

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Economic Affairs Committee
 2 Representative Dorworth offered the following:

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:
 6 Section 1. Subsections (1), (5), (6), and (7) of section
 7 381.0065, Florida Statutes, are amended, paragraphs (b) through
 8 (p) of subsection (2) of that section are redesignated as
 9 paragraphs (c) through (q), respectively, a new paragraph (b) is
 10 added to that subsection, paragraph (j) of subsection (3) and
 11 paragraph (n) of subsection (4) of that section are amended, and
 12 paragraphs (w) through (z) are added to subsection (4) of that
 13 section, to read:

14 381.0065 Onsite sewage treatment and disposal systems;
 15 regulation.—

16 (1) LEGISLATIVE INTENT.—

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

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20 ~~is further the intent of the Legislature that the department~~
21 ~~shall administer an evaluation program to ensure the operational~~
22 ~~condition of the system and identify any failure with the~~
23 ~~system.~~

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

34 (2) DEFINITIONS.—As used in ss. 381.0065–381.0067, the
35 term:

36 (b)1. "Bedroom" means a room that can be used for sleeping
37 and that:

38 a. For site-built dwellings, has a minimum of 70 square
39 feet of conditioned space;

40 b. For manufactured homes, is constructed according to
41 standards of the United States Department of Housing and Urban
42 Development and has a minimum of 50 square feet of floor area;

43 c. Is located along an exterior wall;

44 d. Has a closet and a door or an entrance where a door
45 could be reasonably installed; and

46 e. Has an emergency means of escape and rescue opening to
47 the outside.

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48 2. A room may not be considered a bedroom if it is used to
49 access another room except a bathroom or closet.

50 3. "Bedroom" does not include a hallway, bathroom,
51 kitchen, living room, family room, dining room, den, breakfast
52 nook, pantry, laundry room, sunroom, recreation room,
53 media/video room, or exercise room.

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

56 (j) Supervise research on, demonstration of, and training
57 on the performance, environmental impact, and public health
58 impact of onsite sewage treatment and disposal systems within
59 this state. Research fees collected under s. 381.0066(2)(k)
60 ~~381.0066(2)(l)~~ must be used to develop and fund hands-on
61 training centers designed to provide practical information about
62 onsite sewage treatment and disposal systems to septic tank
63 contractors, master septic tank contractors, contractors,
64 inspectors, engineers, and the public and must also be used to
65 fund research projects which focus on improvements of onsite
66 sewage treatment and disposal systems, including use of
67 performance-based standards and reduction of environmental
68 impact. Research projects shall be initially approved by the
69 technical review and advisory panel and shall be applicable to
70 and reflect the soil conditions specific to Florida. Such
71 projects shall be awarded through competitive negotiation, using
72 the procedures provided in s. 287.055, to public or private
73 entities that have experience in onsite sewage treatment and
74 disposal systems in Florida and that are principally located in
75 Florida. Research projects shall not be awarded to firms or

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76 entities that employ or are associated with persons who serve on
77 either the technical review and advisory panel or the research
78 review and advisory committee.

79 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may
80 not construct, repair, modify, abandon, or operate an onsite
81 sewage treatment and disposal system without first obtaining a
82 permit approved by the department. The department may issue
83 permits to carry out this section, but shall not make the
84 issuance of such permits contingent upon prior approval by the
85 Department of Environmental Protection, except that the issuance
86 of a permit for work seaward of the coastal construction control
87 line established under s. 161.053 shall be contingent upon
88 receipt of any required coastal construction control line permit
89 from the Department of Environmental Protection. A construction
90 permit is valid for 18 months from the issuance date and may be
91 extended by the department for one 90-day period under rules
92 adopted by the department. A repair permit is valid for 90 days
93 from the date of issuance. An operating permit must be obtained
94 prior to the use of any aerobic treatment unit or if the
95 establishment generates commercial waste. Buildings or
96 establishments that use an aerobic treatment unit or generate
97 commercial waste shall be inspected by the department at least
98 annually to assure compliance with the terms of the operating
99 permit. The operating permit for a commercial wastewater system
100 is valid for 1 year from the date of issuance and must be
101 renewed annually. The operating permit for an aerobic treatment
102 unit is valid for 2 years from the date of issuance and must be
103 renewed every 2 years. If all information pertaining to the

