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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2019	.	
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The Committee on Environment and Natural Resources (Albritton) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. All powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds for the regulation of onsite sewage treatment and disposal systems relating to the



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11 Onsite Sewage Program in the Department of Health are
12 transferred by a type two transfer, as defined in s. 20.06(2),
13 Florida Statutes, to the Department of Environmental Protection.

14 Section 2. The Department of Health and the Department of
15 Environmental Protection shall enter into a memorandum of
16 agreement regarding the type 2 transfer of the Onsite Sewage
17 Program before January 1, 2020. The agreement must address all
18 aspects of the transfer identified in section 1 of this act and
19 the respective administrative and regulatory roles of the county
20 health departments and the Department of Environmental
21 Protection after the July 1, 2020 type two transfer of
22 authority.

23 Section 3. Subsection (5) of section 153.54, Florida
24 Statutes, is amended to read:

25 153.54 Preliminary report by county commissioners with
26 respect to creation of proposed district.—Upon receipt of a
27 petition duly signed by not less than 25 qualified electors who
28 are also freeholders residing within an area proposed to be
29 incorporated into a water and sewer district pursuant to this
30 law and describing in general terms the proposed boundaries of
31 such proposed district, the board of county commissioners if it
32 shall deem it necessary and advisable to create and establish
33 such proposed district for the purpose of constructing,
34 establishing or acquiring a water system or a sewer system or
35 both in and for such district (herein called "improvements"),
36 shall first cause a preliminary report to be made which such
37 report together with any other relevant or pertinent matters,
38 shall include at least the following:

39 (5) For the construction of a new proposed sewerage system



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40 or the extension of an existing sewerage system that was not
41 previously approved, the report shall include a study that
42 includes the available information from the Department of
43 Environmental Protection ~~Health~~ on the history of onsite sewage
44 treatment and disposal systems currently in use in the area and
45 a comparison of the projected costs to the owner of a typical
46 lot or parcel of connecting to and using the proposed sewerage
47 system versus installing, operating, and properly maintaining an
48 onsite sewage treatment system that is approved by the
49 Department of Environmental Protection ~~Health~~ and that provides
50 for the comparable level of environmental and health protection
51 as the proposed central sewerage system; consideration of the
52 local authority's obligations or reasonably anticipated
53 obligations for water body cleanup and protection under state or
54 federal programs, including requirements for water bodies listed
55 under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33
56 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by
57 the local authority.

58
59 Such report shall be filed in the office of the clerk of the
60 circuit court and shall be open for the inspection of any
61 taxpayer, property owner, qualified elector or any other
62 interested or affected person.

63 Section 4. Paragraph (c) of subsection (2) of section
64 153.73, Florida Statutes, is amended to read:

65 153.73 Assessable improvements; levy and payment of special
66 assessments.—Any district may provide for the construction or
67 reconstruction of assessable improvements as defined in s.
68 153.52, and for the levying of special assessments upon



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69 benefited property for the payment thereof, under the provisions
70 of this section.

71 (2)(c) For the construction of a new proposed sewerage
72 system or the extension of an existing sewerage system that was
73 not previously approved, the report shall include a study that
74 includes the available information from the Department of
75 Environmental Protection ~~Health~~ on the history of onsite sewage
76 treatment and disposal systems currently in use in the area and
77 a comparison of the projected costs to the owner of a typical
78 lot or parcel of connecting to and using the proposed sewerage
79 system versus installing, operating, and properly maintaining an
80 onsite sewage treatment system that is approved by the
81 Department of Environmental Protection ~~Health~~ and that provides
82 for the comparable level of environmental and health protection
83 as the proposed central sewerage system; consideration of the
84 local authority's obligations or reasonably anticipated
85 obligations for water body cleanup and protection under state or
86 federal programs, including requirements for water bodies listed
87 under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33
88 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by
89 the local authority.

90 Section 5. Subsection (2) of section 163.3180, Florida
91 Statutes, is amended to read:

92 163.3180 Concurrency.—

93 (2) Consistent with public health and safety, sanitary
94 sewer, solid waste, drainage, adequate water supplies, and
95 potable water facilities shall be in place and available to
96 serve new development no later than the issuance by the local
97 government of a certificate of occupancy or its functional



98 equivalent. Prior to approval of a building permit or its
99 functional equivalent, the local government shall consult with
100 the applicable water supplier to determine whether adequate
101 water supplies to serve the new development will be available no
102 later than the anticipated date of issuance by the local
103 government of a certificate of occupancy or its functional
104 equivalent. A local government may meet the concurrency
105 requirement for sanitary sewer through the use of onsite sewage
106 treatment and disposal systems approved by the Department of
107 Environmental Protection ~~Health~~ to serve new development.

108 Section 6. Subsection (3) of section 180.03, Florida
109 Statutes, is amended to read:

110 180.03 Resolution or ordinance proposing construction or
111 extension of utility; objections to same.-

112 (3) For the construction of a new proposed sewerage system
113 or the extension of an existing sewerage system that was not
114 previously approved, the report shall include a study that
115 includes the available information from the Department of
116 Environmental Protection ~~Health~~ on the history of onsite sewage
117 treatment and disposal systems currently in use in the area and
118 a comparison of the projected costs to the owner of a typical
119 lot or parcel of connecting to and using the proposed sewerage
120 system versus installing, operating, and properly maintaining an
121 onsite sewage treatment system that is approved by the
122 Department of Environmental Protection ~~Health~~ and that provides
123 for the comparable level of environmental and health protection
124 as the proposed central sewerage system; consideration of the
125 local authority's obligations or reasonably anticipated
126 obligations for water body cleanup and protection under state or



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127 federal programs, including requirements for water bodies listed
128 under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33
129 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by
130 the local authority. The results of such a study shall be
131 included in the resolution or ordinance required under
132 subsection (1).

133 Section 7. Paragraphs (a) and (b) of subsection (7) of
134 section 373.036, Florida Statutes, are amended to read:

135 373.036 Florida water plan; district water management
136 plans.—

137 (7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL REPORT.—

138 (a) By March 1, annually, each water management district
139 shall prepare and submit to the Office of Economic and
140 Demographic Research, the department, the Governor, the
141 President of the Senate, and the Speaker of the House of
142 Representatives a consolidated water management district annual
143 report on the management of water resources. In addition, copies
144 must be provided by the water management districts to the chairs
145 of all legislative committees having substantive or fiscal
146 jurisdiction over the districts and the governing board of each
147 county in the district having jurisdiction or deriving any funds
148 for operations of the district. Copies of the consolidated
149 annual report must be made available to the public, either in
150 printed or electronic format.

151 (b) The consolidated annual report must ~~shall~~ contain the
152 following elements, as appropriate to that water management
153 district:

154 1. A district water management plan annual report or the
155 annual work plan report allowed in subparagraph (2)(e)4.



156 2. The department-approved minimum flows and minimum water
157 levels annual priority list and schedule required by s.
158 373.042(3).

159 3. The annual 5-year capital improvements plan required by
160 s. 373.536(6)(a)3.

161 4. The alternative water supplies annual report required by
162 s. 373.707(8)(n).

163 5. The final annual 5-year water resource development work
164 program required by s. 373.536(6)(a)4.

165 6. The Florida Forever Water Management District Work Plan
166 annual report required by s. 373.199(7).

167 7. The mitigation donation annual report required by s.
168 373.414(1)(b)2.

169 8. Information on all projects related to water quality or
170 water quantity as part of a 5-year work program, including:

171 a. A list of all specific projects identified to implement
172 a basin management action plan, including any septic-to-sewer
173 conversion and septic tank remediation projects, or a recovery
174 or prevention strategy;

175 b. A priority ranking for each listed project for which
176 state funding through the water resources development work
177 program is requested, which must be made available to the public
178 for comment at least 30 days before submission of the
179 consolidated annual report;

180 c. The estimated cost for each listed project;

181 d. The estimated completion date for each listed project;

182 e. The source and amount of financial assistance to be made
183 available by the department, a water management district, or
184 other entity for each listed project; and



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185 f. A quantitative estimate of each listed project's benefit
186 to the watershed, water body, or water segment in which it is
187 located.

188 9. A grade for each watershed, water body, or water segment
189 in which a project listed under subparagraph 8. is located
190 representing the level of impairment and violations of adopted
191 minimum flow or minimum water levels. The grading system must
192 reflect the severity of the impairment of the watershed, water
193 body, or water segment.

194 Section 8. Subsection (3) of section 373.807, Florida
195 Statutes, is amended to read:

196 373.807 Protection of water quality in Outstanding Florida
197 Springs.—By July 1, 2016, the department shall initiate
198 assessment, pursuant to s. 403.067(3), of Outstanding Florida
199 Springs or spring systems for which an impairment determination
200 has not been made under the numeric nutrient standards in effect
201 for spring vents. Assessments must be completed by July 1, 2018.

