

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER

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

3  
4 **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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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 may 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 which 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. A governmental entity may not require an engineer-  
159 designed performance-based system after January 31, 2012.

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

167 a. The reconnection of the system is to the same type of  
168 structure which contains the same number of bedrooms or less,  
169 provided the square footage of the structure is less than or  
170 equal to 110 percent of the original square footage of the  
171 structure that existed prior to the disaster;

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

173 c. The system has not been altered without prior  
174 authorization.

175 2. An onsite sewage treatment and disposal system that  
176 serves a property that is foreclosed upon is not considered  
177 abandoned.

178 (y) If an onsite sewage treatment and disposal system  
179 permittee receives, relies upon, and undertakes construction of  
180 a system based upon a validly issued construction permit under  
181 rules applicable at the time of construction but a change to a  
182 rule occurs within 5 years after the approval of the system for  
183 construction but before the final approval of the system, the  
184 rules applicable and in effect at the time of construction  
185 approval apply at the time of final approval if fundamental site  
186 conditions have not changed between the time of construction  
187 approval and final approval.

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188 (z) A modification, replacement, or upgrade of an onsite  
189 sewage treatment and disposal system is not required for a  
190 remodeling addition to a single-family home if a bedroom is not  
191 added.

192 ~~(5) EVALUATION AND ASSESSMENT.~~

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

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

212 ~~(c) All evaluation procedures must be documented and~~  
213 ~~nothing in this subsection limits the amount of detail an~~  
214 ~~evaluator may provide at his or her professional discretion. The~~  
215 ~~evaluation must include a tank and drainfield evaluation, a~~



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216 ~~written assessment of the condition of the system, and, if~~  
217 ~~necessary, a disclosure statement pursuant to the department's~~  
218 ~~procedure.~~

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

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

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

241 ~~(f) Owners are responsible for paying the cost of any~~  
242 ~~required pump out, repair, or replacement pursuant to department~~

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243 ~~rule, and may not request partial evaluation or the omission of~~  
244 ~~portions of the evaluation.~~

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

253 ~~(h) The evaluation report fee collected pursuant to s.~~  
254 ~~381.0066(2)(b) shall be remitted to the department by the~~  
255 ~~evaluator at the time the report is submitted.~~

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

263 ~~(5)(6) ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.-~~

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

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

279 (b)1. The department may issue citations that may contain  
280 an order of correction or an order to pay a fine, or both, for  
281 violations of ss. 381.0065-381.0067, part I of chapter 386, or  
282 part III of chapter 489 or the rules adopted by the department,  
283 when a violation of these sections or rules is enforceable by an  
284 administrative or civil remedy, or when a violation of these  
285 sections or rules is a misdemeanor of the second degree. A  
286 citation issued under ss. 381.0065-381.0067, part I of chapter  
287 386, or part III of chapter 489 constitutes a notice of proposed  
288 agency action.

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

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

296 4. The department shall inform the recipient, by written  
297 notice pursuant to ss. 120.569 and 120.57, of the right to an  
298 administrative hearing to contest the citation within 21 days

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299 after the date the citation is received. The citation must  
300 contain a conspicuous statement that if the recipient fails to  
301 pay the fine within the time allowed, or fails to appear to  
302 contest the citation after having requested a hearing, the  
303 recipient has waived the recipient's right to contest the  
304 citation and must pay an amount up to the maximum fine.

305 5. The department may reduce or waive the fine imposed by  
306 the citation. In determining whether to reduce or waive the  
307 fine, the department must consider the gravity of the violation,  
308 the person's attempts at correcting the violation, and the  
309 person's history of previous violations including violations for  
310 which enforcement actions were taken under ss. 381.0065-  
311 381.0067, part I of chapter 386, part III of chapter 489, or  
312 other provisions of law or rule.

313 6. Any person who willfully refuses to sign and accept a  
314 citation issued by the department commits a misdemeanor of the  
315 second degree, punishable as provided in s. 775.082 or s.  
316 775.083.