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Bill No. HB 999 (2012)

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104 siting, location, and installation conditions or repair of an
105 onsite sewage treatment and disposal system remains the same, a
106 construction or repair permit for the onsite sewage treatment
107 and disposal system may be transferred to another person, if the
108 transferee files, within 60 days after the transfer of
109 ownership, an amended application providing all corrected
110 information and proof of ownership of the property. There is no
111 fee associated with the processing of this supplemental
112 information. A person may not contract to construct, modify,
113 alter, repair, service, abandon, or maintain any portion of an
114 onsite sewage treatment and disposal system without being
115 registered under part III of chapter 489. A property owner who
116 personally performs construction, maintenance, or repairs to a
117 system serving his or her own owner-occupied single-family
118 residence is exempt from registration requirements for
119 performing such construction, maintenance, or repairs on that
120 residence, but is subject to all permitting requirements. A
121 municipality or political subdivision of the state may not issue
122 a building or plumbing permit for any building that requires the
123 use of an onsite sewage treatment and disposal system unless the
124 owner or builder has received a construction permit for such
125 system from the department. A building or structure may not be
126 occupied and a municipality, political subdivision, or any state
127 or federal agency may not authorize occupancy until the
128 department approves the final installation of the onsite sewage
129 treatment and disposal system. A municipality or political
130 subdivision of the state may not approve any change in occupancy
131 or tenancy of a building that uses an onsite sewage treatment

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132 and disposal system until the department has reviewed the use of
133 the system with the proposed change, approved the change, and
134 amended the operating permit.

135 (n) Evaluations for determining the seasonal high-water
136 table elevations or the suitability of soils for the use of a
137 new onsite sewage treatment and disposal system shall be
138 performed by department personnel, professional engineers
139 registered in the state, or such other persons with expertise,
140 as defined by rule, in making such evaluations. Evaluations for
141 determining mean annual flood lines shall be performed by those
142 persons identified in paragraph (2) (j) ~~(2) (i)~~. The department
143 shall accept evaluations submitted by professional engineers and
144 such other persons as meet the expertise established by this
145 section or by rule unless the department has a reasonable
146 scientific basis for questioning the accuracy or completeness of
147 the evaluation.

148 (w) Any permit issued and approved by the department for
149 the installation, modification, or repair of an onsite sewage
150 treatment and disposal system shall transfer with the title to
151 the property in a real estate transaction. A title shall not be
152 encumbered at the time of transfer by new permit requirements by
153 a governmental entity for an onsite sewage treatment and
154 disposal system that differ from the permitting requirements in
155 effect at the time the system was permitted, modified, or
156 repaired. No inspection of a system shall be mandated by any
157 governmental entity at the point of sale in a real estate
158 transaction.

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159 (x)1. An onsite sewage treatment and disposal system is
160 not considered abandoned if the system is disconnected from a
161 structure that was made unusable or destroyed following a
162 disaster and was properly functioning at the time of
163 disconnection and not adversely affected by the disaster. The
164 onsite sewage treatment and disposal system may be reconnected
165 to a rebuilt structure if:

166 a. The reconnection of the system is to the same type and
167 approximate size of structure that existed prior to the
168 disaster;

169 b. The system is not a sanitary nuisance; and

170 c. The system has not been altered without prior
171 authorization.

172 2. An onsite sewage treatment and disposal system that
173 serves a property that is foreclosed upon is not considered
174 abandoned.

175 (y) If an onsite sewage treatment and disposal system
176 permittee receives, relies upon, and undertakes construction of
177 a system based upon a validly issued construction permit under
178 rules applicable at the time of construction but a change to a
179 rule occurs after the approval of the system for construction
180 but before the final approval of the system, the rules
181 applicable and in effect at the time of construction approval
182 apply at the time of final approval if fundamental site
183 conditions have not changed between the time of construction
184 approval and final approval.

185 (z) A modification, replacement, or upgrade of an onsite
186 sewage treatment and disposal system is not required for a

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187 remodeling addition to a single-family home if a bedroom is not
188 added.

