

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: CS/SB 1306

INTRODUCER: Health Policy Committee and Senator Altman

SUBJECT: Onsite Sewage Treatment and Disposal Systems

DATE: April 1, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Fav/CS
2.	Gudeman	Uchino	EP	Favorable
3.			AG	
4.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1306 amends s. 381.00655, F.S., to allow an existing onsite sewage treatment and disposal system (OSTDS, septic systems) to continue to be used after the property is hooked up to a wastewater treatment facility, if the Department of Environmental Protection (DEP) approves the use of all or part of the OSTDS as an integral part of a sanitary sewer system.

II. Present Situation:

There are an estimated 2.6 million OSTDSs in operation in Florida¹ and over 2,100 domestic wastewater treatment facilities that treat over 1.5 billion gallons of water per day.² In 1983, the DEP and the Department of Health (DOH) entered into an interagency agreement to coordinate the regulation of OSTDSs, septage and residuals, and marina pumpout facilities. This agreement sets up procedures for addressing interagency issues, including jurisdiction.³

An “onsite sewage treatment and disposal system” is

¹ DOH, Onsite Sewage Programs, *Onsite Sewage*, <http://www.floridahealth.gov/healthy-environments/onsite-sewage/index.html> (last visited April 1, 2014).

² *Id.*

³ DEP, *Interagency Agreement Between the DEP and the DOH for Onsite Sewage Treatment and Disposal Systems* (Sept. 10, 2001), available at http://www.dep.state.fl.us/legal/Operating_Agreement/agreements/DOH/HOHOSTDS_9_10_01.pdf (last visited April 1, 2014).

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. The term 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 regulated under ch. 403, F.S.⁴

Septic systems operate by allowing sewage to flow from a home or business through a pipe into the first chamber, where solids settle out. The liquid then flows into the second chamber where anaerobic bacteria, which do not require oxygen, break down the organic matter, allowing cleaner water to flow out of the second chamber into a drainfield.⁵

The DOH Onsite Sewage Programs, in the Bureau of Environmental Health (bureau), oversees the administration of OSTDSs, in order to detect and prevent disease caused by natural and manmade factors in the environment.⁶ The bureau develops statewide rules and provides training and standardization for county health department employees responsible for permitting the installation and repair of OSTDSs. The bureau licenses septic system contractors, approves continuing education courses and courses provided for septic system contractors, funds a hands-on training center, and mediates septic system contracting complaints. The bureau also manages a state-funded research program, prepares research grants, and reviews and approves innovative products and OSTDS designs.⁷

The DEP is responsible for permitting OSTDSs when the estimated domestic sewage flow from the establishment is over 10,000 gallons per day or the commercial sewage flow is over 5,000 gallons per day. The DEP also has jurisdiction over OSTDSs where there is a likelihood that the system will receive toxic, hazardous or industrial wastes, where a sewer system is available, or if any system or flow from the establishment is currently regulated by the DEP. Variances can be granted by either agency as needed.⁸

Section 381.00655, F.S., requires that when a sewerage system is made available to the property owner of an OSTDS, the owner must connect to the sewerage system within 365 days of notification. An “available” sewerage system means a “publicly owned or investor-owned system [that] is capable of being connected to the plumbing of an establishment or residence, is not under a [DEP] moratorium, and has adequate permitted capacity to accept the sewage to be generated by the establishment or residence.”

Following the connection, the property owner is required to properly abandon the OSTDS, unless it will be used as part of the sanitary sewer system or stormwater management system,

⁴ Section 381.0065(2)(k), F.S.

⁵ EPA, *Primer for Municipal Wastewater Treatment Systems*, Report No. 832-R-04-001, 22 (Sept. 2004), available at http://water.epa.gov/aboutow/owm/upload/2005_08_19_primer.pdf (last visited Mar. 23, 2014).

⁶ See s. 381.006, F.S.

⁷ *Supra* note 1. See also s. 381.006, F.S., and Rule 64E-6, F.A.C.