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

321 8. This section provides an alternative means of enforcing  
322 ss. 381.0065-381.0067, part I of chapter 386, and part III of  
323 chapter 489. This section does not prohibit the department from  
324 enforcing ss. 381.0065-381.0067, part I of chapter 386, or part  
325 III of chapter 489, or its rules, by any other means. However,

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

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

346 Section 2. Section 381.00651, Florida Statutes, is created  
347 to read:

348 381.00651 Periodic evaluation and assessment of onsite  
349 sewage treatment and disposal systems.—

350 (1) For the purposes of this section, the term "first  
351 magnitude spring" means a spring that has a median water  
352 discharge of greater than or equal to 100 cubic feet per second

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353 for the period of record, as determined by the Department of  
354 Environmental Protection.

355 (2) A county or municipality that contains a first  
356 magnitude spring shall, by no later than January 1, 2013,  
357 develop and adopt by local ordinance an onsite sewage treatment  
358 and disposal system evaluation and assessment program that meets  
359 the requirements of this section. The ordinance may apply within  
360 all or part of its geographic area. Those counties or  
361 municipalities containing a first magnitude spring which have  
362 already adopted an onsite sewage treatment and disposal system  
363 evaluation and assessment program and which meet the  
364 grandfathering requirements contained in this section, or have  
365 chosen to opt out of this section in the manner provided herein,  
366 are exempt from the requirement to adopt an ordinance  
367 implementing an evaluation and assessment program. The governing  
368 body of a local government that chooses to opt out of this  
369 section, by a majority plus one vote of the members of the  
370 governing board, shall do so by adopting a resolution that  
371 indicates an intent on the part of such local government not to  
372 adopt an onsite sewage treatment and disposal system evaluation  
373 and assessment program. Such resolution shall be addressed and  
374 transmitted to the Secretary of State. Absent an interlocal  
375 agreement or county charter provision to the contrary, a  
376 municipality may elect to opt out of the requirements of this  
377 section, by a majority plus one vote of the members of the  
378 governing board, notwithstanding a contrary decision of the  
379 governing body of a county. Any local government that has  
380 properly opted out of this section but subsequently chooses to

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381 adopt an evaluation and assessment program may do so only  
382 pursuant to the requirements of this section and may not deviate  
383 from such requirements.

384 (3) Any county or municipality that does not contain a  
385 first magnitude spring may at any time develop and adopt by  
386 local ordinance an onsite sewage treatment and disposal system  
387 evaluation and assessment program, provided such program meets  
388 and does not deviate from the requirements of this section.

389 (4) Notwithstanding any other provision in this section, a  
390 county or municipality that has adopted a program before July 1,  
391 2011, may continue to enforce its current program without having  
392 to meet the requirements of this section, provided such program  
393 does not require an evaluation at the point of sale in a real  
394 estate transaction.

395 (5) Any county or municipality may repeal an ordinance  
396 adopted pursuant to this section only if the county or  
397 municipality notifies the Secretary of State by letter of the  
398 repeal. No county or municipality may adopt an onsite sewage  
399 treatment and disposal system evaluation and assessment program  
400 except pursuant to this section.

401 (6) The requirements for an onsite sewage treatment and  
402 disposal system evaluation and assessment program are as  
403 follows:

404 (a) Evaluations.—An evaluation of each onsite sewage  
405 treatment and disposal system within all or part of the county's  
406 or municipality's jurisdiction must take place once every 5  
407 years to assess the fundamental operational condition of the  
408 system and to identify system failures. The ordinance may not

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409 mandate an evaluation at the point of sale in a real estate  
410 transaction and may not require a soil examination. The location  
411 of the system shall be identified. A tank and drainfield  
412 evaluation and a written assessment of the overall condition of  
413 the system pursuant to the assessment procedure prescribed in  
414 subsection (7) are required.