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

190 ~~(a) Beginning July 1, 2011, the department shall~~
191 ~~administer an onsite sewage treatment and disposal system~~
192 ~~evaluation program for the purpose of assessing the fundamental~~
193 ~~operational condition of systems and identifying any failures~~
194 ~~within the systems. The department shall adopt rules~~
195 ~~implementing the program standards, procedures, and~~
196 ~~requirements, including, but not limited to, a schedule for a 5-~~
197 ~~year evaluation cycle, requirements for the pump-out of a system~~
198 ~~or repair of a failing system, enforcement procedures for~~
199 ~~failure of a system owner to obtain an evaluation of the system,~~
200 ~~and failure of a contractor to timely submit evaluation results~~
201 ~~to the department and the system owner. The department shall~~
202 ~~ensure statewide implementation of the evaluation and assessment~~
203 ~~program by January 1, 2016.~~

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

209 ~~(c) All evaluation procedures must be documented and~~
210 ~~nothing in this subsection limits the amount of detail an~~
211 ~~evaluator may provide at his or her professional discretion. The~~
212 ~~evaluation must include a tank and drainfield evaluation, a~~
213 ~~written assessment of the condition of the system, and, if~~

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214 ~~necessary, a disclosure statement pursuant to the department's~~
215 ~~procedure.~~

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

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

232 ~~(e) If documentation of a tank pump-out or a permitted new~~
233 ~~installation, repair, or modification of the system within the~~
234 ~~previous 5 years is provided, and states the capacity of the~~
235 ~~tank and indicates that the condition of the tank is not a~~
236 ~~sanitary or public health nuisance pursuant to department rule,~~
237 ~~a pump-out of the system is not required.~~

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

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242 ~~(g) Each evaluation or pump out required under this~~
243 ~~subsection must be performed by a septic tank contractor or~~
244 ~~master septic tank contractor registered under part III of~~
245 ~~chapter 489, a professional engineer with wastewater treatment~~
246 ~~system experience licensed pursuant to chapter 471, or an~~
247 ~~environmental health professional certified under chapter 381 in~~
248 ~~the area of onsite sewage treatment and disposal system~~
249 ~~evaluation.~~

250 ~~(h) The evaluation report fee collected pursuant to s.~~
251 ~~381.0066(2)(b) shall be remitted to the department by the~~
252 ~~evaluator at the time the report is submitted.~~

253 ~~(i) Prior to any evaluation deadline, the department must~~
254 ~~provide a minimum of 60 days' notice to owners that their~~
255 ~~systems must be evaluated by that deadline. The department may~~
256 ~~include a copy of any homeowner educational materials developed~~
257 ~~pursuant to this section which provides information on the~~
258 ~~proper maintenance of onsite sewage treatment and disposal~~
259 ~~systems.~~

260 ~~(5)(6)~~ ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.-

261 (a) Department personnel who have reason to believe
262 noncompliance exists, may at any reasonable time, enter the
263 premises permitted under ss. 381.0065-381.0066, or the business
264 premises of any septic tank contractor or master septic tank
265 contractor registered under part III of chapter 489, or any
266 premises that the department has reason to believe is being
267 operated or maintained not in compliance, to determine
268 compliance with the provisions of this section, part I of
269 chapter 386, or part III of chapter 489 or rules or standards

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270 adopted under ss. 381.0065-381.0067, part I of chapter 386, or
271 part III of chapter 489. As used in this paragraph, the term
272 "premises" does not include a residence or private building. To
273 gain entry to a residence or private building, the department
274 must obtain permission from the owner or occupant or secure an
275 inspection warrant from a court of competent jurisdiction.

276 (b)1. The department may issue citations that may contain
277 an order of correction or an order to pay a fine, or both, for
278 violations of ss. 381.0065-381.0067, part I of chapter 386, or
279 part III of chapter 489 or the rules adopted by the department,
280 when a violation of these sections or rules is enforceable by an
281 administrative or civil remedy, or when a violation of these
282 sections or rules is a misdemeanor of the second degree. A
283 citation issued under ss. 381.0065-381.0067, part I of chapter
284 386, or part III of chapter 489 constitutes a notice of proposed
285 agency action.

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

289 3. The fines imposed by a citation issued by the
290 department may not exceed \$500 for each violation. Each day the
291 violation exists constitutes a separate violation for which a
292 citation may be issued.

