

By the Committees on Rules; Environmental Preservation and Conservation; and Health Policy; and Senator Bullard

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1 A bill to be entitled
2 An act relating to onsite sewage treatment and
3 disposal systems; amending s. 381.0065, F.S.; deleting
4 provisions relating to the development of performance
5 criteria applicable to engineer-designed systems;
6 revising requirements for maintenance entity service
7 agreements for certain engineer-designed systems;
8 authorizing certain property owners to be approved and
9 permitted as maintenance entities for performance-
10 based treatment systems under certain conditions;
11 requiring owners of performance-based treatment unit
12 systems to obtain certain permits; requiring onsite
13 sewage treatment and disposal systems to comply with
14 rules of the Department of Environmental Protection
15 and provide a certain level of treatment; providing
16 that certain onsite sewage treatment and disposal
17 systems in Monroe County installed after a specified
18 date are not required to connect to a sewer until a
19 specified date; providing for nonapplicability;
20 deleting a provision that requires a maintenance
21 entity to obtain a system operating permit;
22 authorizing the department to approve and permit a
23 property owner of an owner-occupied, single-family
24 residence as a maintenance entity for the property
25 owner's own aerobic treatment unit system under
26 certain circumstances; requiring the maintenance
27 entity service agreement to conspicuously disclose
28 that the property owner has the right to maintain his
29 or her own system and is exempt from certain

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30 contractor registration requirements; prohibiting a
31 septic tank contractor from being denied access by the
32 manufacturer to aerobic treatment unit system training
33 or spare parts for maintenance entities; providing
34 that component parts for an aerobic treatment unit
35 system may be replaced with parts that meet
36 manufacturer's specifications; requiring the
37 maintenance entity to maintain documentation for a
38 specified period of time and to provide the
39 documentation to the department upon request;
40 requiring owners of performance-based treatment unit
41 systems to obtain certain permits; providing an
42 effective date.

43
44 Be It Enacted by the Legislature of the State of Florida:

45
46 Section 1. Paragraphs (j), (l), and (u) of subsection (4)
47 of section 381.0065, Florida Statutes, are amended to read:

48 381.0065 Onsite sewage treatment and disposal systems;
49 regulation.—

50 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not
51 construct, repair, modify, abandon, or operate an onsite sewage
52 treatment and disposal system without first obtaining a permit
53 approved by the department. The department may issue permits to
54 carry out this section, but shall not make the issuance of such
55 permits contingent upon prior approval by the Department of
56 Environmental Protection, except that the issuance of a permit
57 for work seaward of the coastal construction control line
58 established under s. 161.053 shall be contingent upon receipt of

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59 any required coastal construction control line permit from the
60 Department of Environmental Protection. A construction permit is
61 valid for 18 months from the issuance date and may be extended
62 by the department for one 90-day period under rules adopted by
63 the department. A repair permit is valid for 90 days from the
64 date of issuance. An operating permit must be obtained prior to
65 the use of any aerobic treatment unit or if the establishment
66 generates commercial waste. Buildings or establishments that use
67 an aerobic treatment unit or generate commercial waste shall be
68 inspected by the department at least annually to assure
69 compliance with the terms of the operating permit. The operating
70 permit for a commercial wastewater system is valid for 1 year
71 from the date of issuance and must be renewed annually. The
72 operating permit for an aerobic treatment unit is valid for 2
73 years from the date of issuance and must be renewed every 2
74 years. If all information pertaining to the siting, location,
75 and installation conditions or repair of an onsite sewage
76 treatment and disposal system remains the same, a construction
77 or repair permit for the onsite sewage treatment and disposal
78 system may be transferred to another person, if the transferee
79 files, within 60 days after the transfer of ownership, an
80 amended application providing all corrected information and
81 proof of ownership of the property. There is no fee associated
82 with the processing of this supplemental information. A person
83 may not contract to construct, modify, alter, repair, service,
84 abandon, or maintain any portion of an onsite sewage treatment
85 and disposal system without being registered under part III of
86 chapter 489. A property owner who personally performs
87 construction, maintenance, or repairs to a system serving his or

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88 her own owner-occupied single-family residence is exempt from
89 registration requirements for performing such construction,
90 maintenance, or repairs on that residence, but is subject to all
91 permitting requirements. A municipality or political subdivision
92 of the state may not issue a building or plumbing permit for any
93 building that requires the use of an onsite sewage treatment and
94 disposal system unless the owner or builder has received a
95 construction permit for such system from the department. A
96 building or structure may not be occupied and a municipality,
97 political subdivision, or any state or federal agency may not
98 authorize occupancy until the department approves the final
99 installation of the onsite sewage treatment and disposal system.
100 A municipality or political subdivision of the state may not
101 approve any change in occupancy or tenancy of a building that
102 uses an onsite sewage treatment and disposal system until the
103 department has reviewed the use of the system with the proposed
104 change, approved the change, and amended the operating permit.