202 (3) As part of a basin management action plan that includes
203 an Outstanding Florida Spring, the department, ~~the Department of~~
204 ~~Health,~~ relevant local governments, and relevant local public
205 and private wastewater utilities shall develop an onsite sewage
206 treatment and disposal system remediation plan for a spring if
207 the department determines onsite sewage treatment and disposal
208 systems within a priority focus area contribute at least 20
209 percent of nonpoint source nitrogen pollution or if the
210 department determines remediation is necessary to achieve the
211 total maximum daily load. The plan shall identify cost-effective
212 and financially feasible projects necessary to reduce the
213 nutrient impacts from onsite sewage treatment and disposal



214 systems and shall be completed and adopted as part of the basin
215 management action plan no later than the first 5-year milestone
216 required by subparagraph (1)(b)8. The department is the lead
217 agency in coordinating the preparation of and the adoption of
218 the plan. The department shall:

219 (a) Collect and evaluate credible scientific information on
220 the effect of nutrients, particularly forms of nitrogen, on
221 springs and springs systems; and

222 (b) Develop a public education plan to provide area
223 residents with reliable, understandable information about onsite
224 sewage treatment and disposal systems and springs.

225
226 In addition to the requirements in s. 403.067, the plan must
227 ~~shall~~ include options for repair, upgrade, replacement,
228 drainfield modification, addition of effective nitrogen reducing
229 features, connection to a central sewerage system, or other
230 action for an onsite sewage treatment and disposal system or
231 group of systems within a priority focus area that contribute at
232 least 20 percent of nonpoint source nitrogen pollution or if the
233 department determines remediation is necessary to achieve a
234 total maximum daily load. For these systems, the department
235 shall include in the plan a priority ranking for each system or
236 group of systems that requires remediation and shall award funds
237 to implement the remediation projects contingent on an
238 appropriation in the General Appropriations Act, which may
239 include all or part of the costs necessary for repair, upgrade,
240 replacement, drainfield modification, addition of effective
241 nitrogen reducing features, initial connection to a central
242 sewerage system, or other action. In awarding funds, the



243 department may consider expected nutrient reduction benefit per
244 unit cost, size and scope of project, relative local financial
245 contribution to the project, and the financial impact on
246 property owners and the community. The department may waive
247 matching funding requirements for proposed projects within an
248 area designated as a rural area of opportunity under s.
249 288.0656.

250 Section 9. Section 381.006, Florida Statutes, is amended to
251 read:

252 381.006 Environmental health.—The Department of Health
253 shall conduct an environmental health program as part of
254 fulfilling the state's public health mission. The purpose of
255 this program is to detect and prevent disease caused by natural
256 and manmade factors in the environment. The environmental health
257 program shall include, but not be limited to:

258 (1) A drinking water function.

259 (2) An environmental health surveillance function which
260 shall collect, compile, and correlate information on public
261 health and exposure to hazardous substances through sampling and
262 testing of water, air, or foods. Environmental health
263 surveillance shall include a comprehensive assessment of
264 drinking water under the department's supervision and an indoor
265 air quality testing and monitoring program to assess health
266 risks from exposure to chemical, physical, and biological agents
267 in the indoor environment.

268 (3) A toxicology and hazard assessment function which shall
269 conduct toxicological and human health risk assessments of
270 exposure to toxic agents, for the purposes of:

271 (a) Supporting determinations by the State Health Officer



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272 of safe levels of contaminants in water, air, or food if
273 applicable standards or criteria have not been adopted. These
274 determinations shall include issuance of health advisories to
275 protect the health and safety of the public at risk from
276 exposure to toxic agents.

277 (b) Provision of human toxicological health risk
278 assessments to the public and other governmental agencies to
279 characterize the risks to the public from exposure to
280 contaminants in air, water, or food.

281 (c) Consultation and technical assistance to the Department
282 of Environmental Protection and other governmental agencies on
283 actions necessary to ameliorate exposure to toxic agents,
284 including the emergency provision by the Department of
285 Environmental Protection of drinking water in cases of drinking
286 water contamination that present an imminent and substantial
287 threat to the public's health, as required by s.
288 376.30(3)(c)1.a.

289 (d) Monitoring and reporting the body burden of toxic
290 agents to estimate past exposure to these toxic agents, predict
291 future health effects, and decrease the incidence of poisoning
292 by identifying and eliminating exposure.

293 (4) A sanitary nuisance function, as that term is defined
294 in chapter 386.

295 (5) A migrant labor function.

296 (6) A public facilities function, including sanitary
297 practices relating to state, county, municipal, and private
298 institutions serving the public; jointly with the Department of
299 Education, publicly and privately owned schools; all places used
300 for the incarceration of prisoners and inmates of state



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301 institutions for the mentally ill; toilets and washrooms in all
302 public places and places of employment; any other condition,
303 place, or establishment necessary for the control of disease or
304 the protection and safety of public health.

305 ~~(7) An onsite sewage treatment and disposal function.~~

306 ~~(8) A biohazardous waste control function.~~

307 (8)~~(9)~~ A function to control diseases transmitted from
308 animals to humans, including the segregation, quarantine, and
309 destruction of domestic pets and wild animals having or
310 suspected of having such diseases.

311 (9)~~(10)~~ An environmental epidemiology function which shall
312 investigate food-borne disease, waterborne disease, and other
313 diseases of environmental causation, whether of chemical,
314 radiological, or microbiological origin. A \$10 surcharge for
315 this function shall be assessed upon all persons permitted under
316 chapter 500. This function shall include an educational program
317 for physicians and health professionals designed to promote
318 surveillance and reporting of environmental diseases, and to
319 further the dissemination of knowledge about the relationship
320 between toxic substances and human health which will be useful
321 in the formulation of public policy and will be a source of
322 information for the public.

323 (10)~~(11)~~ Mosquito and pest control functions as provided in
324 chapters 388 and 482.

325 (11)~~(12)~~ A radiation control function as provided in
326 chapter 404 and part IV of chapter 468.

327 (12)~~(13)~~ A public swimming and bathing facilities function
328 as provided in chapter 514.

329 (13)~~(14)~~ A mobile home park, lodging park, recreational



330 vehicle park, and recreational camp function as provided in
331 chapter 513.

332 (14)~~(15)~~ A sanitary facilities function, which shall
333 include minimum standards for the maintenance and sanitation of
334 sanitary facilities; public access to sanitary facilities; and
335 fixture ratios for special or temporary events and for homeless
336 shelters.

337 (15)~~(16)~~ A group-care-facilities function. As used in this
338 subsection, the term "group care facility" means any public or
339 private school, assisted living facility, adult family-care
340 home, adult day care center, short-term residential treatment
341 center, residential treatment facility, home for special
342 services, transitional living facility, crisis stabilization
343 unit, hospice, prescribed pediatric extended care center,
344 intermediate care facility for persons with developmental
345 disabilities, or boarding school. The department may adopt rules
346 necessary to protect the health and safety of residents, staff,
347 and patrons of group care facilities. Rules related to public
348 and private schools shall be developed by the Department of
349 Education in consultation with the department. Rules adopted
350 under this subsection may include definitions of terms;
351 provisions relating to operation and maintenance of facilities,
352 buildings, grounds, equipment, furnishings, and occupant-space
353 requirements; lighting; heating, cooling, and ventilation; food
354 service; water supply and plumbing; sewage; sanitary facilities;
355 insect and rodent control; garbage; safety; personnel health,
356 hygiene, and work practices; and other matters the department
357 finds are appropriate or necessary to protect the safety and
358 health of the residents, staff, students, faculty, or patrons.



359 The department may not adopt rules that conflict with rules
360 adopted by the licensing or certifying agency. The department
361 may enter and inspect at reasonable hours to determine
362 compliance with applicable statutes or rules. In addition to any
363 sanctions that the department may impose for violations of rules
364 adopted under this section, the department shall also report
365 such violations to any agency responsible for licensing or
366 certifying the group care facility. The licensing or certifying
367 agency may also impose any sanction based solely on the findings
368 of the department.

369 (16)~~(17)~~ A function for investigating elevated levels of
370 lead in blood. Each participating county health department may
371 expend funds for federally mandated certification or
372 recertification fees related to conducting investigations of
373 elevated levels of lead in blood.

374 (17)~~(18)~~ A food service inspection function for domestic
375 violence centers that are certified by the Department of
376 Children and Families and monitored by the Florida Coalition
377 Against Domestic Violence under part XII of chapter 39 and group
378 care homes as described in subsection (15) ~~(16)~~, which shall be
379 conducted annually and be limited to the requirements in
380 department rule applicable to community-based residential
381 facilities with five or fewer residents.

382
383 The department may adopt rules to carry out ~~the provisions of~~
384 this section.

385 Section 10. Subsection (1) of section 381.0061, Florida
386 Statutes, is amended to read:

387 381.0061 Administrative fines.—



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388 (1) In addition to any administrative action authorized by
389 chapter 120 or by other law, the department may impose a fine,
390 which shall not exceed \$500 for each violation, for a violation
391 of s. 381.006(15) ~~s. 381.006(16)~~, s. 381.0065, s. 381.0066, s.
392 381.0072, or part III of chapter 489, for a violation of any
393 rule adopted under this chapter, or for a violation of any of
394 the provisions of chapter 386. Notice of intent to impose such
395 fine shall be given by the department to the alleged violator.
396 Each day that a violation continues may constitute a separate
397 violation.

398 Section 11. Subsection (1) of section 381.0064, Florida
399 Statutes, is amended to read:

400 381.0064 Continuing education courses for persons
401 installing or servicing septic tanks.-

402 (1) The Department of Environmental Protection ~~Health~~ shall
403 establish a program for continuing education which meets the
404 purposes of ss. 381.0101 and 489.554 regarding the public health
405 and environmental effects of onsite sewage treatment and
406 disposal systems and any other matters the department determines
407 desirable for the safe installation and use of onsite sewage
408 treatment and disposal systems. The department may charge a fee
409 to cover the cost of such program.