415 (b) Qualified contractors.—Each evaluation required under  
416 this subsection must be performed by a qualified contractor, who  
417 may be a septic tank contractor or master septic tank contractor  
418 registered under part III of chapter 489, a professional  
419 engineer having wastewater treatment system experience and  
420 licensed under chapter 471, or an environmental health  
421 professional certified under this chapter in the area of onsite  
422 sewage treatment and disposal system evaluation. Evaluations and  
423 pump-outs may also be performed by an authorized employee  
424 working under the supervision of an individual listed in this  
425 paragraph; however, all evaluation forms must be signed by a  
426 qualified contractor in writing or by electronic signature.

427 (c) Repair of systems.—The local ordinance may not require  
428 a repair, modification, or replacement of a system as a result  
429 of an evaluation unless the evaluation identifies a system  
430 failure. For purposes of this subsection, the term "system  
431 failure" means a condition existing within an onsite sewage  
432 treatment and disposal system which results in the discharge of  
433 untreated or partially treated wastewater onto the ground  
434 surface or into surface water or that results in the failure of  
435 building plumbing to discharge properly and presents a sanitary  
436 nuisance. A system is not in failure if the system does not have



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437 a minimum separation distance between the drainfield and the  
438 wettest season water table or if an obstruction in a sanitary  
439 line or an effluent screen or filter prevents effluent from  
440 flowing into a drainfield. If a system failure is identified and  
441 several allowable remedial measures are available to resolve the  
442 failure, the system owner may choose the least costly allowable  
443 remedial measure to fix the system. There may be instances in  
444 which a pump-out is sufficient to resolve a system failure.  
445 Allowable remedial measures to resolve a system failure are  
446 limited to what is necessary to resolve the failure and must  
447 meet, to the maximum extent practicable, the requirements of the  
448 repair code in effect when the repair is made, subject to the  
449 exceptions specified in s. 381.0065(4)(g). An engineer-designed  
450 performance-based treatment system to reduce nutrients may not  
451 be required as an alternative remediation measure to resolve the  
452 failure of a conventional system.

453 (d) Exemptions.-

454 1. The local ordinance shall exempt from the evaluation  
455 requirements any system that is required to obtain an operating  
456 permit pursuant to state law or that is inspected by the  
457 department pursuant to the annual permit inspection requirements  
458 of chapter 513.

459 2. The local ordinance may provide for an exemption or an  
460 extension of time to obtain an evaluation and assessment if  
461 connection to a sewer system is available, connection to the  
462 sewer system is imminent, and written arrangements for payment  
463 of any utility assessments or connection fees have been made by  
464 the system owner.

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465 3. An onsite sewage treatment and disposal system serving  
466 a residential dwelling unit on a lot with a ratio of one bedroom  
467 per acre or greater is exempt from the requirements of this  
468 section and may not be included in any onsite sewage treatment  
469 and disposal system inspection program.

470 (7) The following procedures shall be used for conducting  
471 evaluations:

472 (a) Tank evaluation.—The tank evaluation shall assess the  
473 apparent structural condition and watertightness of the tank and  
474 shall estimate the size of the tank. The evaluation must include  
475 a pump-out. However, an ordinance may not require a pump-out if  
476 there is documentation indicating that a tank pump-out or a  
477 permitted new installation, repair, or modification of the  
478 system has occurred within the previous 5 years, identifying the  
479 capacity of the tank, and indicating that the condition of the  
480 tank is structurally sound and watertight. Visual inspection of  
481 the tank must be made when the tank is empty to detect cracks,  
482 leaks, or other defects. Baffles or tees must be checked to  
483 ensure that they are intact and secure. The evaluation shall  
484 note the presence and condition of outlet devices, effluent  
485 filters, and compartment walls; any structural defect in the  
486 tank; the condition and fit of the tank lid, including manholes;  
487 whether surface water can infiltrate the tank; and whether the  
488 tank was pumped out. If the tank, in the opinion of the  
489 qualified contractor, is in danger of being damaged by leaving  
490 the tank empty after inspection, the tank shall be refilled  
491 before concluding the inspection. Broken or damaged lids or  
492 manholes shall be replaced without obtaining a repair permit.