293 4. The department shall inform the recipient, by written
294 notice pursuant to ss. 120.569 and 120.57, of the right to an
295 administrative hearing to contest the citation within 21 days
296 after the date the citation is received. The citation must
297 contain a conspicuous statement that if the recipient fails to

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298 pay the fine within the time allowed, or fails to appear to
299 contest the citation after having requested a hearing, the
300 recipient has waived the recipient's right to contest the
301 citation and must pay an amount up to the maximum fine.

302 5. The department may reduce or waive the fine imposed by
303 the citation. In determining whether to reduce or waive the
304 fine, the department must consider the gravity of the violation,
305 the person's attempts at correcting the violation, and the
306 person's history of previous violations including violations for
307 which enforcement actions were taken under ss. 381.0065-
308 381.0067, part I of chapter 386, part III of chapter 489, or
309 other provisions of law or rule.

310 6. Any person who willfully refuses to sign and accept a
311 citation issued by the department commits a misdemeanor of the
312 second degree, punishable as provided in s. 775.082 or s.
313 775.083.

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

318 8. This section provides an alternative means of enforcing
319 ss. 381.0065-381.0067, part I of chapter 386, and part III of
320 chapter 489. This section does not prohibit the department from
321 enforcing ss. 381.0065-381.0067, part I of chapter 386, or part
322 III of chapter 489, or its rules, by any other means. However,
323 the department must elect to use only a single method of
324 enforcement for each violation.

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325 ~~(6)(7) LAND APPLICATION OF SEPTAGE PROHIBITED.—Effective~~
326 ~~January 1, 2016, the land application of septage from onsite~~
327 ~~sewage treatment and disposal systems is prohibited. By February~~
328 ~~1, 2011, the department, in consultation with the Department of~~
329 ~~Environmental Protection, shall provide a report to the~~
330 ~~Governor, the President of the Senate, and the Speaker of the~~
331 ~~House of Representatives, recommending alternative methods to~~
332 ~~establish enhanced treatment levels for the land application of~~
333 ~~septage from onsite sewage and disposal systems. The report~~
334 ~~shall include, but is not limited to, a schedule for the~~
335 ~~reduction in land application, appropriate treatment levels,~~
336 ~~alternative methods for treatment and disposal, enhanced~~
337 ~~application site permitting requirements including any~~
338 ~~requirements for nutrient management plans, and the range of~~
339 ~~costs to local governments, affected businesses, and individuals~~
340 ~~for alternative treatment and disposal methods. The report shall~~
341 ~~also include any recommendations for legislation or rule~~
342 ~~authority needed to reduce land application of septage.~~

343 Section 2. Section 381.00651, Florida Statutes, is created
344 to read:

345 381.00651 Periodic evaluation and assessment of onsite
346 sewage treatment and disposal systems.—

347 (1) For the purposes of this section, the term "first
348 magnitude spring" means a spring that has a median water
349 discharge of greater than or equal to 100 cubic feet per second
350 for the period of record, as determined by the Department of
351 Environmental Protection.

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352 (2)A county or municipality containing a first magnitude
353 spring that has not adopted an onsite sewage treatment and
354 disposal system evaluation and assessment program, or that does
355 not opt out of this section, shall develop and adopt by
356 ordinance a local onsite sewage treatment and disposal system
357 evaluation and assessment program that meets the requirements of
358 this section within all or part of its geographic area. A county
359 or municipality that does not contain a first magnitude spring
360 may develop and adopt by ordinance a local onsite sewage
361 treatment and disposal system evaluation and assessment program
362 that meets the requirements of this section within all or part
363 of its geographic area. By a majority vote of the local
364 governing body, a county or municipality containing a first
365 magnitude spring may opt out of the requirements of this section
366 at any time before January 1, 2013, by adopting a separate
367 resolution. A county or municipality that has adopted such a
368 program before July 1, 2011, may continue to enforce its
369 program, provided such program does not require an evaluation at
370 the point of sale in a real estate transaction. A county or
371 municipality that does not opt out of this section shall notify
372 the Secretary of State by letter of the adoption of the
373 ordinance pursuant to this section. The resolution shall be
374 directed to and filed with the Secretary of State and shall
375 state the intent of the county or municipality not to adopt an
376 onsite sewage treatment and disposal system evaluation and
377 assessment program. Absent an interlocal agreement or county
378 charter provision to the contrary, a municipality may elect to
379 opt out of the requirements of this section notwithstanding the