410 Section 12. Present paragraphs (d) through (q) of
411 subsection (2) of section 381.0065, Florida Statutes, are
412 redesignated as paragraphs (e) through (r), respectively, and a
413 new paragraph (d) is added to that subsection, subsections (3)
414 and (4) are amended, and subsections (7) and (8) are added to
415 that section, to read:

416 381.0065 Onsite sewage treatment and disposal systems;



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417 regulation.-

418 (2) DEFINITIONS.-As used in ss. 381.0065-381.0067, the
419 term:

420 (d) "Department" means the Department of Environmental
421 Protection.

422 (3) DUTIES AND POWERS OF THE DEPARTMENT OF ENVIRONMENTAL
423 PROTECTION HEALTH.-The department shall:

424 (a) Adopt rules to administer ss. 381.0065-381.0067,
425 including definitions that are consistent with the definitions
426 in this section, decreases to setback requirements where no
427 health hazard exists, increases for the lot-flow allowance for
428 performance-based systems, requirements for separation from
429 water table elevation during the wettest season, requirements
430 for the design and construction of any component part of an
431 onsite sewage treatment and disposal system, application and
432 permit requirements for persons who maintain an onsite sewage
433 treatment and disposal system, requirements for maintenance and
434 service agreements for aerobic treatment units and performance-
435 based treatment systems, and recommended standards, including
436 disclosure requirements, for voluntary system inspections to be
437 performed by individuals who are authorized by law to perform
438 such inspections and who shall inform a person having ownership,
439 control, or use of an onsite sewage treatment and disposal
440 system of the inspection standards and of that person's
441 authority to request an inspection based on all or part of the
442 standards.

443 (b) Perform application reviews and site evaluations, issue
444 permits, and conduct inspections and complaint investigations
445 associated with the construction, installation, maintenance,



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446 modification, abandonment, operation, use, or repair of an
447 onsite sewage treatment and disposal system for a residence or
448 establishment with an estimated domestic sewage flow of 10,000
449 gallons or less per day, or an estimated commercial sewage flow
450 of 5,000 gallons or less per day, which is not currently
451 regulated under chapter 403.

452 (c) Develop a comprehensive program to ensure that onsite
453 sewage treatment and disposal systems regulated by the
454 department are sized, designed, constructed, installed,
455 repaired, modified, abandoned, used, operated, and maintained in
456 compliance with this section and rules adopted under this
457 section to prevent groundwater contamination and surface water
458 contamination and to preserve the public health. The department
459 is the final administrative interpretive authority regarding
460 rule interpretation. In the event of a conflict regarding rule
461 interpretation, the State Surgeon General, or his or her
462 designee, shall timely assign a staff person to resolve the
463 dispute.

464 (d) Grant variances in hardship cases under the conditions
465 prescribed in this section and rules adopted under this section.

466 (e) Permit the use of a limited number of innovative
467 systems for a specific period of time, when there is compelling
468 evidence that the system will function properly and reliably to
469 meet the requirements of this section and rules adopted under
470 this section.

471 (f) Issue annual operating permits under this section.

472 (g) Establish and collect fees as established under s.
473 381.0066 for services provided with respect to onsite sewage
474 treatment and disposal systems.



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475 (h) Conduct enforcement activities, including imposing
476 fines, issuing citations, suspensions, revocations, injunctions,
477 and emergency orders for violations of this section, part I of
478 chapter 386, or part III of chapter 489 or for a violation of
479 any rule adopted under this section, part I of chapter 386, or
480 part III of chapter 489.

481 (i) Provide or conduct education and training of department
482 personnel, service providers, and the public regarding onsite
483 sewage treatment and disposal systems.

484 (j) Supervise research on, demonstration of, and training
485 on the performance, environmental impact, and public health
486 impact of onsite sewage treatment and disposal systems within
487 this state. Research fees collected under s. 381.0066(2)(k) must
488 be used to develop and fund hands-on training centers designed
489 to provide practical information about onsite sewage treatment
490 and disposal systems to septic tank contractors, master septic
491 tank contractors, contractors, inspectors, engineers, and the
492 public and must also be used to fund research projects which
493 focus on improvements of onsite sewage treatment and disposal
494 systems, including use of performance-based standards and
495 reduction of environmental impact. Research projects shall be
496 ~~initially approved by the technical review and advisory panel~~
497 ~~and shall be~~ applicable to and reflect the soil conditions
498 specific to Florida. Such projects shall be awarded through
499 competitive negotiation, using the procedures provided in s.
500 287.055, to public or private entities that have experience in
501 onsite sewage treatment and disposal systems in Florida and that
502 are principally located in Florida. ~~Research projects shall not~~
503 ~~be awarded to firms or entities that employ or are associated~~



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504 ~~with persons who serve on either the technical review and~~
505 ~~advisory panel or the research review and advisory committee.~~

506 (k) Approve the installation of individual graywater
507 disposal systems in which blackwater is treated by a central
508 sewerage system.

509 (l) Regulate and permit the sanitation, handling,
510 treatment, storage, reuse, and disposal of byproducts from any
511 system regulated under this chapter and not regulated by the
512 Department of Environmental Protection.

513 (m) Permit and inspect portable or temporary toilet
514 services and holding tanks. The department shall review
515 applications, perform site evaluations, and issue permits for
516 the temporary use of holding tanks, privies, portable toilet
517 services, or any other toilet facility that is intended for use
518 on a permanent or nonpermanent basis, including facilities
519 placed on construction sites when workers are present. The
520 department may specify standards for the construction,
521 maintenance, use, and operation of any such facility for
522 temporary use.

523 (n) Regulate and permit maintenance entities for
524 performance-based treatment systems and aerobic treatment unit
525 systems. To ensure systems are maintained and operated according
526 to manufacturer's specifications and designs, the department
527 shall establish by rule minimum qualifying criteria for
528 maintenance entities. The criteria shall include: training,
529 access to approved spare parts and components, access to
530 manufacturer's maintenance and operation manuals, and service
531 response time. The maintenance entity shall employ a contractor
532 licensed under s. 489.105(3)(m), or part III of chapter 489, or



533 a state-licensed wastewater plant operator, who is responsible
534 for maintenance and repair of all systems under contract.

535 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not
536 construct, repair, modify, abandon, or operate an onsite sewage
537 treatment and disposal system without first obtaining a permit
538 approved by the department. The department may issue permits to
539 carry out this section, but shall not make the issuance of such
540 permits contingent upon prior approval by the department ~~of~~
541 ~~Environmental Protection~~, except that the issuance of a permit
542 for work seaward of the coastal construction control line
543 established under s. 161.053 is ~~shall be~~ contingent upon receipt
544 of any required coastal construction control line permit from
545 the department ~~of Environmental Protection~~. A construction
546 permit is valid for 18 months from the issuance date and may be
547 extended by the department for one 90-day period under rules
548 adopted by the department. A repair permit is valid for 90 days
549 from the date of issuance. An operating permit must be obtained
550 before ~~prior to~~ the use of any aerobic treatment unit or if the
551 establishment generates commercial waste. Buildings or
552 establishments that use an aerobic treatment unit or generate
553 commercial waste shall be inspected by the department at least
554 annually to assure compliance with the terms of the operating
555 permit. The operating permit for a commercial wastewater system
556 is valid for 1 year from the date of issuance and must be
557 renewed annually. The operating permit for an aerobic treatment
558 unit is valid for 2 years from the date of issuance and must be
559 renewed every 2 years. If all information pertaining to the
560 siting, location, and installation conditions or repair of an
561 onsite sewage treatment and disposal system remains the same, a



562 construction or repair permit for the onsite sewage treatment
563 and disposal system may be transferred to another person, if the
564 transferee files, within 60 days after the transfer of
565 ownership, an amended application providing all corrected
566 information and proof of ownership of the property. A ~~There is~~
567 ~~no~~ fee is not associated with the processing of this
568 supplemental information. A person may not contract to
569 construct, modify, alter, repair, service, abandon, or maintain
570 any portion of an onsite sewage treatment and disposal system
571 without being registered under part III of chapter 489. A
572 property owner who personally performs construction,
573 maintenance, or repairs to a system serving his or her own
574 owner-occupied single-family residence is exempt from
575 registration requirements for performing such construction,
576 maintenance, or repairs on that residence, but is subject to all
577 permitting requirements. A municipality or political subdivision
578 of the state may not issue a building or plumbing permit for any
579 building that requires the use of an onsite sewage treatment and
580 disposal system unless the owner or builder has received a
581 construction permit for such system from the department. A
582 building or structure may not be occupied and a municipality,
583 political subdivision, or any state or federal agency may not
584 authorize occupancy until the department approves the final
585 installation of the onsite sewage treatment and disposal system.
586 A municipality or political subdivision of the state may not
587 approve any change in occupancy or tenancy of a building that
588 uses an onsite sewage treatment and disposal system until the
589 department has reviewed the use of the system with the proposed
590 change, approved the change, and amended the operating permit.