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493 (b) Drainfield evaluation.-The drainfield evaluation must  
494 include a determination of the approximate size and location of  
495 the drainfield. The evaluation shall state whether there is any  
496 sewage or effluent visible on the ground or discharging to a  
497 ditch or other water body and the location of any downspout or  
498 other source of water near or in the vicinity of the drainfield.

499 (c) Special circumstances.-If the system contains pumps,  
500 siphons, or alarms, the following information may be provided at  
501 the request of the homeowner:

502 1. An assessment of dosing tank integrity, including the  
503 approximate volume and the type of material used in the tank's  
504 construction;

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

507 3. Whether the system has a check valve and purge hole;  
508 and

509 4. Whether the system has a high-water alarm, and if so  
510 whether the alarm is audio or visual or both, the location and  
511 operational condition of the alarm, and whether the electrical  
512 connections to the alarm appear satisfactory.

513  
514 If the homeowner does not request this information, the  
515 qualified contractor and its employee are not liable for any  
516 damages directly relating from a failure of the system's pumps,  
517 siphons, or alarms. This exclusion of liability must be stated  
518 on the front cover of the report required under paragraph (d).

519 (d) Assessment procedure.-All evaluation procedures used  
520 by a qualified contractor shall be documented in the

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521 environmental health database of the Department of Health. The  
522 qualified contractor shall provide a copy of a written, signed  
523 evaluation report to the property owner upon completion of the  
524 evaluation and to the county health department within 30 days  
525 after the evaluation. The report shall contain the name and  
526 license number of the company providing the report. A copy of  
527 the evaluation report shall be retained by the local county  
528 health department for a minimum of 5 years and until a  
529 subsequent inspection report is filed. The front cover of the  
530 report must identify any system failure and include a clear and  
531 conspicuous notice to the owner that the owner has a right to  
532 have any remediation of the failure performed by a qualified  
533 contractor other than the contractor performing the evaluation.  
534 The report must further identify any crack, leak, improper fit,  
535 or other defect in the tank, manhole, or lid, and any other  
536 damaged or missing component; any sewage or effluent visible on  
537 the ground or discharging to a ditch or other surface water  
538 body; any downspout, stormwater, or other source of water  
539 directed onto or toward the system; and any other maintenance  
540 need or condition of the system at the time of the evaluation  
541 which, in the opinion of the qualified contractor, would  
542 possibly interfere with or restrict any future repair or  
543 modification to the existing system. The report shall conclude  
544 with an overall assessment of the fundamental operational  
545 condition of the system.

546 (8) The county health department shall administer any  
547 evaluation program on behalf of a county, or a municipality  
548 within the county, that has adopted an evaluation program

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549 pursuant to this section. In order to administer the evaluation  
550 program, the county or municipality, in consultation with the  
551 county health department, may develop a reasonable fee schedule  
552 to be used solely to pay for the costs of administering the  
553 evaluation program. Such a fee schedule shall be identified in  
554 the ordinance that adopts the evaluation program. When arriving  
555 at a reasonable fee schedule, the estimated annual revenues to  
556 be derived from fees may not exceed reasonable estimated annual  
557 costs of the program. Fees shall be assessed to the system owner  
558 during an inspection and separately identified on the invoice of  
559 the qualified contractor. Fees shall be remitted by the  
560 qualified contractor to the county health department. The county  
561 health department's administrative responsibilities include the  
562 following:

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

567 (b) In consultation with the Department of Health,  
568 providing uniform disciplinary procedures and penalties for  
569 qualified contractors who do not comply with the requirements of  
570 the adopted ordinance, including, but not limited to, failure to  
571 provide the evaluation report as required in this subsection to  
572 the system owner and the county health department. Only the  
573 county health department may assess penalties against system  
574 owners for failure to comply with the adopted ordinance,  
575 consistent with existing requirements of law.

