

1 A bill to be entitled
2 An act relating to onsite sewage treatment and
3 disposal systems; amending s. 381.0065, F.S.; deleting
4 legislative intent; defining the term "bedroom";
5 conforming cross-references; providing for any permit
6 issued and approved by the Department of Health for
7 the installation, modification, or repair of an onsite
8 sewage treatment and disposal system to transfer with
9 the title of the property; providing circumstances in
10 which an onsite sewage treatment and disposal system
11 is not considered abandoned; providing for the
12 validity of an onsite sewage treatment and disposal
13 system permit if rules change before final approval of
14 the constructed system; providing that a system
15 modification, replacement, or upgrade is not required
16 unless a bedroom is added to a single-family home;
17 deleting provisions requiring the department to
18 administer an evaluation and assessment program of
19 onsite sewage treatment and disposal systems and
20 requiring property owners to have such systems
21 evaluated at least once every 5 years; deleting
22 obsolete provisions; creating s. 381.00651, F.S.;
23 authorizing a county or municipality to adopt by
24 ordinance a program for the periodic evaluation and
25 assessment of onsite sewage treatment and disposal
26 systems; requiring the county or municipality to
27 notify the Secretary of State of the ordinance;
28 authorizing a county or municipality to repeal an

29 ordinance creating an evaluation and assessment
30 program, subject to notification of the Secretary of
31 State; providing criteria for evaluations, qualified
32 contractors, repair of systems, and exemptions;
33 defining the term "system failure"; requiring that
34 certain procedures be used for conducting tank and
35 drainfield evaluations; providing for certain
36 procedures in special circumstances; providing for
37 assessment procedures; providing requirements for
38 county health departments; requiring the county or
39 municipality to develop a system for tracking the
40 evaluations; providing criteria; requiring counties
41 and municipalities to notify the Secretary of
42 Environmental Protection and the Department of Health
43 that an evaluation program ordinance is adopted;
44 requiring the Department of Environmental Protection
45 to notify those counties or municipalities of the use
46 of, and access to, certain state and federal program
47 funds and to provide certain guidance and technical
48 assistance upon request; prohibiting the adoption of
49 certain rules by the Department of Health; providing
50 applicability; repealing s. 381.00656, F.S., relating
51 to a grant program for the repair of onsite sewage
52 treatment and disposal systems; amending s. 381.0066,
53 F.S.; lowering the fees imposed by the department for
54 certain permits; conforming cross-references;
55 providing an effective date.
56

57 Be It Enacted by the Legislature of the State of Florida:

58
 59 Section 1. Subsections (1), (5), (6), and (7) of section
 60 381.0065, Florida Statutes, are amended, paragraphs (b) through
 61 (p) of subsection (2) of that section are redesignated as
 62 paragraphs (c) through (q), respectively, a new paragraph (b) is
 63 added to that subsection, paragraph (j) of subsection (3) and
 64 paragraph (n) of subsection (4) of that section are amended, and
 65 paragraphs (w) through (z) are added to subsection (4) of that
 66 section, to read:

67 381.0065 Onsite sewage treatment and disposal systems;
 68 regulation.—

69 (1) LEGISLATIVE INTENT.—

70 ~~(a) It is the intent of the Legislature that proper~~
 71 ~~management of onsite sewage treatment and disposal systems is~~
 72 ~~paramount to the health, safety, and welfare of the public. It~~
 73 ~~is further the intent of the Legislature that the department~~
 74 ~~shall administer an evaluation program to ensure the operational~~
 75 ~~condition of the system and identify any failure with the~~
 76 ~~system.~~

77 ~~(b)~~ It is the intent of the Legislature that where a
 78 publicly owned or investor-owned sewerage system is not
 79 available, the department shall issue permits for the
 80 construction, installation, modification, abandonment, or repair
 81 of onsite sewage treatment and disposal systems under conditions
 82 as described in this section and rules adopted under this
 83 section. It is further the intent of the Legislature that the
 84 installation and use of onsite sewage treatment and disposal

85 systems not adversely affect the public health or significantly
 86 degrade the groundwater or surface water.