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380 decision of the governing body of the county in which the
381 municipality is located. A county or municipality may
382 subsequently adopt an ordinance imposing an onsite sewage
383 treatment and disposal system evaluation and assessment program
384 if the program meets the requirements of this section. A county
385 or municipality may repeal an ordinance adopted pursuant to this
386 section if the county or municipality notifies the Secretary of
387 State by letter of the repeal. No county or municipality may
388 adopt an onsite sewer treatment and disposal system evaluation
389 and assessment program except pursuant to this section and shall
390 provide for the following:

391 (a) Evaluations.—An evaluation of each onsite sewage
392 treatment and disposal system within all or part of the county's
393 or municipality's jurisdiction must take place once every 5
394 years to assess the fundamental operational condition of the
395 system and to identify system failures. The ordinance may not
396 mandate an evaluation at the point of sale in a real estate
397 transaction and may not require a soil examination. The location
398 of the system shall be identified. A tank and drainfield
399 evaluation and a written assessment of the overall condition of
400 the system pursuant to the assessment procedure prescribed in
401 paragraph (2) (d) are required.

402 (b) Qualified contractors.—Each evaluation required under
403 this subsection must be performed by a qualified contractor, who
404 may be a septic tank contractor or master septic tank contractor
405 registered under part III of chapter 489, a professional
406 engineer having wastewater treatment system experience and
407 licensed under chapter 471, or an environmental health

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408 professional certified under this chapter in the area of onsite
409 sewage treatment and disposal system evaluation. Evaluations and
410 pump-outs may also be performed by an authorized employee
411 working under the supervision of an individual listed in this
412 paragraph; however, all evaluation forms must be signed by a
413 qualified contractor in writing or by electronic signature.

414 (c) Repair of systems.—The local ordinance may not require
415 a repair, modification, or replacement of a system as a result
416 of an evaluation unless the evaluation identifies a system
417 failure. For purposes of this subsection, the term "system
418 failure" means a condition existing within an onsite sewage
419 treatment and disposal system that results in the discharge of
420 untreated or partially treated wastewater onto the ground
421 surface or into surface water or that results in the failure of
422 building plumbing to discharge properly and presents a sanitary
423 nuisance. A system is not in failure if the system does not have
424 a minimum separation distance between the drainfield and the
425 wettest season water table or if an obstruction in a sanitary
426 line or an effluent screen or filter prevents effluent from
427 flowing into a drainfield. If a system failure is identified and
428 several allowable remedial measures are available to resolve the
429 failure, the system owner may choose the least costly allowable
430 remedial measure to fix the system. There may be instances in
431 which a pump-out is sufficient to resolve a system failure.
432 Allowable remedial measures to resolve a system failure are
433 limited to what is necessary to resolve the failure and must
434 meet, to the maximum extent practicable, the requirements of the
435 repair code in effect when the repair is made, subject to the

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436 exceptions specified in s. 381.0065(4)(g). An engineer-designed
437 performance-based treatment system to reduce nutrients may not
438 be required as an alternative remediation measure to resolve the
439 failure of a conventional system.

440 (d) Exemptions:

441 1.The local ordinance shall exempt from the evaluation
442 requirements any system that is required to obtain an operating
443 permit pursuant to state law or that is inspected by the
444 department pursuant to the annual permit inspection requirements
445 of chapter 513.

446 2. The local ordinance may provide for an exemption or an
447 extension of time to obtain an evaluation and assessment if
448 connection to a sewer system is available, connection to the
449 sewer system is imminent, and written arrangements for payment
450 of any utility assessments or connection fees have been made by
451 the system owner.

452 3. A septic tank system serving residential dwelling units
453 on lots with a ratio of one bedroom per acre or greater is
454 exempt from the requirements of this section and may not be
455 included in any septic tank inspection program.