105 (j) An onsite sewage treatment and disposal system ~~for a~~
106 ~~single-family residence that is~~ designed by a professional
107 engineer registered in the state and certified by such engineer
108 as complying with performance criteria adopted by the department
109 must be approved by the department subject to the following:

110 1. The performance criteria applicable to engineer-designed
111 systems must be limited to those necessary to ensure that such
112 systems do not adversely affect the public health or
113 significantly degrade the groundwater or surface water. Such
114 performance criteria shall include consideration of the quality
115 of system effluent, the proposed total sewage flow per acre,
116 wastewater treatment capabilities of the natural or replaced

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117 soil, water quality classification of the potential surface-
118 water-receiving body, and the structural and maintenance
119 viability of the system for the treatment of domestic
120 wastewater. However, performance criteria shall address only the
121 performance of a system and not a system's design.

122 ~~2. The technical review and advisory panel shall assist the~~
123 ~~department in the development of performance criteria applicable~~
124 ~~to engineer-designed systems.~~

125 2.3. A person electing to utilize an engineer-designed
126 system shall, upon completion of the system design, submit such
127 design, certified by a registered professional engineer, to the
128 county health department. The county health department may
129 utilize an outside consultant to review the engineer-designed
130 system, with the actual cost of such review to be borne by the
131 applicant. Within 5 working days after receiving an engineer-
132 designed system permit application, the county health department
133 shall request additional information if the application is not
134 complete. Within 15 working days after receiving a complete
135 application for an engineer-designed system, the county health
136 department either shall issue the permit or, if it determines
137 that the system does not comply with the performance criteria,
138 shall notify the applicant of that determination and refer the
139 application to the department for a determination as to whether
140 the system should be approved, disapproved, or approved with
141 modification. The department engineer's determination shall
142 prevail over the action of the county health department. The
143 applicant shall be notified in writing of the department's
144 determination and of the applicant's rights to pursue a variance
145 or seek review under the provisions of chapter 120.

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146 ~~3.4.~~ The owner of an engineer-designed performance-based
147 system must maintain a current maintenance service agreement
148 with a maintenance entity permitted by the department. ~~The~~
149 ~~maintenance entity shall obtain a biennial system operating~~
150 ~~permit from the department for each system under service~~
151 ~~contract. The department shall inspect the system at least~~
152 ~~annually, or on such periodic basis as the fee collected~~
153 ~~permits, and may collect system effluent samples if appropriate~~
154 ~~to determine compliance with the performance criteria. The fee~~
155 ~~for the biennial operating permit shall be collected beginning~~
156 ~~with the second year of system operation. The maintenance entity~~
157 shall inspect each system at least twice each year and shall
158 report quarterly to the department on the number of systems
159 inspected and serviced. The reports may be submitted
160 electronically.

161 4. The department may approve and permit a property owner
162 of an owner-occupied, single-family residence as a maintenance
163 entity for his or her own performance-based treatment system if
164 the system manufacturer's approved representative certifies in
165 writing that the property owner has received training on the
166 proper installation and service of the system. The maintenance
167 service agreement must conspicuously disclose that the property
168 owner has the right to maintain his or her own system and is
169 exempt from contractor registration requirements for performing
170 construction, maintenance, or repairs on the system but is
171 subject to all permitting requirements.

172 5. The property owner shall obtain a biennial system
173 operating permit from the department for each system. The
174 department shall inspect the system at least annually, or on

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175 such periodic basis as the fee collected allows, and may collect
176 system-effluent samples if appropriate to determine compliance
177 with the performance criteria. The fee for the biennial
178 operating permit shall be collected beginning with the second
179 year of system operation.

180 ~~6.5~~ If an engineer-designed system fails to properly
181 function or fails to meet performance standards, the system
182 shall be re-engineered, if necessary, to bring the system into
183 compliance with the provisions of this section.

184 (1) For the Florida Keys, the department shall adopt a
185 special rule for the construction, installation, modification,
186 operation, repair, maintenance, and performance of onsite sewage
187 treatment and disposal systems which considers the unique soil
188 conditions and water table elevations, densities, and setback
189 requirements. On lots where a setback distance of 75 feet from
190 surface waters, saltmarsh, and buttonwood association habitat
191 areas cannot be met, an injection well, approved and permitted
192 by the department, may be used for disposal of effluent from
193 onsite sewage treatment and disposal systems. The following
194 additional requirements apply to onsite sewage treatment and
195 disposal systems in Monroe County:

196 1. The county, each municipality, and those special
197 districts established for the purpose of the collection,
198 transmission, treatment, or disposal of sewage shall ensure, in
199 accordance with the specific schedules adopted by the
200 Administration Commission under s. 380.0552, the completion of
201 onsite sewage treatment and disposal system upgrades to meet the
202 requirements of this paragraph.