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

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

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

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

96 c. Is located along an exterior wall;

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

99 e. Has an emergency means of escape and rescue opening to
 100 the outside.

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

103 3. "Bedroom" does not include a hallway, bathroom,
 104 kitchen, living room, family room, dining room, den, breakfast
 105 nook, pantry, laundry room, sunroom, recreation room,
 106 media/video room, or exercise room.

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

109 (j) Supervise research on, demonstration of, and training
 110 on the performance, environmental impact, and public health
 111 impact of onsite sewage treatment and disposal systems within
 112 this state. Research fees collected under s. 381.0066(2)(k)

113 ~~381.0066(2)(1)~~ must be used to develop and fund hands-on
 114 training centers designed to provide practical information about
 115 onsite sewage treatment and disposal systems to septic tank
 116 contractors, master septic tank contractors, contractors,
 117 inspectors, engineers, and the public and must also be used to
 118 fund research projects which focus on improvements of onsite
 119 sewage treatment and disposal systems, including use of
 120 performance-based standards and reduction of environmental
 121 impact. Research projects shall be initially approved by the
 122 technical review and advisory panel and shall be applicable to
 123 and reflect the soil conditions specific to Florida. Such
 124 projects shall be awarded through competitive negotiation, using
 125 the procedures provided in s. 287.055, to public or private
 126 entities that have experience in onsite sewage treatment and
 127 disposal systems in Florida and that are principally located in
 128 Florida. Research projects shall not be awarded to firms or
 129 entities that employ or are associated with persons who serve on
 130 either the technical review and advisory panel or the research
 131 review and advisory committee.

132 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may
 133 not construct, repair, modify, abandon, or operate an onsite
 134 sewage treatment and disposal system without first obtaining a
 135 permit approved by the department. The department may issue
 136 permits to carry out this section, but shall not make the
 137 issuance of such permits contingent upon prior approval by the
 138 Department of Environmental Protection, except that the issuance
 139 of a permit for work seaward of the coastal construction control
 140 line established under s. 161.053 shall be contingent upon

HB 999

2012

141 receipt of any required coastal construction control line permit
142 from the Department of Environmental Protection. A construction
143 permit is valid for 18 months from the issuance date and may be
144 extended by the department for one 90-day period under rules
145 adopted by the department. A repair permit is valid for 90 days
146 from the date of issuance. An operating permit must be obtained
147 prior to the use of any aerobic treatment unit or if the
148 establishment generates commercial waste. Buildings or
149 establishments that use an aerobic treatment unit or generate
150 commercial waste shall be inspected by the department at least
151 annually to assure compliance with the terms of the operating
152 permit. The operating permit for a commercial wastewater system
153 is valid for 1 year from the date of issuance and must be
154 renewed annually. The operating permit for an aerobic treatment
155 unit is valid for 2 years from the date of issuance and must be
156 renewed every 2 years. If all information pertaining to the
157 siting, location, and installation conditions or repair of an
158 onsite sewage treatment and disposal system remains the same, a
159 construction or repair permit for the onsite sewage treatment
160 and disposal system may be transferred to another person, if the
161 transferee files, within 60 days after the transfer of
162 ownership, an amended application providing all corrected
163 information and proof of ownership of the property. There is no
164 fee associated with the processing of this supplemental
165 information. A person may not contract to construct, modify,
166 alter, repair, service, abandon, or maintain any portion of an
167 onsite sewage treatment and disposal system without being
168 registered under part III of chapter 489. A property owner who

HB 999

2012

169 personally performs construction, maintenance, or repairs to a
170 system serving his or her own owner-occupied single-family
171 residence is exempt from registration requirements for
172 performing such construction, maintenance, or repairs on that
173 residence, but is subject to all permitting requirements. A
174 municipality or political subdivision of the state may not issue
175 a building or plumbing permit for any building that requires the
176 use of an onsite sewage treatment and disposal system unless the
177 owner or builder has received a construction permit for such
178 system from the department. A building or structure may not be
179 occupied and a municipality, political subdivision, or any state
180 or federal agency may not authorize occupancy until the
181 department approves the final installation of the onsite sewage
182 treatment and disposal system. A municipality or political
183 subdivision of the state may not approve any change in occupancy
184 or tenancy of a building that uses an onsite sewage treatment
185 and disposal system until the department has reviewed the use of
186 the system with the proposed change, approved the change, and
187 amended the operating permit.