456 (2) The following procedures shall be used for conducting
457 evaluations:

458 (a) Tank evaluation.—The tank evaluation shall assess the
459 apparent structural condition and watertightness of the tank and
460 shall estimate the size of the tank. The evaluation must include
461 a pump-out. However, an ordinance may not require a pump-out if
462 there is documentation indicating that a tank pump-out or a
463 permitted new installation, repair, or modification of the

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464 system has occurred within the previous 5 years, identifying the
465 capacity of the tank, and indicating that the condition of the
466 tank is structurally sound and watertight. Visual inspection of
467 the tank must be made when the tank is empty to detect cracks,
468 leaks, or other defects. Baffles or tees must be checked to
469 ensure that they are intact and secure. The evaluation shall
470 note the presence and condition of outlet devices, effluent
471 filters, and compartment walls; any structural defect in the
472 tank; the condition and fit of the tank lid, including manholes;
473 whether surface water can infiltrate the tank; and whether the
474 tank was pumped out. If the tank, in the opinion of the
475 qualified contractor, is in danger of being damaged by leaving
476 the tank empty after inspection, the tank shall be refilled
477 before concluding the inspection. Broken or damaged lids or
478 manholes shall be replaced without obtaining a repair permit.

479 (b) Drainfield evaluation.—The drainfield evaluation must
480 include a determination of the approximate size and location of
481 the drainfield. The evaluation shall state whether there is any
482 sewage or effluent visible on the ground or discharging to a
483 ditch or other water body and the location of any downspout or
484 other source of water near or in the vicinity of the drainfield.

485 (c) Special circumstances.—If the system contains pumps,
486 siphons, or alarms, the following information may be provided at
487 the request of the homeowner:

488 1. An assessment of dosing tank integrity, including the
489 approximate volume and the type of material used in the tank's
490 construction;

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

493 3. Whether the system has a check valve and purge hole;
494 and

495 4. Whether the system has a high-water alarm, and if so
496 whether the alarm is audio or visual or both, the location and
497 operational condition of the alarm, and whether the electrical
498 connections to the alarm appear satisfactory.

499 5. If the homeowner does not request this information,
500 the qualified contractor and its employee shall not be liable
501 for any damages directly relating from a failure of the system's
502 pumps, siphons, or alarms. This exclusion of liability shall be
503 stated on the front cover of the report required under paragraph
504 (d).

505 (d) Assessment procedure.—All evaluation procedures used
506 by a qualified contractor shall be documented in the
507 Environmental Health Database. The qualified contractor shall
508 provide a copy of a written, signed evaluation report to the
509 property owner upon completion of the evaluation and to the
510 county health department within 30 days after the evaluation.
511 The report shall contain the name and license number of the
512 company providing the report. A copy of the evaluation report
513 shall be retained by the local county health department for a
514 minimum of 5 years and until a subsequent inspection report is
515 filed. The front cover of the report must identify any system
516 failure and include a clear and conspicuous notice to the owner
517 that the owner has a right to have any remediation of the
518 failure performed by a qualified contractor other than the

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519 contractor performing the evaluation. The report must further
520 identify any crack, leak, improper fit, or other defect in the
521 tank, manhole, or lid, and any other damaged or missing
522 component; any sewage or effluent visible on the ground or
523 discharging to a ditch or other surface water body; any
524 downspout, stormwater, or other source of water directed onto or
525 toward the system; and any other maintenance need or condition
526 of the system at the time of the evaluation that, in the opinion
527 of the qualified contractor, would possibly interfere with or
528 restrict any future repair or modification to the existing
529 system. The report shall conclude with an overall assessment of
530 the fundamental operational condition of the system.

531 (3) The county health department shall administer any
532 evaluation program on behalf of a county, or a municipality
533 within the county, that has adopted an evaluation program
534 pursuant to this section. In order to administer the evaluation
535 program, the county or municipality, in consultation with the
536 county health department, may develop a reasonable fee schedule
537 to be used solely to pay for the costs of administering the
538 evaluation program. Such a fee schedule shall be identified in
539 the ordinance that adopts the evaluation program. When arriving
540 at a reasonable fee schedule, the estimated annual revenues to
541 be derived from fees may not exceed reasonable estimated annual
542 costs of the program. Fees shall be assessed to the system owner
543 during an inspection and separately identified on the invoice of
544 the qualified contractor. Fees shall be remitted by the
545 qualified contractor to the county health department. The county

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546 health department's administrative responsibilities include the
547 following:

548 (a) Providing a notice to the system owner at least 60
549 days before the system is due for an evaluation. The notice may
550 include information on the proper maintenance of onsite sewage
551 treatment and disposal systems.