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576 (9) (a) A county or municipality that adopts an onsite  
577 sewage treatment and disposal system evaluation and assessment  
578 program pursuant to this section shall notify the Secretary of  
579 Environmental Protection, the Department of Health, and the  
580 applicable county health department upon the adoption of its  
581 ordinance establishing the program.

582 (b) Upon receipt of the notice under paragraph (a), the  
583 Department of Environmental Protection shall, within existing  
584 resources, notify the county or municipality of the potential  
585 use of, and access to, program funds under the Clean Water State  
586 Revolving Fund or s. 319 of the Clean Water Act, provide  
587 guidance in the application process to receive such moneys, and  
588 provide advice and technical assistance to the county or  
589 municipality on how to establish a low-interest revolving loan  
590 program or how to model a revolving loan program after the low-  
591 interest loan program of the Clean Water State Revolving Fund.  
592 This paragraph does not obligate the Department of Environmental  
593 Protection to provide any county or municipality with money to  
594 fund such programs.

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

597 (d) The Department of Health must allow county health  
598 departments and qualified contractors access to the  
599 environmental health database to track relevant information and  
600 assimilate data from assessment and evaluation reports of the  
601 overall condition of onsite sewage treatment and disposal  
602 systems. The environmental health database must be used by  
603 contractors to report each service and evaluation event and by a

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604 county health department to notify owners of onsite sewage  
605 treatment and disposal systems when evaluations are due. Data  
606 and information must be recorded and updated as service and  
607 evaluations are conducted and reported.

608 (10) This section does not:

609 (a) Limit county and municipal home rule authority to act  
610 outside the scope of the evaluation and assessment program set  
611 forth in this section;

612 (b) Repeal or affect any other law relating to the subject  
613 matter of onsite sewage treatment and disposal systems; or

614 (c) Prohibit a county or municipality from:

615 1. Enforcing existing ordinances or adopting new  
616 ordinances relating to onsite sewage treatment facilities to  
617 address public health and safety if such ordinances do not  
618 repeal, suspend, or alter the requirements or limitations of  
619 this section.

620 2. Adopting local environmental and pollution abatement  
621 ordinances for water quality improvement as provided for by law  
622 if such ordinances do not repeal, suspend, or alter the  
623 requirements or limitations of this section.

624 3. Exercising its independent and existing authority to  
625 meet the requirements of s. 381.0065.

626 Section 3. Section 381.00656, Florida Statutes, is  
627 repealed.

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

630 381.0066 Onsite sewage treatment and disposal systems;  
631 fees.—

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632 (2) The minimum fees in the following fee schedule apply  
633 until changed by rule by the department within the following  
634 limits:

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

639 ~~(b) A 5-year evaluation report submitted pursuant to s.~~  
640 ~~381.0065(5): a fee not less than \$15, or more than \$30. At least~~  
641 ~~\$1 and no more than \$5 collected pursuant to this paragraph~~  
642 ~~shall be used to fund a grant program established under s.~~  
643 ~~381.00656.~~

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

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

650 (d)~~(e)~~ Annual operating permit for systems located in  
651 areas zoned for industrial manufacturing or equivalent uses or  
652 where the system is expected to receive wastewater which is not  
653 domestic in nature: a fee of not less than \$150, or more than  
654 \$300.

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

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



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660 ~~(g)-(h)~~ Application for variance: a fee of not less than  
661 \$150, or more than \$300.

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

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

668 ~~(j)-(k)~~ Reinspection fee per visit for site inspection  
669 after system construction approval or for noncompliant system  
670 installation per site visit: a fee of not less than \$25, or more  
671 than \$100.

672 ~~(k)-(l)~~ Research: An additional \$5 fee shall be added to  
673 each new system construction permit issued to be used to fund  
674 onsite sewage treatment and disposal system research,  
675 demonstration, and training projects. Five dollars from any  
676 repair permit fee collected under this section shall be used for  
677 funding the hands-on training centers described in s.  
678 381.0065(3)(j).