188 (n) Evaluations for determining the seasonal high-water
189 table elevations or the suitability of soils for the use of a
190 new onsite sewage treatment and disposal system shall be
191 performed by department personnel, professional engineers
192 registered in the state, or such other persons with expertise,
193 as defined by rule, in making such evaluations. Evaluations for
194 determining mean annual flood lines shall be performed by those
195 persons identified in paragraph (2)(j) ~~(2)(i)~~. The department
196 shall accept evaluations submitted by professional engineers and

HB 999

2012

197 such other persons as meet the expertise established by this
198 section or by rule unless the department has a reasonable
199 scientific basis for questioning the accuracy or completeness of
200 the evaluation.

201 (w) Any permit issued and approved by the department for
202 the installation, modification, or repair of an onsite sewage
203 treatment and disposal system shall transfer with the title to
204 the property. A title is not encumbered at the time of transfer
205 by new permit requirements by a governmental entity for an
206 onsite sewage treatment and disposal system that differ from the
207 permitting requirements in effect at the time the system was
208 permitted, modified, or repaired.

209 (x)1. An onsite sewage treatment and disposal system is
210 not considered abandoned if the system is disconnected from a
211 structure that was made unusable or destroyed following a
212 disaster and was properly functioning at the time of
213 disconnection and not adversely affected by the disaster. The
214 onsite sewage treatment and disposal system may be reconnected
215 to a rebuilt structure if:

216 a. The reconnection of the system is to the same type and
217 approximate size of structure that existed prior to the
218 disaster;

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

220 c. The system has not been altered without prior
221 authorization.

222 2. An onsite sewage treatment and disposal system that
223 serves a property that is foreclosed upon is not considered
224 abandoned.

HB 999

2012

225 (y) If an onsite sewage treatment and disposal system
226 permittee receives, relies upon, and undertakes construction of
227 a system based upon a validly issued construction permit under
228 rules applicable at the time of construction but a change to a
229 rule occurs after the approval of the system for construction
230 but before the final approval of the system, the rules
231 applicable and in effect at the time of construction approval
232 apply at the time of final approval if fundamental site
233 conditions have not changed between the time of construction
234 approval and final approval.

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

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

240 ~~(a) Beginning July 1, 2011, the department shall~~
241 ~~administer an onsite sewage treatment and disposal system~~
242 ~~evaluation program for the purpose of assessing the fundamental~~
243 ~~operational condition of systems and identifying any failures~~
244 ~~within the systems. The department shall adopt rules~~
245 ~~implementing the program standards, procedures, and~~
246 ~~requirements, including, but not limited to, a schedule for a 5-~~
247 ~~year evaluation cycle, requirements for the pump out of a system~~
248 ~~or repair of a failing system, enforcement procedures for~~
249 ~~failure of a system owner to obtain an evaluation of the system,~~
250 ~~and failure of a contractor to timely submit evaluation results~~
251 ~~to the department and the system owner. The department shall~~
252 ~~ensure statewide implementation of the evaluation and assessment~~

253 ~~program by January 1, 2016.~~

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

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

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

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

281 ~~elevation.~~

282 ~~(c) If documentation of a tank pump out or a permitted new~~
 283 ~~installation, repair, or modification of the system within the~~
 284 ~~previous 5 years is provided, and states the capacity of the~~
 285 ~~tank and indicates that the condition of the tank is not a~~
 286 ~~sanitary or public health nuisance pursuant to department rule,~~
 287 ~~a pump out of the system is not required.~~

288 ~~(f) Owners are responsible for paying the cost of any~~
 289 ~~required pump out, repair, or replacement pursuant to department~~
 290 ~~rule, and may not request partial evaluation or the omission of~~
 291 ~~portions of the evaluation.~~