203 2. Onsite sewage treatment and disposal systems must cease

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204 discharge by December 31, 2015, or must comply with department
205 rules and provide the level of treatment which, on a permitted
206 annual average basis, produces an effluent that contains no more
207 than the following concentrations:

208 a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

209 b. Suspended Solids of 10 mg/l.

210 c. Total Nitrogen, expressed as N, of 10 mg/l, or a
211 reduction in nitrogen of at least at 70 percent. A system that
212 has been tested and certified to reduce nitrogen concentrations
213 by at least 70 percent is deemed to be in compliance with this
214 standard.

215 d. Total Phosphorus, expressed as P, of 1 mg/l.

216
217 In addition, onsite sewage treatment and disposal systems
218 discharging to an injection well must provide basic disinfection
219 as defined by department rule.

220 3. In areas not scheduled to be served by a central sewer,
221 onsite sewage treatment and disposal systems must, by December
222 31, 2015, comply with department rules and provide the level of
223 treatment described in subparagraph 2.

224 ~~4.3. On or after July 1, 2010, all new, modified, and~~
225 ~~repaired onsite sewage treatment and disposal systems must~~
226 ~~provide the level of treatment described in subparagraph 2.~~
227 ~~However,~~ In areas scheduled to be served by central sewer by
228 December 31, 2015, if the property owner has paid a connection
229 fee or assessment for connection to the central sewer system,
230 the property owner may install a holding tank with a high water
231 alarm, or an onsite sewage treatment and disposal system that
232 meets ~~may be repaired to~~ the following minimum standards:

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233 a. The existing tanks must be pumped and inspected and
234 certified as being watertight and free of defects in accordance
235 with department rule; and

236 b. A sand-lined drainfield or injection well in accordance
237 with department rule must be installed.

238 ~~5.4.~~ Onsite sewage treatment and disposal systems must be
239 monitored for total nitrogen and total phosphorus concentrations
240 as required by department rule.

241 ~~6.5.~~ The department shall enforce proper installation,
242 operation, and maintenance of onsite sewage treatment and
243 disposal systems pursuant to this chapter, including ensuring
244 that the appropriate level of treatment described in sub-
245 subparagraph b. ~~subparagraph 2.~~ is met.

246 ~~7.6.~~ The authority of a local government, including a
247 special district, to mandate connection of an onsite sewage
248 treatment and disposal system is governed by s. 4, chapter 99-
249 395, Laws of Florida.

250 8. Notwithstanding any other provision of law to the
251 contrary, an onsite sewage treatment and disposal system
252 installed after July 1, 2010, in unincorporated Monroe County,
253 excluding special wastewater districts, which complies with the
254 standards in subparagraph 2., is not required to connect to a
255 central sewer system until December 31, 2020.

256 (u)1. The owner of an aerobic treatment unit system shall
257 maintain a current maintenance service agreement with an aerobic
258 treatment unit maintenance entity permitted by the department.
259 ~~The maintenance entity shall obtain a system operating permit~~
260 ~~from the department for each aerobic treatment unit under~~
261 ~~service contract.~~ The maintenance entity shall inspect each

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262 aerobic treatment unit system at least twice each year and shall
263 report quarterly to the department on the number of aerobic
264 treatment unit systems inspected and serviced. The reports may
265 be submitted electronically.

266 2. The department may approve and permit a property owner
267 of an owner-occupied, single-family residence as a maintenance
268 entity for the property owner's own aerobic treatment unit
269 system if the system manufacturer's approved representative
270 certifies in writing that the property owner has received
271 training on the proper installation and service of the system.
272 The maintenance entity service agreement must conspicuously
273 disclose that the property owner has the right to maintain his
274 or her own system and is exempt from contractor registration
275 requirements for performing construction, maintenance, or
276 repairs on the system but is subject to all permitting
277 requirements.

278 3. A septic tank contractor licensed under part III of
279 chapter 489, if approved by the manufacturer, may not be denied
280 access by the manufacturer to aerobic treatment unit system
281 training or spare parts for maintenance entities. After the
282 original warranty period, component parts for an aerobic
283 treatment unit system may be replaced with parts that meet
284 manufacturer's specifications but are manufactured by others.
285 The maintenance entity shall maintain documentation for a period
286 of 2 years of the substitute part's equivalency and shall
287 provide such documentation to the department upon request.

288 4. The owner of an aerobic treatment unit system shall
289 obtain a system operating permit from the department and allow
290 the department to inspect during reasonable hours each aerobic

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291 treatment unit system at least annually, and such inspection may
292 include collection and analysis of system-effluent samples for
293 performance criteria established by rule of the department.

294 Section 2. This act shall take effect July 1, 2013.