591 (a) Subdivisions and lots in which each lot has a minimum
592 area of at least one-half acre and either a minimum dimension of
593 100 feet or a mean of at least 100 feet of the side bordering
594 the street and the distance formed by a line parallel to the
595 side bordering the street drawn between the two most distant
596 points of the remainder of the lot may be developed with a water
597 system regulated under s. 381.0062 and onsite sewage treatment
598 and disposal systems, provided the projected daily sewage flow
599 does not exceed an average of 1,500 gallons per acre per day,
600 and provided satisfactory drinking water can be obtained and all
601 distance and setback, soil condition, water table elevation, and
602 other related requirements of this section and rules adopted
603 under this section can be met.

604 (b) Subdivisions and lots using a public water system as
605 defined in s. 403.852 may use onsite sewage treatment and
606 disposal systems, provided there are no more than four lots per
607 acre, provided the projected daily sewage flow does not exceed
608 an average of 2,500 gallons per acre per day, and provided that
609 all distance and setback, soil condition, water table elevation,
610 and other related requirements that are generally applicable to
611 the use of onsite sewage treatment and disposal systems are met.

612 (c) Notwithstanding paragraphs (a) and (b), for
613 subdivisions platted of record on or before October 1, 1991,
614 when a developer or other appropriate entity has previously made
615 or makes provisions, including financial assurances or other
616 commitments, acceptable to the Department of Health, that a
617 central water system will be installed by a regulated public
618 utility based on a density formula, private potable wells may be
619 used with onsite sewage treatment and disposal systems until the



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620 agreed-upon densities are reached. In a subdivision regulated by
621 this paragraph, the average daily sewage flow may not exceed
622 2,500 gallons per acre per day. This section does not affect the
623 validity of existing prior agreements. After October 1, 1991,
624 the exception provided under this paragraph is not available to
625 a developer or other appropriate entity.

626 (d) Paragraphs (a) and (b) do not apply to any proposed
627 residential subdivision with more than 50 lots or to any
628 proposed commercial subdivision with more than 5 lots where a
629 publicly owned or investor-owned sewage treatment sewerage
630 system is available. ~~It is the intent of~~ This paragraph does not
631 ~~to~~ allow development of additional proposed subdivisions in
632 order to evade the requirements of this paragraph.

633 (e) Onsite sewage treatment and disposal systems must not
634 be placed closer than:

- 635 1. Seventy-five feet from a private potable well.
- 636 2. Two hundred feet from a public potable well serving a
637 residential or nonresidential establishment having a total
638 sewage flow of greater than 2,000 gallons per day.
- 639 3. One hundred feet from a public potable well serving a
640 residential or nonresidential establishment having a total
641 sewage flow of less than or equal to 2,000 gallons per day.
- 642 4. Fifty feet from any nonpotable well.
- 643 5. Ten feet from any storm sewer pipe, to the maximum
644 extent possible, but in no instance shall the setback be less
645 than 5 feet.
- 646 6. Seventy-five feet from the mean high-water line of a
647 tidally influenced surface water body.
- 648 7. Seventy-five feet from the mean annual flood line of a



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649 permanent nontidal surface water body.

650 8. Fifteen feet from the design high-water line of
651 retention areas, detention areas, or swales designed to contain
652 standing or flowing water for less than 72 hours after a
653 rainfall or the design high-water level of normally dry drainage
654 ditches or normally dry individual lot stormwater retention
655 areas.

656 (f) Except as provided under paragraphs (e) and (s) ~~(t)~~, ~~no~~
657 limitations may not ~~shall~~ be imposed by rule, relating to the
658 distance between an onsite disposal system and any area that
659 ~~either~~ permanently or temporarily has visible surface water.

660 (g) ~~All provisions of~~ This section and rules adopted under
661 this section relating to soil condition, water table elevation,
662 distance, and other setback requirements must be equally applied
663 to all lots, with the following exceptions:

664 1. Any residential lot that was platted and recorded on or
665 after January 1, 1972, or that is part of a residential
666 subdivision that was approved by the appropriate permitting
667 agency on or after January 1, 1972, and that was eligible for an
668 onsite sewage treatment and disposal system construction permit
669 on the date of such platting and recording or approval shall be
670 eligible for an onsite sewage treatment and disposal system
671 construction permit, regardless of when the application for a
672 permit is made. If rules in effect at the time the permit
673 application is filed cannot be met, residential lots platted and
674 recorded or approved on or after January 1, 1972, shall, to the
675 maximum extent possible, comply with the rules in effect at the
676 time the permit application is filed. At a minimum, however,
677 those residential lots platted and recorded or approved on or



678 after January 1, 1972, but before January 1, 1983, shall comply
679 with those rules in effect on January 1, 1983, and those
680 residential lots platted and recorded or approved on or after
681 January 1, 1983, shall comply with those rules in effect at the
682 time of such platting and recording or approval. In determining
683 the maximum extent of compliance with current rules that is
684 possible, the department shall allow structures and
685 appurtenances thereto which were authorized at the time such
686 lots were platted and recorded or approved.

687 2. Lots platted before 1972 are subject to a 50-foot
688 minimum surface water setback and are not subject to lot size
689 requirements. The projected daily flow for onsite sewage
690 treatment and disposal systems for lots platted before 1972 may
691 not exceed:

692 a. Two thousand five hundred gallons per acre per day for
693 lots served by public water systems as defined in s. 403.852.

694 b. One thousand five hundred gallons per acre per day for
695 lots served by water systems regulated under s. 381.0062.

696 (h)1. The department may grant variances in hardship cases
697 which may be less restrictive than ~~the provisions~~ specified in
698 this section. If a variance is granted and the onsite sewage
699 treatment and disposal system construction permit has been
700 issued, the variance may be transferred with the system
701 construction permit, if the transferee files, within 60 days
702 after the transfer of ownership, an amended construction permit
703 application providing all corrected information and proof of
704 ownership of the property and if the same variance would have
705 been required for the new owner of the property as was
706 originally granted to the original applicant for the variance. A



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707 ~~There is no fee~~ is not associated with the processing of this
708 supplemental information. A variance may not be granted under
709 this section until the department is satisfied that:

710 a. The hardship was not caused intentionally by the action
711 of the applicant;

712 b. A ~~No~~ reasonable alternative, taking into consideration
713 factors such as cost, does not exist ~~exists~~ for the treatment of
714 the sewage; and

715 c. The discharge from the onsite sewage treatment and
716 disposal system will not adversely affect the health of the
717 applicant or the public or significantly degrade the groundwater
718 or surface waters.

719
720 Where soil conditions, water table elevation, and setback
721 provisions are determined by the department to be satisfactory,
722 special consideration must be given to those lots platted before
723 1972.

724 2. The department shall appoint and staff a variance review
725 and advisory committee, which shall meet monthly to recommend
726 agency action on variance requests. The committee shall make its
727 recommendations on variance requests at the meeting in which the
728 application is scheduled for consideration, except for an
729 extraordinary change in circumstances, the receipt of new
730 information that raises new issues, or when the applicant
731 requests an extension. The committee shall consider the criteria
732 in subparagraph 1. in its recommended agency action on variance
733 requests and shall also strive to allow property owners the full
734 use of their land where possible. The committee consists of the
735 following:



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736 a. The Secretary of the department ~~State Surgeon General~~ or
737 his or her designee.

738 b. A representative from the county health departments.

739 c. A representative from the home building industry
740 recommended by the Florida Home Builders Association.

741 d. A representative from the septic tank industry
742 recommended by the Florida Onsite Wastewater Association.

743 e. A representative from the Department of Health
744 ~~Environmental Protection~~.

745 f. A representative from the real estate industry who is
746 also a developer in this state who develops lots using onsite
747 sewage treatment and disposal systems, recommended by the
748 Florida Association of Realtors.

749 g. A representative from the engineering profession
750 recommended by the Florida Engineering Society.

751
752 Members shall be appointed for a term of 3 years, with such
753 appointments being staggered so that the terms of no more than
754 two members expire in any one year. Members shall serve without
755 remuneration, but if requested, shall be reimbursed for per diem
756 and travel expenses as provided in s. 112.061.

757 (i) A construction permit may not be issued for an onsite
758 sewage treatment and disposal system in any area zoned or used
759 for industrial or manufacturing purposes, or its equivalent,
760 where a publicly owned or investor-owned sewage treatment system
761 is available, or where a likelihood exists that the system will
762 receive toxic, hazardous, or industrial waste. An existing
763 onsite sewage treatment and disposal system may be repaired if a
764 publicly owned or investor-owned sewage treatment ~~sewerage~~



765 system is not available within 500 feet of the building sewer
766 stub-out and if system construction and operation standards can
767 be met. This paragraph does not require publicly owned or
768 investor-owned sewage ~~sewerage~~ treatment systems to accept
769 anything other than domestic wastewater.

770 1. A building located in an area zoned or used for
771 industrial or manufacturing purposes, or its equivalent, when
772 such building is served by an onsite sewage treatment and
773 disposal system, must not be occupied until the owner or tenant
774 has obtained written approval from the department. The
775 department may ~~shall~~ not grant approval when the proposed use of
776 the system is to dispose of toxic, hazardous, or industrial
777 wastewater or toxic or hazardous chemicals.