292 ~~(g) Each evaluation or pump out required under this~~
 293 ~~subsection must be performed by a septic tank contractor or~~
 294 ~~master septic tank contractor registered under part III of~~
 295 ~~chapter 489, a professional engineer with wastewater treatment~~
 296 ~~system experience licensed pursuant to chapter 471, or an~~
 297 ~~environmental health professional certified under chapter 381 in~~
 298 ~~the area of onsite sewage treatment and disposal system~~
 299 ~~evaluation.~~

300 ~~(h) The evaluation report fee collected pursuant to s.~~
 301 ~~381.0066(2)(b) shall be remitted to the department by the~~
 302 ~~evaluator at the time the report is submitted.~~

303 ~~(i) Prior to any evaluation deadline, the department must~~
 304 ~~provide a minimum of 60 days' notice to owners that their~~
 305 ~~systems must be evaluated by that deadline. The department may~~
 306 ~~include a copy of any homeowner educational materials developed~~
 307 ~~pursuant to this section which provides information on the~~
 308 ~~proper maintenance of onsite sewage treatment and disposal~~

309 ~~systems.~~

310 (5)~~(6)~~ ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.—

311 (a) Department personnel who have reason to believe
 312 noncompliance exists, may at any reasonable time, enter the
 313 premises permitted under ss. 381.0065-381.0066, or the business
 314 premises of any septic tank contractor or master septic tank
 315 contractor registered under part III of chapter 489, or any
 316 premises that the department has reason to believe is being
 317 operated or maintained not in compliance, to determine
 318 compliance with the provisions of this section, part I of
 319 chapter 386, or part III of chapter 489 or rules or standards
 320 adopted under ss. 381.0065-381.0067, part I of chapter 386, or
 321 part III of chapter 489. As used in this paragraph, the term
 322 "premises" does not include a residence or private building. To
 323 gain entry to a residence or private building, the department
 324 must obtain permission from the owner or occupant or secure an
 325 inspection warrant from a court of competent jurisdiction.

326 (b)1. The department may issue citations that may contain
 327 an order of correction or an order to pay a fine, or both, for
 328 violations of ss. 381.0065-381.0067, part I of chapter 386, or
 329 part III of chapter 489 or the rules adopted by the department,
 330 when a violation of these sections or rules is enforceable by an
 331 administrative or civil remedy, or when a violation of these
 332 sections or rules is a misdemeanor of the second degree. A
 333 citation issued under ss. 381.0065-381.0067, part I of chapter
 334 386, or part III of chapter 489 constitutes a notice of proposed
 335 agency action.

336 2. A citation must be in writing and must describe the

337 particular nature of the violation, including specific reference
338 to the provisions of law or rule allegedly violated.

339 3. The fines imposed by a citation issued by the
340 department may not exceed \$500 for each violation. Each day the
341 violation exists constitutes a separate violation for which a
342 citation may be issued.

343 4. The department shall inform the recipient, by written
344 notice pursuant to ss. 120.569 and 120.57, of the right to an
345 administrative hearing to contest the citation within 21 days
346 after the date the citation is received. The citation must
347 contain a conspicuous statement that if the recipient fails to
348 pay the fine within the time allowed, or fails to appear to
349 contest the citation after having requested a hearing, the
350 recipient has waived the recipient's right to contest the
351 citation and must pay an amount up to the maximum fine.

352 5. The department may reduce or waive the fine imposed by
353 the citation. In determining whether to reduce or waive the
354 fine, the department must consider the gravity of the violation,
355 the person's attempts at correcting the violation, and the
356 person's history of previous violations including violations for
357 which enforcement actions were taken under ss. 381.0065-
358 381.0067, part I of chapter 386, part III of chapter 489, or
359 other provisions of law or rule.

360 6. Any person who willfully refuses to sign and accept a
361 citation issued by the department commits a misdemeanor of the
362 second degree, punishable as provided in s. 775.082 or s.
363 775.083.

364 7. The department, pursuant to ss. 381.0065-381.0067, part

365 I of chapter 386, or part III of chapter 489, shall deposit any
 366 fines it collects in the county health department trust fund for
 367 use in providing services specified in those sections.

368 8. This section provides an alternative means of enforcing
 369 ss. 381.0065-381.0067, part I of chapter 386, and part III of
 370 chapter 489. This section does not prohibit the department from
 371 enforcing ss. 381.0065-381.0067, part I of chapter 386, or part
 372 III of chapter 489, or its rules, by any other means. However,
 373 the department must elect to use only a single method of
 374 enforcement for each violation.

