and requirements, including, but~~
77 ~~not limited to, a schedule for a 5-year evaluation cycle,~~
78 ~~requirements for the pump-out of a system or repair of a failing~~
79 ~~system, enforcement procedures for failure of a system owner to~~
80 ~~obtain an evaluation of the system, and failure of a contractor~~
81 ~~to timely submit evaluation results to the department and the~~
82 ~~system owner. The department shall ensure statewide~~
83 ~~implementation of the evaluation and assessment program by~~
84 ~~January 1, 2016.~~

85 ~~(b) Owners of an onsite sewage treatment and disposal~~
86 ~~system, excluding a system that is required to obtain an~~
87 ~~operating permit, shall have the system evaluated at least once~~

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88 ~~every 5 years to assess the fundamental operational condition of~~
89 ~~the system, and identify any failure within the system.~~

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

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

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

113 ~~(e) If documentation of a tank pump out or a permitted new~~
114 ~~installation, repair, or modification of the system within the~~
115 ~~previous 5 years is provided, and states the capacity of the~~
116 ~~tank and indicates that the condition of the tank is not a~~

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117 ~~sanitary or public health nuisance pursuant to department rule,~~
118 ~~a pump-out of the system is not required.~~

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

123 ~~(g) Each evaluation or pump-out required under this~~
124 ~~subsection must be performed by a septic tank contractor or~~
125 ~~master septic tank contractor registered under part III of~~
126 ~~chapter 489, a professional engineer with wastewater treatment~~
127 ~~system experience licensed pursuant to chapter 471, or an~~
128 ~~environmental health professional certified under chapter 381 in~~
129 ~~the area of onsite sewage treatment and disposal system~~
130 ~~evaluation.~~

131 ~~(h) The evaluation report fee collected pursuant to s.~~
132 ~~381.0066(2)(b) shall be remitted to the department by the~~
133 ~~evaluator at the time the report is submitted.~~

134 ~~(i) Prior to any evaluation deadline, the department must~~
135 ~~provide a minimum of 60 days' notice to owners that their~~
136 ~~systems must be evaluated by that deadline. The department may~~
137 ~~include a copy of any homeowner educational materials developed~~
138 ~~pursuant to this section which provides information on the~~
139 ~~proper maintenance of onsite sewage treatment and disposal~~
140 ~~systems.~~

141 ~~(5)(6) ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.-~~

142 (a) Department personnel who have reason to believe
143 noncompliance exists, may, at any reasonable time, enter the
144 premises permitted under ss. 381.0065-381.0066, or the business
145 premises of any septic tank contractor or master septic tank

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146 contractor registered under part III of chapter 489, or any
147 premises that the department has reason to believe is being
148 operated or maintained not in compliance, to determine
149 compliance with the provisions of this section, part I of
150 chapter 386, or part III of chapter 489 or rules or standards
151 adopted under ss. 381.0065-381.0067, part I of chapter 386, or
152 part III of chapter 489. As used in this paragraph, the term
153 "premises" does not include a residence or private building. To
154 gain entry to a residence or private building, the department
155 must obtain permission from the owner or occupant or secure an
156 inspection warrant from a court of competent jurisdiction.

157 (b)1. The department may issue citations that may contain
158 an order of correction or an order to pay a fine, or both, for
159 violations of ss. 381.0065-381.0067, part I of chapter 386, or
160 part III of chapter 489 or the rules adopted by the department,
161 when a violation of these sections or rules is enforceable by an
162 administrative or civil remedy, or when a violation of these
163 sections or rules is a misdemeanor of the second degree. A
164 citation issued under ss. 381.0065-381.0067, part I of chapter
165 386, or part III of chapter 489 constitutes a notice of proposed
166 agency action.

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

170 3. The fines imposed by a citation issued by the department
171 may not exceed \$500 for each violation. Each day the violation
172 exists constitutes a separate violation for which a citation may
173 be issued.

174 4. The department shall inform the recipient, by written

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175 notice pursuant to ss. 120.569 and 120.57, of the right to an
176 administrative hearing to contest the citation within 21 days
177 after the date the citation is received. The citation must
178 contain a conspicuous statement that if the recipient fails to
179 pay the fine within the time allowed, or fails to appear to
180 contest the citation after having requested a hearing, the
181 recipient has waived the recipient's right to contest the
182 citation and must pay an amount up to the maximum fine.