778 2. Each person who owns or operates a business or facility
779 in an area zoned or used for industrial or manufacturing
780 purposes, or its equivalent, or who owns or operates a business
781 that has the potential to generate toxic, hazardous, or
782 industrial wastewater or toxic or hazardous chemicals, and uses
783 an onsite sewage treatment and disposal system that is installed
784 on or after July 5, 1989, must obtain an annual system operating
785 permit from the department. A person who owns or operates a
786 business that uses an onsite sewage treatment and disposal
787 system that was installed and approved before July 5, 1989, does
788 not need to ~~not~~ obtain a system operating permit. However, upon
789 change of ownership or tenancy, the new owner or operator must
790 notify the department of the change, and the new owner or
791 operator must obtain an annual system operating permit,
792 regardless of the date that the system was installed or
793 approved.



794 3. The department shall periodically review and evaluate
795 the continued use of onsite sewage treatment and disposal
796 systems in areas zoned or used for industrial or manufacturing
797 purposes, or its equivalent, and may require the collection and
798 analyses of samples from within and around such systems. If the
799 department finds that toxic or hazardous chemicals or toxic,
800 hazardous, or industrial wastewater have been or are being
801 disposed of through an onsite sewage treatment and disposal
802 system, the department shall initiate enforcement actions
803 against the owner or tenant to ensure adequate cleanup,
804 treatment, and disposal.

805 (j) An onsite sewage treatment and disposal system designed
806 by a professional engineer registered in the state and certified
807 by such engineer as complying with performance criteria adopted
808 by the department must be approved by the department subject to
809 the following:

810 1. The performance criteria applicable to engineer-designed
811 systems must be limited to those necessary to ensure that such
812 systems do not adversely affect the public health or
813 significantly degrade the groundwater or surface water. Such
814 performance criteria shall include consideration of the quality
815 of system effluent, the proposed total sewage flow per acre,
816 wastewater treatment capabilities of the natural or replaced
817 soil, water quality classification of the potential surface-
818 water-receiving body, and the structural and maintenance
819 viability of the system for the treatment of domestic
820 wastewater. However, performance criteria shall address only the
821 performance of a system and not a system's design.

822 2. A person electing to use ~~utilize~~ an engineer-designed



823 system shall, upon completion of the system design, submit such
824 design, certified by a registered professional engineer, to the
825 county health department. The county health department may use
826 ~~utilize~~ an outside consultant to review the engineer-designed
827 system, with the actual cost of such review to be borne by the
828 applicant. Within 5 working days after receiving an engineer-
829 designed system permit application, the county health department
830 shall request additional information if the application is not
831 complete. Within 15 working days after receiving a complete
832 application for an engineer-designed system, the county health
833 department either shall issue the permit or, if it determines
834 that the system does not comply with the performance criteria,
835 shall notify the applicant of that determination and refer the
836 application to the department for a determination as to whether
837 the system should be approved, disapproved, or approved with
838 modification. The department engineer's determination shall
839 prevail over the action of the county health department. The
840 applicant shall be notified in writing of the department's
841 determination and of the applicant's rights to pursue a variance
842 or seek review under ~~the provisions of~~ chapter 120.

843 3. The owner of an engineer-designed performance-based
844 system must maintain a current maintenance service agreement
845 with a maintenance entity permitted by the department. The
846 maintenance entity shall inspect each system at least twice each
847 year and shall report quarterly to the department on the number
848 of systems inspected and serviced. The reports may be submitted
849 electronically.

850 4. The property owner of an owner-occupied, single-family
851 residence may be approved and permitted by the department as a



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852 maintenance entity for his or her own performance-based
853 treatment system upon written certification from the system
854 manufacturer's approved representative that the property owner
855 has received training on the proper installation and service of
856 the system. The maintenance service agreement must conspicuously
857 disclose that the property owner has the right to maintain his
858 or her own system and is exempt from contractor registration
859 requirements for performing construction, maintenance, or
860 repairs on the system but is subject to all permitting
861 requirements.

862 5. The property owner shall obtain a biennial system
863 operating permit from the department for each system. The
864 department shall inspect the system at least annually, or on
865 such periodic basis as the fee collected permits, and may
866 collect system-effluent samples if appropriate to determine
867 compliance with the performance criteria. The fee for the
868 biennial operating permit shall be collected beginning with the
869 second year of system operation.

870 6. If an engineer-designed system fails to properly
871 function or fails to meet performance standards, the system
872 shall be re-engineered, if necessary, to bring the system into
873 compliance with ~~the provisions of~~ this section.

874 (k) An innovative system may be approved in conjunction
875 with an engineer-designed site-specific system that ~~which~~ is
876 certified by the engineer to meet the performance-based criteria
877 adopted by the department.

878 (l) For the Florida Keys, the department shall adopt a
879 special rule for the construction, installation, modification,
880 operation, repair, maintenance, and performance of onsite sewage



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881 treatment and disposal systems which considers the unique soil
882 conditions and water table elevations, densities, and setback
883 requirements. On lots where a setback distance of 75 feet from
884 surface waters, saltmarsh, and buttonwood association habitat
885 areas cannot be met, an injection well, approved and permitted
886 by the department, may be used for disposal of effluent from
887 onsite sewage treatment and disposal systems. The following
888 additional requirements apply to onsite sewage treatment and
889 disposal systems in Monroe County:

890 1. The county, each municipality, and those special
891 districts established for the purpose of the collection,
892 transmission, treatment, or disposal of sewage shall ensure, in
893 accordance with the specific schedules adopted by the
894 Administration Commission under s. 380.0552, the completion of
895 onsite sewage treatment and disposal system upgrades to meet the
896 requirements of this paragraph.

897 2. Onsite sewage treatment and disposal systems must cease
898 discharge by December 31, 2015, or must comply with department
899 rules and provide the level of treatment which, on a permitted
900 annual average basis, produces an effluent that contains no more
901 than the following concentrations:

- 902 a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.
- 903 b. Suspended Solids of 10 mg/l.
- 904 c. Total Nitrogen, expressed as N, of 10 mg/l or a
905 reduction in nitrogen of at least 70 percent. A system that has
906 been tested and certified to reduce nitrogen concentrations by
907 at least 70 percent shall be deemed to be in compliance with
908 this standard.
- 909 d. Total Phosphorus, expressed as P, of 1 mg/l.



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910
911 In addition, onsite sewage treatment and disposal systems
912 discharging to an injection well must provide basic disinfection
913 as defined by department rule.

914 3. In areas not scheduled to be served by a central sewer,
915 onsite sewage treatment and disposal systems must, by December
916 31, 2015, comply with department rules and provide the level of
917 treatment described in subparagraph 2.

918 4. In areas scheduled to be served by a central sewerage
919 system ~~sewer~~ by December 31, 2015, if the property owner has
920 paid a connection fee or assessment for connection to the
921 central sewerage ~~sewer~~ system, the property owner may install a
922 holding tank with a high water alarm or an onsite sewage
923 treatment and disposal system that meets the following minimum
924 standards:

925 a. The existing tanks must be pumped and inspected and
926 certified as being watertight and free of defects in accordance
927 with department rule; and

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

930 5. Onsite sewage treatment and disposal systems must be
931 monitored for total nitrogen and total phosphorus concentrations
932 as required by department rule.

933 6. The department shall enforce proper installation,
934 operation, and maintenance of onsite sewage treatment and
935 disposal systems pursuant to this chapter, including ensuring
936 that the appropriate level of treatment described in
937 subparagraph 2. is met.

938 7. The authority of a local government, including a special



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939 district, to mandate connection of an onsite sewage treatment
940 and disposal system is governed by s. 4, chapter 99-395, Laws of
941 Florida.

942 8. Notwithstanding any other ~~provision of~~ law, an onsite
943 sewage treatment and disposal system installed after July 1,
944 2010, in unincorporated Monroe County, excluding special
945 wastewater districts, that complies with the standards in
946 subparagraph 2. is not required to connect to a central sewer
947 system until December 31, 2020.

948 (m) Any ~~Ne~~ product sold in the state for use in onsite
949 sewage treatment and disposal systems may not contain any
950 substance in concentrations or amounts that would interfere with
951 or prevent the successful operation of such system, or that
952 would cause discharges from such systems to violate applicable
953 water quality standards. The department shall publish criteria
954 for products known or expected to meet the conditions of this
955 paragraph. ~~If In the event~~ a product does not meet such
956 criteria, such product may be sold if the manufacturer
957 satisfactorily demonstrates to the department that the
958 conditions of this paragraph are met.

959 (n) Evaluations for determining the seasonal high-water
960 table elevations or the suitability of soils for the use of a
961 new onsite sewage treatment and disposal system shall be
962 performed by department personnel, professional engineers
963 registered in the state, or such other persons with expertise,
964 as defined by rule, in making such evaluations. Evaluations for
965 determining mean annual flood lines shall be performed by those
966 persons identified in paragraph (2) (k) ~~(2) (j)~~. The department
967 shall accept evaluations submitted by professional engineers and



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968 such other persons as meet the expertise established by this
969 section or by rule unless the department has a reasonable
970 scientific basis for questioning the accuracy or completeness of
971 the evaluation.