375 (6) ~~(7)~~ LAND APPLICATION OF SEPTAGE PROHIBITED.—Effective
 376 January 1, 2016, the land application of septage from onsite
 377 sewage treatment and disposal systems is prohibited. ~~By February~~
 378 ~~1, 2011, the department, in consultation with the Department of~~
 379 ~~Environmental Protection, shall provide a report to the~~
 380 ~~Governor, the President of the Senate, and the Speaker of the~~
 381 ~~House of Representatives, recommending alternative methods to~~
 382 ~~establish enhanced treatment levels for the land application of~~
 383 ~~septage from onsite sewage and disposal systems. The report~~
 384 ~~shall include, but is not limited to, a schedule for the~~
 385 ~~reduction in land application, appropriate treatment levels,~~
 386 ~~alternative methods for treatment and disposal, enhanced~~
 387 ~~application site permitting requirements including any~~
 388 ~~requirements for nutrient management plans, and the range of~~
 389 ~~costs to local governments, affected businesses, and individuals~~
 390 ~~for alternative treatment and disposal methods. The report shall~~
 391 ~~also include any recommendations for legislation or rule~~
 392 ~~authority needed to reduce land application of septage.~~

393 Section 2. Section 381.00651, Florida Statutes, is created
 394 to read:

395 381.00651 Periodic evaluation and assessment of onsite
 396 sewage treatment and disposal systems.—

397 (1) A county or municipality may adopt by ordinance a
 398 local onsite sewage treatment and disposal system evaluation and
 399 assessment program within all or part of its geographic area
 400 that meets the requirements of this section. The county or
 401 municipality shall notify the Secretary of State by letter of
 402 the adoption of the ordinance. A county or municipality may
 403 repeal an ordinance adopted pursuant to this section if the
 404 county or municipality notifies the Secretary of State by letter
 405 of the repeal. A local ordinance adopted pursuant to this
 406 section may not deviate from or exceed the substantive
 407 requirements of this section and shall provide for the
 408 following:

409 (a) Evaluations.—An evaluation of each onsite sewage
 410 treatment and disposal system within all or part of the county's
 411 or municipality's jurisdiction must take place once every 5
 412 years to assess the fundamental operational condition of the
 413 system and to identify system failures. The ordinance may not
 414 mandate an evaluation at the point of sale in a real estate
 415 transaction and may not require a soil examination. The location
 416 of the system shall be identified. A tank and drainfield
 417 evaluation and a written assessment of the overall condition of
 418 the system pursuant to the assessment procedure prescribed in
 419 paragraph (2) (d) are required.

420 (b) Qualified contractors.—Each evaluation required under

421 this subsection must be performed by a qualified contractor, who
422 may be a septic tank contractor or master septic tank contractor
423 registered under part III of chapter 489, a professional
424 engineer having wastewater treatment system experience and
425 licensed under chapter 471, or an environmental health
426 professional certified under this chapter in the area of onsite
427 sewage treatment and disposal system evaluation. Evaluations and
428 pump-outs may also be performed by an authorized employee
429 working under the supervision of an individual listed in this
430 paragraph; however, all evaluation forms must be signed by a
431 qualified contractor in writing or by electronic signature.

432 (c) Repair of systems.—The local ordinance may not require
433 a repair, modification, or replacement of a system as a result
434 of an evaluation unless the evaluation identifies a system
435 failure. For purposes of this subsection, the term "system
436 failure" means a condition existing within an onsite sewage
437 treatment and disposal system that results in the discharge of
438 untreated or partially treated wastewater onto the ground
439 surface or into surface water or that results in the failure of
440 building plumbing to discharge properly and presents a sanitary
441 nuisance. A system is not in failure if the system does not have
442 a minimum separation distance between the drainfield and the
443 wettest season water table or if an obstruction in a sanitary
444 line or an effluent screen or filter prevents effluent from
445 flowing into a drainfield. If a system failure is identified and
446 several allowable remedial measures are available to resolve the
447 failure, the system owner may choose the least costly allowable
448 remedial measure to fix the system. There may be instances in

449 which a pump-out is sufficient to resolve a system failure.
450 Allowable remedial measures to resolve a system failure are
451 limited to what is necessary to resolve the failure and must
452 meet, to the maximum extent practicable, the requirements of the
453 repair code in effect when the repair is made, subject to the
454 exceptions specified in s. 381.0065(4)(g). An engineer-designed
455 performance-based treatment system to reduce nutrients may not
456 be required as an alternative remediation measure to resolve the
457 failure of a conventional system.