552 (b) In consultation with the Department of Health,
553 providing uniform disciplinary procedures and penalties for
554 qualified contractors who do not comply with the requirements of
555 the adopted ordinance, including, but not limited to, failure to
556 provide the evaluation report as required in this subsection to
557 the system owner and the county health department. Only the
558 county health department may assess penalties against system
559 owners for failure to comply with the adopted ordinance,
560 consistent with existing requirements of law.

561 (4) (a) A county or municipality that adopts an onsite
562 sewage treatment and disposal system evaluation and assessment
563 program pursuant to this section shall notify the Secretary of
564 Environmental Protection, the Department of Health, and the
565 applicable county health department upon the adoption of its
566 ordinance establishing the program.

567 (b) Upon receipt of the notice under paragraph (a), the
568 Department of Environmental Protection shall, within existing
569 resources, notify the county or municipality of the potential
570 use of, and access to, program funds under the Clean Water State
571 Revolving Fund or s. 319 of the Clean Water Act, provide
572 guidance in the application process to receive such moneys, and
573 provide advice and technical assistance to the county or

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574 municipality on how to establish a low-interest revolving loan
575 program or how to model a revolving loan program after the low-
576 interest loan program of the Clean Water State Revolving Fund.
577 This paragraph does not obligate the Department of Environmental
578 Protection to provide any county or municipality with money to
579 fund such programs.

580 (c) The Department of Health may not adopt any rule that
581 alters the provisions of this section.

582 (d) The Department of Health must provide access to the
583 Environmental Health Database to county Health Departments and
584 qualified contractors for use in the requirement of this section
585 for the assimilation of data to track relevant information
586 resulting from an assessment and evaluation of the overall
587 condition of onsite sewage treatment and disposal systems. The
588 Environmental Health Database shall be used by contractors to
589 report all service and evaluation events and by the county
590 health department to notify owners of onsite sewage treatment
591 and disposal systems when evaluations are due. Data and
592 information shall be recorded and updated as service and
593 evaluations are conducted and reported.

594 (5) This section does not:

595 (a) Derogate or limit county and municipal home rule
596 authority to act outside the scope of the evaluation and
597 assessment program set forth in this section.

598 (b) Repeal or affect any other law relating to the subject
599 matter of this section.

600 (c) Prohibit a county or municipality that has adopted an
601 evaluation and assessment program pursuant to this section from:

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602 1. Enforcing existing ordinances or adopting new
603 ordinances relating to onsite sewage treatment facilities to
604 address public health and safety if such ordinances do not
605 repeal, suspend, or alter the requirements or limitations of
606 this section.

607 2. Adopting local environmental and pollution abatement
608 measures for water quality improvement as provided for by law if
609 such measures do not repeal, suspend, or alter the requirements
610 or limitations of this section.

611 3. Exercising its independent and existing authority to
612 use and meet the requirements of s. 381.00655.

613 Section 3. Section 381.00656, Florida Statutes, is
614 repealed.

615 Section 4. Subsection (2) of section 381.0066, Florida
616 Statutes, is amended to read:

617 381.0066 Onsite sewage treatment and disposal systems;
618 fees.—

619 (2) The minimum fees in the following fee schedule apply
620 until changed by rule by the department within the following
621 limits:

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

626 ~~(b) A 5-year evaluation report submitted pursuant to s.~~
627 ~~381.0065(5): a fee not less than \$15, or more than \$30. At least~~
628 ~~\$1 and no more than \$5 collected pursuant to this paragraph~~

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629 ~~shall be used to fund a grant program established under s.~~
630 ~~381.00656.~~

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

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

637 (d)~~(e)~~ Annual operating permit for systems located in
638 areas zoned for industrial manufacturing or equivalent uses or
639 where the system is expected to receive wastewater which is not
640 domestic in nature: a fee of not less than \$150, or more than
641 \$300.