972 ~~(e) The department shall appoint a research review and~~
973 ~~advisory committee, which shall meet at least semiannually. The~~
974 ~~committee shall advise the department on directions for new~~
975 ~~research, review and rank proposals for research contracts, and~~
976 ~~review draft research reports and make comments. The committee~~
977 ~~is comprised of:~~

978 ~~1. A representative of the State Surgeon General, or his or~~
979 ~~her designee.~~

980 ~~2. A representative from the septic tank industry.~~

981 ~~3. A representative from the home building industry.~~

982 ~~4. A representative from an environmental interest group.~~

983 ~~5. A representative from the State University System, from~~
984 ~~a department knowledgeable about onsite sewage treatment and~~
985 ~~disposal systems.~~

986 ~~6. A professional engineer registered in this state who has~~
987 ~~work experience in onsite sewage treatment and disposal systems.~~

988 ~~7. A representative from local government who is~~
989 ~~knowledgeable about domestic wastewater treatment.~~

990 ~~8. A representative from the real estate profession.~~

991 ~~9. A representative from the restaurant industry.~~

992 ~~10. A consumer.~~

993

994 ~~Members shall be appointed for a term of 3 years, with the~~
995 ~~appointments being staggered so that the terms of no more than~~
996 ~~four members expire in any one year. Members shall serve without~~



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997 ~~remuneration, but are entitled to reimbursement for per diem and~~
998 ~~travel expenses as provided in s. 112.061.~~

999 (o) ~~(p)~~ An application for an onsite sewage treatment and
1000 disposal system permit shall be completed in full, signed by the
1001 owner or the owner's authorized representative, or by a
1002 contractor licensed under chapter 489, and shall be accompanied
1003 by all required exhibits and fees. ~~No~~ Specific documentation of
1004 property ownership is not ~~shall be~~ required as a prerequisite to
1005 the review of an application or the issuance of a permit. The
1006 issuance of a permit does not constitute determination by the
1007 department of property ownership.

1008 (p) ~~(q)~~ The department may not require any form of
1009 subdivision analysis of property by an owner, developer, or
1010 subdivider before ~~prior to~~ submission of an application for an
1011 onsite sewage treatment and disposal system.

1012 (q) ~~(r)~~ ~~Nothing in~~ This section does not limit ~~limits~~ the
1013 power of a municipality or county to enforce other laws for the
1014 protection of the public health and safety.

1015 (r) ~~(s)~~ In the siting of onsite sewage treatment and
1016 disposal systems, including drainfields, shoulders, and slopes,
1017 guttering may ~~shall~~ not be required on single-family residential
1018 dwelling units for systems located greater than 5 feet from the
1019 roof drip line of the house. If guttering is used on residential
1020 dwelling units, the downspouts shall be directed away from the
1021 drainfield.

1022 (s) ~~(t)~~ Notwithstanding ~~the provisions of~~ subparagraph
1023 (g)1., onsite sewage treatment and disposal systems located in
1024 floodways of the Suwannee and Aucilla Rivers must adhere to the
1025 following requirements:



1026 1. The absorption surface of the drainfield may ~~shall~~ not
1027 be subject to flooding based on 10-year flood elevations.
1028 Provided, however, for lots or parcels created by the
1029 subdivision of land in accordance with applicable local
1030 government regulations before ~~prior to~~ January 17, 1990, if an
1031 applicant cannot construct a drainfield system with the
1032 absorption surface of the drainfield at an elevation equal to or
1033 above 10-year flood elevation, the department shall issue a
1034 permit for an onsite sewage treatment and disposal system within
1035 the 10-year floodplain of rivers, streams, and other bodies of
1036 flowing water if all of the following criteria are met:
1037 a. The lot is at least one-half acre in size;
1038 b. The bottom of the drainfield is at least 36 inches above
1039 the 2-year flood elevation; and
1040 c. The applicant installs either: a waterless,
1041 incinerating, or organic waste composting toilet and a graywater
1042 system and drainfield in accordance with department rules; an
1043 aerobic treatment unit and drainfield in accordance with
1044 department rules; a system ~~approved by the State Health Office~~
1045 that is capable of reducing effluent nitrate by at least 50
1046 percent in accordance with department rules; or a system other
1047 than a system using alternative drainfield materials in
1048 accordance with department rules ~~approved by the county health~~
1049 ~~department pursuant to department rule other than a system using~~
1050 ~~alternative drainfield materials~~. The United States Department
1051 of Agriculture Soil Conservation Service soil maps, State of
1052 Florida Water Management District data, and Federal Emergency
1053 Management Agency Flood Insurance maps are resources that shall
1054 be used to identify flood-prone areas.



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1055 2. The use of fill or mounding to elevate a drainfield
1056 system out of the 10-year floodplain of rivers, streams, or
1057 other bodies of flowing water may ~~shall~~ not be permitted if such
1058 a system lies within a regulatory floodway of the Suwannee and
1059 Aucilla Rivers. In cases where the 10-year flood elevation does
1060 not coincide with the boundaries of the regulatory floodway, the
1061 regulatory floodway will be considered for the purposes of this
1062 subsection to extend at a minimum to the 10-year flood
1063 elevation.

1064 (t) ~~1. (u) 1.~~ The owner of an aerobic treatment unit system
1065 shall maintain a current maintenance service agreement with an
1066 aerobic treatment unit maintenance entity permitted by the
1067 department. The maintenance entity shall inspect each aerobic
1068 treatment unit system at least twice each year and shall report
1069 quarterly to the department on the number of aerobic treatment
1070 unit systems inspected and serviced. The reports may be
1071 submitted electronically.

1072 2. The property owner of an owner-occupied, single-family
1073 residence may be approved and permitted by the department as a
1074 maintenance entity for his or her own aerobic treatment unit
1075 system upon written certification from the system manufacturer's
1076 approved representative that the property owner has received
1077 training on the proper installation and service of the system.
1078 The maintenance entity service agreement must conspicuously
1079 disclose that the property owner has the right to maintain his
1080 or her own system and is exempt from contractor registration
1081 requirements for performing construction, maintenance, or
1082 repairs on the system but is subject to all permitting
1083 requirements.



1084 3. A septic tank contractor licensed under part III of
1085 chapter 489, if approved by the manufacturer, may not be denied
1086 access by the manufacturer to aerobic treatment unit system
1087 training or spare parts for maintenance entities. After the
1088 original warranty period, component parts for an aerobic
1089 treatment unit system may be replaced with parts that meet
1090 manufacturer's specifications but are manufactured by others.
1091 The maintenance entity shall maintain documentation of the
1092 substitute part's equivalency for 2 years and shall provide such
1093 documentation to the department upon request.

1094 4. The owner of an aerobic treatment unit system shall
1095 obtain a system operating permit from the department and allow
1096 the department to inspect during reasonable hours each aerobic
1097 treatment unit system at least annually, and such inspection may
1098 include collection and analysis of system-effluent samples for
1099 performance criteria established by rule of the department.

1100 (u)~~(v)~~ The department may require the submission of
1101 detailed system construction plans that are prepared by a
1102 professional engineer registered in this state. The department
1103 shall establish by rule criteria for determining when such a
1104 submission is required.

1105 (v)~~(w)~~ Any permit issued and approved by the department for
1106 the installation, modification, or repair of an onsite sewage
1107 treatment and disposal system shall transfer with the title to
1108 the property in a real estate transaction. A title may not be
1109 encumbered at the time of transfer by new permit requirements by
1110 a governmental entity for an onsite sewage treatment and
1111 disposal system which differ from the permitting requirements in
1112 effect at the time the system was permitted, modified, or



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1113 repaired. An inspection of a system may not be mandated by a
1114 governmental entity at the point of sale in a real estate
1115 transaction. This paragraph does not affect a septic tank phase-
1116 out deferral program implemented by a consolidated government as
1117 defined in s. 9, Art. VIII of the State Constitution (1885).

1118 (w)~~(*)~~ A governmental entity, including a municipality,
1119 county, or statutorily created commission, may not require an
1120 engineer-designed performance-based treatment system, excluding
1121 a passive engineer-designed performance-based treatment system,
1122 before the completion of the Florida Onsite Sewage Nitrogen
1123 Reduction Strategies Project. This paragraph does not apply to a
1124 governmental entity, including a municipality, county, or
1125 statutorily created commission, which adopted a local law,
1126 ordinance, or regulation on or before January 31, 2012.
1127 Notwithstanding this paragraph, an engineer-designed
1128 performance-based treatment system may be used to meet the
1129 requirements of the variance review and advisory committee
1130 recommendations.

1131 (x)1.~~(y)~~1. An onsite sewage treatment and disposal system
1132 is not considered abandoned if the system is disconnected from a
1133 structure that was made unusable or destroyed following a
1134 disaster and if the system was properly functioning at the time
1135 of disconnection and was not adversely affected by the disaster.
1136 The onsite sewage treatment and disposal system may be
1137 reconnected to a rebuilt structure if:

1138 a. The reconnection of the system is to the same type of
1139 structure which contains the same number of bedrooms or fewer,
1140 if the square footage of the structure is less than or equal to
1141 110 percent of the original square footage of the structure that



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1142 existed before the disaster;

1143 b. The system is not a sanitary nuisance; and

1144 c. The system has not been altered without prior
1145 authorization.

1146 2. An onsite sewage treatment and disposal system that
1147 serves a property that is foreclosed upon is not considered
1148 abandoned.

1149 (y)~~(z)~~ If an onsite sewage treatment and disposal system
1150 permittee receives, relies upon, and undertakes construction of
1151 a system based upon a validly issued construction permit under
1152 rules applicable at the time of construction but a change to a
1153 rule occurs within 5 years after the approval of the system for
1154 construction but before the final approval of the system, the
1155 rules applicable and in effect at the time of construction
1156 approval apply at the time of final approval if fundamental site
1157 conditions have not changed between the time of construction
1158 approval and final approval.