458 (d) Exemptions.—The local ordinance shall exempt from the
459 evaluation requirements any system that is required to obtain an
460 operating permit pursuant to state law or that is inspected by
461 the department pursuant to the annual permit inspection
462 requirements of chapter 513. The local ordinance may provide for
463 an exemption or an extension of time to obtain an evaluation and
464 assessment if connection to a sewer system is available,
465 connection to the sewer system is imminent, and written
466 arrangements for payment of any utility assessments or
467 connection fees have been made by the system owner.

468 (2) The following procedures shall be used for conducting
469 evaluations:

470 (a) Tank evaluation.—The tank evaluation shall assess the
471 apparent structural condition and watertightness of the tank and
472 shall estimate the size of the tank. The evaluation must include
473 a pump-out. However, an ordinance may not require a pump-out if
474 there is documentation indicating that a tank pump-out or a
475 permitted new installation, repair, or modification of the
476 system has occurred within the previous 5 years, identifying the

HB 999

2012

477 capacity of the tank, and indicating that the condition of the
478 tank is structurally sound and watertight. Visual inspection of
479 the tank must be made when the tank is empty to detect cracks,
480 leaks, or other defects. Baffles or tees must be checked to
481 ensure that they are intact and secure. The evaluation shall
482 note the presence and condition of outlet devices, effluent
483 filters, and compartment walls; any structural defect in the
484 tank; the condition and fit of the tank lid, including manholes;
485 whether surface water can infiltrate the tank; and whether the
486 tank was pumped out. If the tank, in the opinion of the
487 qualified contractor, is in danger of being damaged by leaving
488 the tank empty after inspection, the tank shall be refilled
489 before concluding the inspection. Broken or damaged lids or
490 manholes shall be replaced without obtaining a repair permit.

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

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

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

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

HB 999

2012

505 3. Whether the system has a check valve and purge hole;
506 and

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

511 (d) Assessment procedure.—All evaluation procedures used
512 by a qualified contractor shall be documented. The qualified
513 contractor shall provide a copy of a written, signed evaluation
514 report to the property owner upon completion of the evaluation
515 and to the county health department within 30 days after the
516 evaluation. The report shall contain the name and license number
517 of the company providing the report. A copy of the evaluation
518 report shall be retained by the local county health department
519 for a minimum of 5 years and until a subsequent inspection
520 report is filed. The front cover of the report must identify any
521 system failure and include a clear and conspicuous notice to the
522 owner that the owner has a right to have any remediation of the
523 failure performed by a qualified contractor other than the
524 contractor performing the evaluation. The report must further
525 identify any crack, leak, improper fit, or other defect in the
526 tank, manhole, or lid, and any other damaged or missing
527 component; any sewage or effluent visible on the ground or
528 discharging to a ditch or other surface water body; any
529 downspout, stormwater, or other source of water directed onto or
530 toward the system; and any other maintenance need or condition
531 of the system at the time of the evaluation that, in the opinion
532 of the qualified contractor, would possibly interfere with or

533 restrict any future repair or modification to the existing
534 system. The report shall conclude with an overall assessment of
535 the fundamental operational condition of the system.

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

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

557 (b) In consultation with the Department of Health,
558 providing uniform disciplinary procedures and penalties for
559 qualified contractors who do not comply with the requirements of
560 the adopted ordinance, including, but not limited to, failure to

561 provide the evaluation report as required in this subsection to
562 the system owner and the county health department. Only the
563 county health department may assess penalties against system
564 owners for failure to comply with the adopted ordinance,
565 consistent with existing requirements of law.