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

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

647 (g)~~(h)~~ Application for variance: a fee of not less than
648 \$150, or more than \$300.

649 (h)~~(i)~~ Annual operating permit for waterless,
650 incinerating, or organic waste composting toilets: a fee of not
651 less than \$15 ~~\$50~~, or more than \$30 ~~\$150~~.

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

655 (j)~~(k)~~ Reinspection fee per visit for site inspection
656 after system construction approval or for noncompliant system

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657 installation per site visit: a fee of not less than \$25, or more
658 than \$100.

659 ~~(k)~~~~(l)~~ Research: An additional \$5 fee shall be added to
660 each new system construction permit issued to be used to fund
661 onsite sewage treatment and disposal system research,
662 demonstration, and training projects. Five dollars from any
663 repair permit fee collected under this section shall be used for
664 funding the hands-on training centers described in s.
665 381.0065(3)(j).

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

670
671 ~~On or before January 1, 2011, the Surgeon General, after~~
672 ~~consultation with the Revenue Estimating Conference, shall~~
673 ~~determine a revenue neutral fee schedule for services provided~~
674 ~~pursuant to s. 381.0065(5) within the parameters set in~~
675 ~~paragraph (b). Such determination is not subject to the~~
676 ~~provisions of chapter 120.~~ The funds collected pursuant to this
677 subsection must be deposited in a trust fund administered by the
678 department, to be used for the purposes stated in this section
679 and ss. 381.0065 and 381.00655.

680 Section 5. This act shall take effect upon becoming a law
681
682

683 -----

684 **T I T L E A M E N D M E N T**

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685 Remove the entire title and insert:
686 An act relating to onsite sewage treatment and disposal systems;
687 amending s. 381.0065, F.S.; deleting legislative intent;
688 defining the term "bedroom"; conforming cross-references;
689 providing for any permit issued and approved by the Department
690 of Health for the installation, modification, or repair of an
691 onsite sewage treatment and disposal system to transfer with the
692 title of the property; providing circumstances in which an
693 onsite sewage treatment and disposal system is not considered
694 abandoned; providing for the validity of an onsite sewage
695 treatment and disposal system permit if rules change before
696 final approval of the constructed system; providing that a
697 system modification, replacement, or upgrade is not required
698 unless a bedroom is added to a single-family home; deleting
699 provisions requiring the department to administer an evaluation
700 and assessment program of onsite sewage treatment and disposal
701 systems and requiring property owners to have such systems
702 evaluated at least once every 5 years; deleting obsolete
703 provisions; creating s. 381.00651, F.S.; requiring a county or
704 municipality containing a first magnitude spring to adopt by
705 ordinance, under certain circumstances, the program for the
706 periodic evaluation and assessment of onsite sewage treatment
707 and disposal systems; requiring the county or municipality to
708 notify the Secretary of State of the ordinance; authorizing a
709 county or municipality, in specified circumstances, to opt out
710 of certain requirements by a specified date; authorizing a
711 county or municipality to adopt or repeal, after a specified
712 date, an ordinance creating an evaluation and assessment

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713 program; subject to notification of the Secretary of State;
714 providing criteria for evaluations, qualified contractors,
715 repair of systems; providing for certain procedures and
716 exemptions in special circumstances; defining the term "system
717 failure"; requiring that certain procedures be used for
718 conducting tank and drainfield evaluations; providing for
719 certain procedures in special circumstances; providing for
720 assessment procedures; providing requirements for county health
721 departments; requiring the county or municipality to develop a
722 system for tracking the evaluations; providing criteria;
723 requiring counties and municipalities to notify the Secretary of
724 Environmental Protection and the Department of Health that an
725 evaluation program ordinance is adopted; requiring the
726 Department of Environmental Protection to notify those counties
727 or municipalities of the use of, and access to, certain state
728 and federal program funds and to provide certain guidance and
729 technical assistance upon request; prohibiting the adoption of
730 certain rules by the Department of Health; providing
731 applicability; repealing s. 381.00656, F.S., relating to a grant
732 program for the repair of onsite sewage treatment and disposal
733 systems; amending s. 381.0066, F.S.; lowering the fees imposed
734 by the department for certain permits; conforming cross-
735 references; providing an effective date.