1159 (z)~~(aa)~~ An existing-system inspection or evaluation and
1160 assessment, or a modification, replacement, or upgrade of an
1161 onsite sewage treatment and disposal system is not required for
1162 a remodeling addition or modification to a single-family home if
1163 a bedroom is not added. However, a remodeling addition or
1164 modification to a single-family home may not cover any part of
1165 the existing system or encroach upon a required setback or the
1166 unobstructed area. To determine if a setback or the unobstructed
1167 area is impacted, the local health department shall review and
1168 verify a floor plan and site plan of the proposed remodeling
1169 addition or modification to the home submitted by a remodeler
1170 which shows the location of the system, including the distance



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1171 of the remodeling addition or modification to the home from the
1172 onsite sewage treatment and disposal system. The local health
1173 department may visit the site or otherwise determine the best
1174 means of verifying the information submitted. A verification of
1175 the location of a system is not an inspection or evaluation and
1176 assessment of the system. The review and verification must be
1177 completed within 7 business days after receipt by the local
1178 health department of a floor plan and site plan. If the review
1179 and verification is not completed within such time, the
1180 remodeling addition or modification to the single-family home,
1181 for the purposes of this paragraph, is approved.

1182 (7) LOT SIZE CALCULATION.—When applying the prohibition
1183 imposed by s. 373.811(2), the department shall:

1184 (a) Include portions of the lot subject to an easement or
1185 right of entry when determining the size of a lot.

1186 (b) Determine that a hardship exists in accordance with s.
1187 403.201(1)(c) when an applicant for a variance demonstrates that
1188 the lot subject to the request is no smaller than 0.85 acres and
1189 that lots in the immediate proximity average one acre in size or
1190 larger.

1191 (8) In addition to allowing the use of other department
1192 approved nutrient removing onsite sewage treatment and disposal
1193 systems to meet the requirements of a total maximum daily load
1194 or basin management action plan adopted pursuant to 403.067, a
1195 reasonable assurance plan, or other water quality protection and
1196 restoration requirements, the department shall also allow the
1197 use of National Sanitation Foundation International/American
1198 National Standards Institute 245 systems approved by the Public
1199 Health and Safety Organization before July 1, 2019.



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1200 Section 13. Paragraph (d) of subsection (7) and subsections
1201 (8) and (9) of section 381.00651, Florida Statutes, are amended
1202 to read:

1203 381.00651 Periodic evaluation and assessment of onsite
1204 sewage treatment and disposal systems.-

1205 (7) The following procedures shall be used for conducting
1206 evaluations:

1207 (d) *Assessment procedure.*-All evaluation procedures used by
1208 a qualified contractor shall be documented in the environmental
1209 health database of the department ~~of Health~~. The qualified
1210 contractor shall provide a copy of a written, signed evaluation
1211 report to the property owner upon completion of the evaluation
1212 and to the county health department within 30 days after the
1213 evaluation. The report shall contain the name and license number
1214 of the company providing the report. A copy of the evaluation
1215 report shall be retained by the local county health department
1216 for a minimum of 5 years and until a subsequent inspection
1217 report is filed. The front cover of the report must identify any
1218 system failure and include a clear and conspicuous notice to the
1219 owner that the owner has a right to have any remediation of the
1220 failure performed by a qualified contractor other than the
1221 contractor performing the evaluation. The report must further
1222 identify any crack, leak, improper fit, or other defect in the
1223 tank, manhole, or lid, and any other damaged or missing
1224 component; any sewage or effluent visible on the ground or
1225 discharging to a ditch or other surface water body; any
1226 downspout, stormwater, or other source of water directed onto or
1227 toward the system; and any other maintenance need or condition
1228 of the system at the time of the evaluation which, in the



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1229 opinion of the qualified contractor, would possibly interfere
1230 with or restrict any future repair or modification to the
1231 existing system. The report shall conclude with an overall
1232 assessment of the fundamental operational condition of the
1233 system.

1234 (8) The county health department, in coordination with the
1235 department, shall administer any evaluation program on behalf of
1236 a county, or a municipality within the county, that has adopted
1237 an evaluation program pursuant to this section. In order to
1238 administer the evaluation program, the county or municipality,
1239 in consultation with the county health department, may develop a
1240 reasonable fee schedule to be used solely to pay for the costs
1241 of administering the evaluation program. Such a fee schedule
1242 shall be identified in the ordinance that adopts the evaluation
1243 program. When arriving at a reasonable fee schedule, the
1244 estimated annual revenues to be derived from fees may not exceed
1245 reasonable estimated annual costs of the program. Fees shall be
1246 assessed to the system owner during an inspection and separately
1247 identified on the invoice of the qualified contractor. Fees
1248 shall be remitted by the qualified contractor to the county
1249 health department. The county health department's administrative
1250 responsibilities include the following:

1251 (a) Providing a notice to the system owner at least 60 days
1252 before the system is due for an evaluation. The notice may
1253 include information on the proper maintenance of onsite sewage
1254 treatment and disposal systems.

1255 (b) In consultation with the department ~~of Health,~~
1256 providing uniform disciplinary procedures and penalties for
1257 qualified contractors who do not comply with the requirements of



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1258 the adopted ordinance, including, but not limited to, failure to
1259 provide the evaluation report as required in this subsection to
1260 the system owner and the county health department. Only the
1261 county health department may assess penalties against system
1262 owners for failure to comply with the adopted ordinance,
1263 consistent with existing requirements of law.

1264 (9) (a) A county or municipality that adopts an onsite
1265 sewage treatment and disposal system evaluation and assessment
1266 program pursuant to this section shall notify the Secretary of
1267 Environmental Protection, the Department of Health, and the
1268 applicable county health department upon the adoption of its
1269 ordinance establishing the program.

1270 (b) Upon receipt of the notice under paragraph (a), the
1271 department ~~of Environmental Protection~~ shall, within existing
1272 resources, notify the county or municipality of the potential
1273 use of, and access to, program funds under the Clean Water State
1274 Revolving Fund or s. 319 of the Clean Water Act, provide
1275 guidance in the application process to receive such moneys, and
1276 provide advice and technical assistance to the county or
1277 municipality on how to establish a low-interest revolving loan
1278 program or how to model a revolving loan program after the low-
1279 interest loan program of the Clean Water State Revolving Fund.
1280 This paragraph does not obligate the department ~~of Environmental~~
1281 ~~Protection~~ to provide any county or municipality with money to
1282 fund such programs.

1283 (c) The department ~~of Health~~ may not adopt any rule that
1284 alters the provisions of this section.

1285 (d) The department ~~of Health~~ must allow county health
1286 departments and qualified contractors access to the



1287 environmental health database to track relevant information and
1288 assimilate data from assessment and evaluation reports of the
1289 overall condition of onsite sewage treatment and disposal
1290 systems. The environmental health database must be used by
1291 contractors to report each service and evaluation event and by a
1292 county health department to notify owners of onsite sewage
1293 treatment and disposal systems when evaluations are due. Data
1294 and information must be recorded and updated as service and
1295 evaluations are conducted and reported.

1296 Section 14. Effective July 1, 2019, section 381.00652,
1297 Florida Statutes, is created to read:

1298 381.00652 Onsite treatment and disposal systems;
1299 permitting.-

1300 (1) ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS TECHNICAL
1301 ADVISORY COMMITTEE.-

1302 (a) By August 1, 2019, the department, in consultation with
1303 the Department of Health, shall appoint a technical advisory
1304 committee to assist in developing rules that will increase the
1305 availability of nutrient-removing onsite sewage treatment and
1306 disposal systems in the marketplace, including such systems that
1307 are cost-effective, low maintenance, and reliable. By July 1,
1308 2020, the committee shall consider and recommend regulatory
1309 options, such as fast-track approval, prequalification, or
1310 expedited permitting, to facilitate the introduction and use of
1311 nutrient-removing onsite sewage treatment and disposal systems
1312 that have been reviewed and approved by a national agency or
1313 organization, such as the National Sanitation Foundation
1314 International/American National Standards Institute 245 systems
1315 approved by the Public Health and Safety Organization. The



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1316 department shall use existing and available resources to
1317 administer and support the activities of the technical advisory
1318 committee.

1319 (b) The advisory committee shall consist of at least five
1320 but not more than nine members representing the home-building
1321 industry, the real estate industry, the onsite sewage treatment
1322 and disposal system industry, septic tank contractors,
1323 engineers, and local governments. Members shall serve without
1324 compensation and are not entitled to reimbursement for per diem
1325 or travel expenses.

1326 (c) This subsection shall expire on July 1, 2020.

1327 (2) ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS
1328 RULEMAKING.—The department shall initiate rulemaking no later
1329 than August 1, 2020, considering the recommendations of the
1330 technical advisory committee, and adopt rules to increase the
1331 availability of cost-effective, low maintenance, and reliable
1332 nutrient-removing onsite sewage treatment and disposal systems
1333 in the marketplace.