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

683  
684 ~~On or before January 1, 2011, the Surgeon General, after~~  
685 ~~consultation with the Revenue Estimating Conference, shall~~  
686 ~~determine a revenue neutral fee schedule for services provided~~  
687 ~~pursuant to s. 381.0065(5) within the parameters set in~~

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688 ~~paragraph (b). Such determination is not subject to the~~  
689 ~~provisions of chapter 120.~~ The funds collected pursuant to this  
690 subsection must be deposited in a trust fund administered by the  
691 department, to be used for the purposes stated in this section  
692 and ss. 381.0065 and 381.00655.

693 Section 5. This act shall take effect upon becoming a law.

694

695

696 -----

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

698 Remove the entire title and insert:

699 A bill to be entitled

700 An act relating to onsite sewage treatment and  
701 disposal systems; amending s. 381.0065, F.S.; deleting  
702 legislative intent; defining the term "bedroom";  
703 conforming cross-references; providing for any permit  
704 issued and approved by the Department of Health for  
705 the installation, modification, or repair of an onsite  
706 sewage treatment and disposal system to transfer with  
707 the title of the property; providing circumstances in  
708 which an onsite sewage treatment and disposal system  
709 is not considered abandoned; providing for the  
710 validity of an onsite sewage treatment and disposal  
711 system permit if rules change before final approval of  
712 the constructed system, under certain conditions;  
713 providing that a system modification, replacement, or  
714 upgrade is not required unless a bedroom is added to a  
715 single-family home; prohibiting governmental entities

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716 from requiring certain systems after a specified date;  
717 deleting provisions requiring the department to  
718 administer an evaluation and assessment program of  
719 onsite sewage treatment and disposal systems and  
720 requiring property owners to have such systems  
721 evaluated at least once every 5 years; deleting  
722 obsolete provisions; creating s. 381.00651, F.S.;  
723 requiring a county or municipality containing a first  
724 magnitude spring to adopt by ordinance, under certain  
725 circumstances, the program for the periodic evaluation  
726 and assessment of onsite sewage treatment and disposal  
727 systems; requiring the county or municipality to  
728 notify the Secretary of State of the ordinance;  
729 authorizing a county or municipality, in specified  
730 circumstances, to opt out by a majority plus one vote  
731 of certain requirements by a specified date;  
732 authorizing a county or municipality to adopt or  
733 repeal, after a specified date, an ordinance creating  
734 an evaluation and assessment program, subject to  
735 notification of the Secretary of State; providing  
736 criteria for evaluations, qualified contractors, and  
737 repair of systems; providing for certain procedures  
738 and exemptions in special circumstances; defining the  
739 term "system failure"; requiring that certain  
740 procedures be used for conducting tank and drainfield  
741 evaluations; providing for certain procedures in  
742 special circumstances; providing for contractor  
743 immunity from liability under certain conditions;

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744 providing for assessment procedures; providing  
745 requirements for county health departments; requiring  
746 the Department of Health to allow county health  
747 departments and qualified contractors to access the  
748 state database to track data and evaluation reports;  
749 requiring counties and municipalities to notify the  
750 Secretary of Environmental Protection and the  
751 Department of Health when an evaluation program  
752 ordinance is adopted; requiring the Department of  
753 Environmental Protection to notify those counties or  
754 municipalities of the use of, and access to, certain  
755 state and federal program funds and to provide certain  
756 guidance and technical assistance upon request;  
757 prohibiting the adoption of certain rules by the  
758 Department of Health; providing for applicability;  
759 repealing s. 381.00656, F.S., relating to a grant  
760 program for the repair of onsite sewage treatment and  
761 disposal systems; amending s. 381.0066, F.S.; lowering  
762 the fees imposed by the department for certain  
763 permits; conforming cross-references; providing an  
764 effective date.