183 5. The department may reduce or waive the fine imposed by
184 the citation. In determining whether to reduce or waive the
185 fine, the department must consider the gravity of the violation,
186 the person's attempts at correcting the violation, and the
187 person's history of previous violations including violations for
188 which enforcement actions were taken under ss. 381.0065-
189 381.0067, part I of chapter 386, part III of chapter 489, or
190 other provisions of law or rule.

191 6. Any person who willfully refuses to sign and accept a
192 citation issued by the department commits a misdemeanor of the
193 second degree, punishable as provided in s. 775.082 or s.
194 775.083.

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

199 8. This section provides an alternative means of enforcing
200 ss. 381.0065-381.0067, part I of chapter 386, and part III of
201 chapter 489. This section does not prohibit the department from
202 enforcing ss. 381.0065-381.0067, part I of chapter 386, or part
203 III of chapter 489, or its rules, by any other means. However,

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204 the department must elect to use only a single method of
205 enforcement for each violation.

206 (6) ~~(7)~~ LAND APPLICATION OF SEPTAGE PROHIBITED.—Effective
207 January 1, 2016, the land application of septage from onsite
208 sewage treatment and disposal systems is prohibited. ~~By February~~
209 ~~1, 2011, the department, in consultation with the Department of~~
210 ~~Environmental Protection, shall provide a report to the~~
211 ~~Governor, the President of the Senate, and the Speaker of the~~
212 ~~House of Representatives, recommending alternative methods to~~
213 ~~establish enhanced treatment levels for the land application of~~
214 ~~septage from onsite sewage and disposal systems. The report~~
215 ~~shall include, but is not limited to, a schedule for the~~
216 ~~reduction in land application, appropriate treatment levels,~~
217 ~~alternative methods for treatment and disposal, enhanced~~
218 ~~application site permitting requirements including any~~
219 ~~requirements for nutrient management plans, and the range of~~
220 ~~costs to local governments, affected businesses, and individuals~~
221 ~~for alternative treatment and disposal methods. The report shall~~
222 ~~also include any recommendations for legislation or rule~~
223 ~~authority needed to reduce land application of septage.~~

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

226 381.0066 Onsite sewage treatment and disposal systems;
227 fees.—

228 (2) The minimum fees in the following fee schedule apply
229 until changed by rule by the department within the following
230 limits:

231 (a) Application review, permit issuance, or system
232 inspection, including repair of a subsurface, mound, filled, or

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233 other alternative system or permitting of an abandoned system: a
234 fee of not less than \$25, or more than \$125.

235 ~~(b) A 5-year evaluation report submitted pursuant to s.~~
236 ~~381.0065(5): a fee not less than \$15, or more than \$30. At least~~
237 ~~\$1 and no more than \$5 collected pursuant to this paragraph~~
238 ~~shall be used to fund a grant program established under s.~~
239 ~~381.00656.~~

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

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

246 (d)~~(e)~~ Annual operating permit for systems located in areas
247 zoned for industrial manufacturing or equivalent uses or where
248 the system is expected to receive wastewater which is not
249 domestic in nature: a fee of not less than \$150, or more than
250 \$300.

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

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

256 (g)~~(h)~~ Application for variance: a fee of not less than
257 \$150, or more than \$300.

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

261 (i)~~(j)~~ Aerobic treatment unit or performance-based

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262 treatment system maintenance entity permit: a fee of not less
263 than \$25, or more than \$150, per year.

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

268 (k)~~(l)~~ Research: An additional \$5 fee shall be added to
269 each new system construction permit issued to be used to fund
270 onsite sewage treatment and disposal system research,
271 demonstration, and training projects. Five dollars from any
272 repair permit fee collected under this section shall be used for
273 funding the hands-on training centers described in s.
274 381.0065(3)(j).

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

279

280 ~~On or before January 1, 2011, the Surgeon General, after~~
281 ~~consultation with the Revenue Estimating Conference, shall~~
282 ~~determine a revenue neutral fee schedule for services provided~~
283 ~~pursuant to s. 381.0065(5) within the parameters set in~~
284 ~~paragraph (b). Such determination is not subject to the~~
285 ~~provisions of chapter 120. The funds collected pursuant to this~~
286 subsection must be deposited in a trust fund administered by the
287 department, to be used for the purposes stated in this section
288 and ss. 381.0065 and 381.00655.

289 Section 3. Section 381.00656, Florida Statutes, is
290 repealed.

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