566 (c) Developing its own database and tracking systems to
567 encompass evaluation programs adopted by the county or
568 municipalities within its jurisdiction. The database shall also
569 be used to collect, store, and index information obtained from
570 the evaluation reports filed by each qualified contractor with
571 the county health department. The tracking system:

572 1. Must include the ability to collect and store the
573 description, addresses, and locations of the onsite sewage
574 treatment and disposal systems within each jurisdiction; an
575 inventory of the number of onsite sewage treatment and disposal
576 systems within each jurisdiction; and the total number and types
577 of system failures within each jurisdiction.

578 2. May include the ability to collect and store other
579 trends deemed relevant by the county health department resulting
580 from an assessment and evaluation of the overall condition of
581 onsite sewage treatment and disposal systems.

582 3. May be Internet-based.

583 4. May be designed to be used by contractors to report all
584 service and evaluation events and by the county health
585 department to notify owners of onsite sewage treatment and
586 disposal systems when evaluations are due. Data and information
587 shall be recorded and updated as service and evaluations are
588 conducted and reported.

589 (4) (a) A county or municipality that adopts an onsite
590 sewage treatment and disposal system evaluation and assessment
591 program pursuant to this section shall notify the Secretary of
592 Environmental Protection, the Department of Health, and the
593 applicable county health department upon the adoption of its
594 ordinance establishing the program.

595 (b) Upon receipt of the notice under paragraph (a), the
596 Department of Environmental Protection shall, within existing
597 resources, notify the county or municipality of the potential
598 use of, and access to, program funds under the Clean Water State
599 Revolving Fund or s. 319 of the Clean Water Act, provide
600 guidance in the application process to receive such moneys, and
601 provide advice and technical assistance to the county or
602 municipality on how to establish a low-interest revolving loan
603 program or how to model a revolving loan program after the low-
604 interest loan program of the Clean Water State Revolving Fund.
605 This paragraph does not obligate the Department of Environmental
606 Protection to provide any county or municipality with money to
607 fund such programs.

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

610 (5) This section does not:

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

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

616 (c) Prohibit a county or municipality that has adopted an

617 evaluation and assessment program pursuant to this section from:

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

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

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

629 Section 3. Section 381.00656, Florida Statutes, is
 630 repealed.

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

633 381.0066 Onsite sewage treatment and disposal systems;
 634 fees.—

635 (2) The minimum fees in the following fee schedule apply
 636 until changed by rule by the department within the following
 637 limits:

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

642 ~~(b) A 5-year evaluation report submitted pursuant to s.~~
 643 ~~381.0065(5): a fee not less than \$15, or more than \$30. At least~~
 644 ~~\$1 and no more than \$5 collected pursuant to this paragraph~~

HB 999

2012

645 ~~shall be used to fund a grant program established under s.~~
646 ~~381.00656.~~

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

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

653 (d)~~(e)~~ Annual operating permit for systems located in
654 areas zoned for industrial manufacturing or equivalent uses or
655 where the system is expected to receive wastewater which is not
656 domestic in nature: a fee of not less than \$150, or more than
657 \$300.

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

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

663 (g)~~(h)~~ Application for variance: a fee of not less than
664 \$150, or more than \$300.

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

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

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

HB 999

2012

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

675 (k)~~(l)~~ Research: An additional \$5 fee shall be added to
 676 each new system construction permit issued to be used to fund
 677 onsite sewage treatment and disposal system research,
 678 demonstration, and training projects. Five dollars from any
 679 repair permit fee collected under this section shall be used for
 680 funding the hands-on training centers described in s.
 681 381.0065(3) (j).

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

686
 687 ~~On or before January 1, 2011, the Surgeon General, after~~
 688 ~~consultation with the Revenue Estimating Conference, shall~~
 689 ~~determine a revenue neutral fee schedule for services provided~~
 690 ~~pursuant to s. 381.0065(5) within the parameters set in~~
 691 ~~paragraph (b). Such determination is not subject to the~~
 692 ~~provisions of chapter 120.~~ The funds collected pursuant to this
 693 subsection must be deposited in a trust fund administered by the
 694 department, to be used for the purposes stated in this section
 695 and ss. 381.0065 and 381.00655.

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