⁸ DEP, *Septic Systems*, <http://www.dep.state.fl.us/water/wastewater/dom/septic.htm> (last visited April 1, 2014).

within 90 days.⁹ Rule 64E-6.011, Florida Administrative Code (F.A.C.), does not specify whether the drainfield must also be abandoned when the OSTDS is abandoned; however, the DOH has historically interpreted the rule to require drainfield abandonment.¹⁰ The following actions, in this order, are required to properly abandon the OSTDS:

- A property owner or agent must apply for a permit from the DEP to abandon the existing OSTDS and submit the required fee;
- Once the required permit is received, which tank must be pumped out by a permitted septage disposal company, which must provide a written certification of the pump out to the DEP;
- If the tank is empty and dry at the commencement of abandonment, a written statement to that effect by the disposal company or contractor performing the abandonment must be provided to the DEP;
- The bottom of the tank must be opened or ruptured, or the entire tank collapsed, to prevent the tank from retaining water; and
- The tank must be filled with clean sand or other suitable material and covered with soil.¹¹

Following the abandonment, the DEP, the local utility, or the local plumbing authority must conduct an inspection. If a local utility or local plumbing authority performs the abandonment, then a permit issued by the DEP is not required. The local utility or local plumbing authority performing the abandonment program must maintain a log of all inspections performed and submit the log to the county health department on a monthly basis. The septic system serving a single family residence may also be converted into a cistern.¹²

Septic Tank Effluent Pump

A Septic Tank Effluent Pump (STEP) system includes a septic tank and a pump. The sewage is gravity fed into the tank through the plumbing line and the liquid is pumped under pressure to a public sewerage system. The solids remain in the tank where they are broken down and eventually pumped out by a licensed contractor.¹³

The DEP has permitted 12 STEP systems. Approximately one system is permitted per year and they are located in Palm Bay and Port St. Lucie, Florida. Rule 62.604.400(4), F.A.C., requires a central maintenance entity to ensure the individual service connection, pump, and septic tank are all in compliance with the DEP permit.¹⁴

III. Effect of Proposed Changes

The bill amends s. 381.00655, F.S., exempting existing OSTDSs and their associated drainfields, from the OSTDS abandonment requirements if all or a portion of the system is used as an

⁹ Rule 64E-6.011(1), F.A.C.

¹⁰ DEP, *Senate Bill 1306 Agency Analysis*, 2 (March 25, 2014) (on file with the Senate Committee on Environmental Preservation and Conservation).

¹¹ Rule 64E-6.011, F.A.C.

¹² *Id.*

¹³ National Small Flows Clearinghouse, *Pipeline, Alternative Sewers: A Good Option For Many Communities*, Vol. 7, No. 4, 3 (Fall 1996), available at http://www.nesc.wvu.edu/pdf/WW/publications/pipline/PL_FA96.pdf (last visited March 31, 2014).

¹⁴ *Supra* note 10, at 2.

integral part of a sanitary sewer system. The bill provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Owners of OSTDSs will experience an indeterminate positive fiscal impact from not having to pay for the abandonment of drainfields.

There will be a loss of revenue to licensed contractors who conduct drainfield abandonments.

C. Government Sector Impact:

State and local governments may experience a positive fiscal impact because of the reduced number of abandoned drainfields that need to be inspected.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not specify whether the DOH will retain jurisdiction over OSTDSs or whether the DEP will assume responsibility for the onsite portion that is used as part of a sanitary sewer system.

VIII. Statutes Affected:

This bill substantially amends section 381.00655 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on March 19, 2014:

The CS amends the bill by removing all changes creating the “combined system” permit type from s. 381.0065, F.S., and replacing that with language amending s. 381.00655, F.S., which allows an existing OSTDS to continue to be used after the property is hooked up to a sewerage system if the DEP approves the use of all or part of the OSTDS as an integral part of a sanitary sewer system.

- B. **Amendments:**

None.