HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1055 Onsite Sewage Treatment and Disposal Systems
SPONSOR(S): Agriculture & Natural Resources Subcommittee and Mayfield
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1306

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	12 Y, 0 N, As CS	Renner	Blalock
2) Health Care Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Current law requires the Department of Health (DOH) to regulate onsite sewage treatment disposal systems (OSTDSs), which include septic tanks. Generally, OSTDSs are used to treat and dispose of relatively small volumes of wastewater from an individual home or business. Central sewer systems and treatment facilities are used to dispose of and treat wastewater from multiple homes and businesses. The sewers collect municipal wastewater from homes, businesses, and industries and deliver it to facilities for treatment before it is discharged to waterbodies or land, or reused.

An alternative to OSTDSs and central sewer systems are combined systems where the septic tank is connected to the sewer system and a pump moves water from the septic tank into the sewer system. It is generally less expensive for a home or business to install these combined systems compared to connecting directly to a central sewer system. Once a home or business installs the combined system, the existing drainfield will usually remain as a part of a backup system in case there is a power outage that causes the pump to stop pumping wastewater from the septic tank into the sewer system.

Current law also requires a home or business that connects directly to a central sewer system to remove the abandoned septic tank and drainfield. DOH and DEP currently have the authority to permit and install combined systems. However, there are some uncertainties in the law as to whether the existing drainfield is considered abandoned and must be removed once the combined system is installed even though the drainfield is technically still being used as a backup to the combined system.

The bill provides that in the event DEP, or its designee, approves the use of all or a portion of an existing OSTDS and disposal system as an integral part of a sanitary sewer system, then, as part of the approved sanitary sewer system, the existing OSTDS, including the drainfield, is not required to be abandoned.

The bill does not appear to have a fiscal impact on state government. The bill has a potentially insignificant positive fiscal impact on local government-owned utilities that, under certain circumstances, will not have to put in sewer pipes to connect to properties that currently have septic tanks directly to the central sewer system.

The bill has an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Onsite systems

Generally, onsite sewage treatment and disposal systems (OSTDSs) are used to treat and dispose of relatively small volumes of wastewater. An OSTDS is a system that contains:

- A standard subsurface, filled, or mound drainfield system;
- An aerobic treatment unit;
- A graywater system tank;
- A laundry wastewater system tank;
- A septic tank;
- A grease interceptor;
- A pump tank;
- A solids or effluent pump;
- A waterless, incinerating, or organic waste-composting toilet; or
- A sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system.[1]

The term also includes any item placed within, or intended to be used as a part of or in conjunction with, the system. The term does not include package sewage treatment facilities and other treatment works permitted by the Department of Environmental Protection (DEP).[2]

A septic tank is a watertight receptacle constructed to promote separation of solid and liquid components of wastewater, to provide limited digestion of organic matter, to store solids, and to allow clarified liquid to discharge for further treatment and disposal into a drainfield.[3] A drainfield is defined as a system of open-jointed or perforated piping, approved alternative distribution units, or other treatment facilities designed to distribute effluent for filtration, oxidation, and absorption by the soil within the zone of aeration.[4]

Central Wastewater Collection

A central wastewater collection system consists of central sewers that collect municipal wastewater from homes, businesses, and industries and deliver it to a wastewater treatment facility before it is discharged to waterbodies or land, or reused.[5] Conventional wastewater collection systems transport sewage from homes or other sources by gravity flow through buried piping systems to a central treatment facility.[6]

An alternative to conventional wastewater collection systems is pressure sewers.[7] Pressure sewers differ from conventional gravity collection systems because they break down large solids in the pumping station before they are transported through the collection system.[8] These are typically used in

[1] Section 381.0065(2)(k), F.S.
[2] Section 381.0065(2)(k), F.S.
[3] Chapter 64E-6.002(49), F.A.C.
[4] Chapter 64E-6.002(18), F.A.C.
[5] Environmental Protection Agency, Primer for Municipal Wastewater Treatment Systems, September 2004, available at: water.epa.gov/aboutow/owm/upload/2005_08_19_primer.pdf
[6] Environmental Protection Agency Wastewater Technology Fact Sheet. On file with Agriculture & Natural Resources Subcommittee staff.
[7] *Id*.
[8] *Id*.

areas that have high groundwater that could seep into the sewer, increasing the amount of wastewater to be treated.[9]

One type of pressure sewer system is the septic tank effluent pump system, also known as a combined system. In these combined systems, wastewater flows into a conventional septic tank to capture solids. The liquid effluent flows to a holding tank containing a pump and control device. The effluent is then pumped and transferred for treatment.[10] According to the Environmental Protection Agency (EPA), retrofitting existing septic tanks in areas served by the combination of septic tanks and drainfield systems could present an opportunity for cost savings. However, a large number must be replaced or expanded over the life of the system because of insufficient capacity, deterioration of concrete tanks, or leaks.[11]

State Regulation for OSTDS

Chapter 381, F.S., requires the Department of Health (DOH) to regulate OSTDSs. Pursuant to s. 381.0065(3), F.S., DOH must:

- Adopt rules;
- Perform application reviews and site evaluations, issue permits, and conduct inspections and complaint investigations relating to OSTDSs;
- Develop a comprehensive program to ensure that OSTDSs are sized, designed, constructed, installed, repaired, modified, abandoned, used, operated, and maintained to prevent groundwater contamination and surface water contamination and to preserve the public health;
- Grant variances in hardship cases;
- Permit the use of a limited number of innovative systems for a specific period when there is compelling evidence that the system will function properly and reliably;
- Issue annual operating permits;
- Establish and collect fees for services related to OSTDSs;
- Conduct enforcement activities;
- Provide or conduct education and training of DOH personnel, service providers, and the public regarding OSTDSs;
- Supervise research on, demonstration of, and training on the performance, environmental impact, and public health impact of OSTDSs in Florida;
- Approve the installation of individual graywater disposal systems in which blackwater is treated by a central sewerage system;
- Regulate and permit the sanitation, handling, treatment, storage, reuse, and disposal of byproducts from any OSTDS;
- Permit and inspect portable or temporary toilet services and holding tanks; and
- Regulate and permit maintenance entities for performance-based treatment systems and aerobic treatment unit systems.

Section 381.0065(4), F.S., prohibits any person from constructing, installing, modifying, abandoning, or repairing an OSTDS without first obtaining a DOH permit. DOH is prohibited from making the issuance of the permits contingent upon prior approval by DEP, except that the issuance of a permit for work seaward of the coastal construction control line established under s. 161.053, F.S., must be contingent upon receipt of any required coastal construction control line permit from DEP.

[9] *Id*.
[10] *Id*.
[11] *Id*.

DOH does not permit the use of an OSTDS in the following instances, unless DOH grants a variance from the prohibition:

- The estimated domestic sewage flow from the establishment is over 10,000 gallons per day (gpd);[12]
- The estimated commercial sewage flow from the establishment is over 5,000 gpd;[13]
- There is a likelihood that the system will receive toxic, hazardous, or industrial wastes;[14]
- A sewer system is available;[15] or
- Any system or flow from the establishment is currently regulated by DEP.[16]

In 1983, DEP entered into an Interagency Agreement with DOH to coordinate the regulation of onsite sewage systems, septage and residuals, and marina pumpout facilities. This agreement sets up procedures for addressing interagency issues related to OSTDSs and central wastewater disposal and treatment facilities.[17]

Connection of Existing OSTDSs to a Central Sewer System

Section 381.00655(1), F.S., requires the owner of a properly functioning OSTDS to connect the OSTDS or the building's plumbing to an available publicly owned or investor-owned sewer system within 365 days after written notification by the owner of the publicly owned or investor-owned sewer system that the system is available for connection. An "available" publicly owned or investor-owned sewer system is a system capable of being connected to the plumbing of an establishment or residence that is not under a DEP moratorium and has adequate permitted capacity to accept the sewage to be generated by the establishment or residence.[18] A publicly owned or investor-owned sewer system is authorized to waive the requirement of mandatory connection if it determines that such connection is not in the public interest due to public health considerations. In addition, a variance can also be granted to an owner of a performance-based OSTDS permitted by DOH as long as the OSTDS is functioning properly and satisfies the conditions of the operating permit.

Chapter 64E-6.011, F.A.C., requires the OSTDS to be abandoned after being connected to a sewer system and further use of the OSTDS is prohibited. Once abandoned, the septic tank and drainfield must be removed. When a home or business installs a combined system, the existing drainfield will usually remain as a part of a backup system in case there is a power outage that causes the pump to stop pumping wastewater from the septic tank into the sewer system. DOH and DEP currently have the authority to permit and install combined systems. However, there are some uncertainties in the law as to whether the existing drainfield is considered abandoned, and must be removed, once the combined system is installed even though the drainfield is technically still being used as a backup to the combined system.

Effect of Proposed Changes

The bill amends s. 381.00655(1), F.S., to provide that in the event DEP, or its designee, approves the use of all or a portion of an existing OSTDS and disposal system as an integral part of a sanitary sewer system, then, as part of the approved sanitary sewer system, the existing OSTDS, including the drainfield, is not required to be abandoned.

[12] Chapter 64E-6.008, F.A.C. DEP issues permits for systems that discharge more than 10,000 gpd. *See* Chapter 62-4, F.A.C.
[13] DEP website on Septic Systems, available at http://www.dep.state.fl.us/water/wastewater/dom/septic.htm
[14] *Id*.
[15] *Id*.
[16] *Id*.
[17] *Id.*
[18] Section 381.0065(2)(a), F.S.

B. SECTION DIRECTORY:

Section 1. Amends s. 381.00655, F.S., relating to requirements for the connection of existing onsite sewage treatment and disposal systems to central sewerage systems.

Section 2. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill has a potentially insignificant positive fiscal impact on local government-owned utilities that, under certain circumstances, will not have to put in sewer pipes to connect to properties that currently have septic tanks.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or require additional rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 18, 2014, the Agriculture & Natural Resources Subcommittee adopted one strike-all amendment and reported the bill favorably with a committee substitute. The strike-all amendment deletes everything related to combined systems in s. 381.0065, F.S. The amendment amends s. 381.00655, F.S., to specify that an existing OSTDS, including the drainfield, is not required to be abandoned if DEP, or DEP's designee, approves the use of all or a portion of the existing OSTDS as an integral part of a sanitary sewer system.