1334 Section 15. Section 381.0068, Florida Statutes, is
1335 repealed.

1336 Section 16. Paragraph (g) of subsection (1) of section
1337 381.0101, Florida Statutes, is amended to read:

1338 381.0101 Environmental health professionals.—

1339 (1) DEFINITIONS.—As used in this section:

1340 (g) "Primary environmental health program" means those
1341 programs determined by the department to be essential for
1342 providing basic environmental and sanitary protection to the
1343 public. At a minimum, these programs shall include food
1344 protection ~~programs~~ ~~program work~~ ~~and onsite sewage treatment and~~



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1345 ~~disposal system evaluations.~~

1346 Section 17. Paragraph (a) of subsection (7) of section
1347 403.067, Florida Statutes, is amended to read:

1348 403.067 Establishment and implementation of total maximum
1349 daily loads.—

1350 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
1351 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

1352 (a) *Basin management action plans.*—

1353 1. In developing and implementing the total maximum daily
1354 load for a water body, the department, or the department in
1355 conjunction with a water management district, may develop a
1356 basin management action plan that addresses some or all of the
1357 watersheds and basins tributary to the water body. Such plan
1358 must integrate the appropriate management strategies available
1359 to the state through existing water quality protection programs
1360 to achieve the total maximum daily loads and may provide for
1361 phased implementation of these management strategies to promote
1362 timely, cost-effective actions as provided for in s. 403.151.
1363 The plan must establish a schedule implementing the management
1364 strategies, establish a basis for evaluating the plan's
1365 effectiveness, and identify feasible funding strategies for
1366 implementing the plan's management strategies. The management
1367 strategies may include regional treatment systems or other
1368 public works, where appropriate, and voluntary trading of water
1369 quality credits to achieve the needed pollutant load reductions.

1370 2. A basin management action plan must equitably allocate,
1371 pursuant to paragraph (6) (b), pollutant reductions to individual
1372 basins, as a whole to all basins, or to each identified point
1373 source or category of nonpoint sources, as appropriate. For



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1374 nonpoint sources for which best management practices have been
1375 adopted, the initial requirement specified by the plan must be
1376 those practices developed pursuant to paragraph (c). Where
1377 appropriate, the plan may take into account the benefits of
1378 pollutant load reduction achieved by point or nonpoint sources
1379 that have implemented management strategies to reduce pollutant
1380 loads, including best management practices, before the
1381 development of the basin management action plan. The plan must
1382 also identify the mechanisms that will address potential future
1383 increases in pollutant loading.

1384 3. The basin management action planning process is intended
1385 to involve the broadest possible range of interested parties,
1386 with the objective of encouraging the greatest amount of
1387 cooperation and consensus possible. In developing a basin
1388 management action plan, the department shall assure that key
1389 stakeholders, including, but not limited to, applicable local
1390 governments, water management districts, the Department of
1391 Agriculture and Consumer Services, other appropriate state
1392 agencies, local soil and water conservation districts,
1393 environmental groups, regulated interests, and affected
1394 pollution sources, are invited to participate in the process.
1395 The department shall hold at least one public meeting in the
1396 vicinity of the watershed or basin to discuss and receive
1397 comments during the planning process and shall otherwise
1398 encourage public participation to the greatest practicable
1399 extent. Notice of the public meeting must be published in a
1400 newspaper of general circulation in each county in which the
1401 watershed or basin lies at least ~~not less than~~ 5 days but not
1402 ~~nor~~ more than 15 days before the public meeting. A basin



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1403 management action plan does not supplant or otherwise alter any
1404 assessment made under subsection (3) or subsection (4) or any
1405 calculation or initial allocation.

1406 4. Each new or revised basin management action plan shall
1407 include:

1408 a. The appropriate management strategies available through
1409 existing water quality protection programs to achieve total
1410 maximum daily loads, which may provide for phased implementation
1411 to promote timely, cost-effective actions as provided ~~for~~ in s.
1412 403.151;

1413 b. A description of best management practices adopted by
1414 rule;

1415 c. A list of projects in priority ranking with a planning-
1416 level cost estimate and estimated date of completion for each
1417 listed project;

1418 d. The source and amount of financial assistance to be made
1419 available by the department, a water management district, or
1420 other entity for each listed project, if applicable; and

1421 e. A planning-level estimate of each listed project's
1422 expected load reduction, if applicable.

1423 5. The department shall adopt all or any part of a basin
1424 management action plan and any amendment to such plan by
1425 secretarial order pursuant to chapter 120 to implement ~~the~~
1426 ~~provisions of~~ this section.

1427 6. The basin management action plan must include milestones
1428 for implementation and water quality improvement, and an
1429 associated water quality monitoring component sufficient to
1430 evaluate whether reasonable progress in pollutant load
1431 reductions is being achieved over time. An assessment of



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1432 progress toward these milestones shall be conducted every 5
1433 years, and revisions to the plan shall be made as appropriate.
1434 Revisions to the basin management action plan shall be made by
1435 the department in cooperation with basin stakeholders. Revisions
1436 to the management strategies required for nonpoint sources must
1437 follow the procedures set forth in subparagraph (c)4. Revised
1438 basin management action plans must be adopted pursuant to
1439 subparagraph 5.

1440 7. In accordance with procedures adopted by rule under
1441 paragraph (9)(c), basin management action plans, and other
1442 pollution control programs under local, state, or federal
1443 authority as provided in subsection (4), may allow point or
1444 nonpoint sources that will achieve greater pollutant reductions
1445 than required by an adopted total maximum daily load or
1446 wasteload allocation to generate, register, and trade water
1447 quality credits for the excess reductions to enable other
1448 sources to achieve their allocation; however, the generation of
1449 water quality credits does not remove the obligation of a source
1450 or activity to meet applicable technology requirements or
1451 adopted best management practices. Such plans must allow trading
1452 between NPDES permittees, and trading that may or may not
1453 involve NPDES permittees, where the generation or use of the
1454 credits involve an entity or activity not subject to department
1455 water discharge permits whose owner voluntarily elects to obtain
1456 department authorization for the generation and sale of credits.

1457 8. The provisions of the department's rule relating to the
1458 equitable abatement of pollutants into surface waters do not
1459 apply to water bodies or water body segments for which a basin
1460 management plan that takes into account future new or expanded



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1461 activities or discharges has been adopted under this section.

1462 9. The department shall submit to the Office of Economic
1463 and Demographic Research the project cost estimates required in
1464 sub-subparagraph 4.c., including any septic-to-sewer conversion
1465 and septic tank remediation project costs.

1466 Section 18. Subsection (1) of section 489.551, Florida
1467 Statutes, is amended to read:

1468 489.551 Definitions.—As used in this part:

1469 (1) "Department" means the Department of Environmental
1470 Protection Health.

1471 Section 19. Except as otherwise expressly provided in this
1472 act, and except for section 2, s. 381.0065(7) as amended by this
1473 act, and s. 381.0652 as created by this act, and this section,
1474 which shall take effect upon July 1, 2019, this act shall take
1475 effect on July 1, 2020.

1476
1477 ===== T I T L E A M E N D M E N T =====

1478 And the title is amended as follows:

1479 Delete everything before the enacting clause
1480 and insert:

1481 A bill to be entitled
1482 An act relating to onsite sewage treatment and
1483 disposal systems; transferring the Onsite Sewage
1484 Program within the Department of Health to the
1485 Department of Environmental Protection; requiring a
1486 memorandum of agreement between the Department of
1487 Health and the Department of Environmental Protection
1488 by a specified date; amending ss. 153.54, 153.73,
1489 163.3180, and 180.03, F.S.; conforming provisions to



1490 changes made by the act; amending s. 373.036, F.S.;

1491 requiring water management districts to submit

1492 consolidated annual reports to the Office of Economic

1493 and Demographic Research by a specified date;

1494 requiring such reports to include septic-to-sewer

1495 conversion and septic tank remediation projects;

1496 amending ss. 373.807, 381.006, 381.0061, and 381.0064,

1497 F.S.; conforming provisions and a cross-reference to

1498 changes made by the act; amending s. 381.0065, F.S.;

1499 conforming provisions to changes made by the act;

1500 removing provisions requiring certain onsite sewage

1501 treatment and disposal system research projects to be

1502 approved by a Department of Health technical review

1503 and advisory panel; removing provisions prohibiting

1504 the award of research projects to certain entities;

1505 removing provisions establishing a Department of

1506 Health onsite sewage treatment and disposal system

1507 research review and advisory committee; providing

1508 requirements for the department's lot size

1509 calculation; authorizing the department to allow the

1510 use of National Sanitation Foundation

1511 International/American National Standards Institute

1512 245 systems; amending s. 381.00651, F.S.; requiring

1513 the county health departments to coordinate with the

1514 department to administer onsite sewage treatment and

1515 disposal system evaluation programs; conforming

1516 provisions to changes made by the act; creating s.

1517 381.00652, F.S.; requiring the Department of

1518 Environmental Protection to appoint an onsite sewage



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1519 treatment and disposal systems technical advisory
1520 committee; providing for committee purpose,
1521 membership, and expiration; directing the department
1522 to initiate rulemaking by a specified date and to
1523 adopt specified rules; repealing s. 381.0068, F.S.,
1524 relating to the Department of Health onsite sewage
1525 treatment and disposal systems technical review and
1526 advisory panel; amending s. 381.0101, F.S.; conforming
1527 provisions to changes made by the act; amending s.
1528 403.067, F.S.; directing the department to submit
1529 certain water quality project cost estimates to the
1530 Office of Economic and Demographic Research; amending
1531 s. 489.551, F.S.; conforming provisions to changes
1532 made by the act; providing effective dates.