

By Senator Trumbull

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1                   A bill to be entitled  
 2           An act relating to the regulation of water resources;  
 3           amending s. 373.323, F.S.; revising the qualification  
 4           requirements a person must meet in order to take the  
 5           water well contractor license examination; updating  
 6           the reference to the Florida Building Code standards  
 7           that a licensed water well contractor's work must  
 8           meet; amending s. 373.333, F.S.; authorizing certain  
 9           authorities who have been delegated enforcement powers  
 10          by water management districts to apply disciplinary  
 11          guidelines adopted by the districts; requiring that  
 12          certain notices be delivered by certified, rather than  
 13          registered, mail; making technical changes; amending  
 14          s. 373.336, F.S.; prohibiting a person or business  
 15          entity from advertising water well drilling or  
 16          construction services in specified circumstances;  
 17          amending s. 381.0065, F.S.; deleting provisions  
 18          relating to the variance review and advisory committee  
 19          for onsite sewage treatment and disposal system  
 20          permits; providing an effective date.

21  
 22 Be It Enacted by the Legislature of the State of Florida:

23  
 24           Section 1. Subsections (3) and (10) of section 373.323,  
 25 Florida Statutes, are amended to read:

26           373.323 Licensure of water well contractors; application,  
 27 qualifications, and examinations; equipment identification.—

28           (3) An applicant who meets all of the following  
 29 requirements is eligible ~~shall be entitled~~ to take the water

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30 well contractor licensure examination:

31 (a) Is at least 18 years of age.

32 (b) Has at least 2 years of experience in constructing,  
33 repairing, or abandoning water wells permitted in this state.

34 The applicant must demonstrate satisfactory proof of such  
35 experience ~~shall be demonstrated~~ by providing:

36 1. Evidence of the length of time he or she ~~the applicant~~  
37 has been engaged in the business of the construction, repair, or  
38 abandonment of water wells as a major activity, as attested to  
39 by a letter from a water well contractor or a letter from a  
40 water well inspector employed by a governmental agency.

41 2. A list of at least 10 water wells permitted in this  
42 state which he or she ~~that the applicant~~ has constructed,  
43 repaired, or abandoned within the preceding 5 years. Of these  
44 wells, at least seven must have been constructed, as defined in  
45 s. 373.303(2), by the applicant. The list must ~~shall~~ also  
46 include:

47 a. The name and address of the owner or owners of each  
48 well.

49 b. The location, primary use, and approximate depth and  
50 diameter of each well that the applicant has constructed,  
51 repaired, or abandoned.

52 c. The approximate date the construction, repair, or  
53 abandonment of each well was completed.

54 (c) Has completed the application form and remitted a  
55 nonrefundable application fee.

56 (10) Water well contractors licensed under this section may  
57 install, repair, and modify pumps and tanks in accordance with  
58 the Florida Building Code, Plumbing; Section 614-Wells ~~Section~~

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59 ~~612-Wells~~ Pumps And Tanks Used For Private Potable Water  
60 Systems. In addition, licensed water well contractors may  
61 install pumps, tanks, and water conditioning equipment for all  
62 water systems.

63 Section 2. Subsections (1) and (3) of section 373.333,  
64 Florida Statutes, are amended to read:

65 373.333 Disciplinary guidelines; adoption and enforcement;  
66 license suspension or revocation.—

67 (1) The department shall adopt by rule disciplinary  
68 guidelines applicable to each specific ground for disciplinary  
69 action which may be imposed by the water management districts,  
70 providing each water management district and representatives of  
71 the water well contracting industry with meaningful opportunity  
72 to participate in the development of the disciplinary guideline  
73 rules as they are drafted. The disciplinary guidelines must  
74 ~~shall~~ be adopted by each water management district. The  
75 guideline rules must ~~shall~~ be consistently applied by the water  
76 management districts, or by an authority to whom a water  
77 management district has delegated enforcement powers, and must  
78 do all of the following shall:

79 (a) Specify a meaningful range of designated penalties  
80 based upon the severity and repetition of specific offenses.

81 (b) Distinguish minor violations from those which endanger  
82 public health, safety, and welfare or contaminate the water  
83 resources.

84 (c) Inform the public of likely penalties which may be  
85 imposed for proscribed conduct.

86  
87 A specific finding of mitigating or aggravating circumstances

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88 shall allow a water management district to impose a penalty  
89 other than that provided in the guidelines. Disciplinary action  
90 may be taken by any water management district, regardless of  
91 where the contractor's license was issued.

92 (3) Such notice must ~~shall~~ be served in the manner required  
93 by law for the service of process upon a person in a civil  
94 action or by certified ~~registered~~ United States mail to the last  
95 known address of the person. The water management district shall  
96 send copies of such notice only to persons who have specifically  
97 requested such notice or to entities with which the water  
98 management district has formally agreed to provide such notice.  
99 Notice alleging a violation of a rule setting minimum standards  
100 for the location, construction, repair, or abandonment of wells  
101 must ~~shall~~ be accompanied by an order of the water management  
102 district requiring remedial action which, if taken within the  
103 time specified in such order, will effect compliance with ~~the~~  
104 ~~requirements of~~ this part and regulations issued hereunder. Such  
105 order is ~~shall become~~ final unless a request for hearing as  
106 provided in chapter 120 is made within 30 days after ~~from~~ the  
107 date of service of such order. Upon compliance, notice must  
108 ~~shall~~ be served by the water management district in a timely  
109 manner upon each person and entity who received notice of a  
110 violation, stating that compliance with the order has been  
111 achieved.

112 Section 3. Subsections (1) and (3) of section 373.336,  
113 Florida Statutes, are amended to read:

114 373.336 Unlawful acts; penalties.—

115 (1) It is unlawful for any person or business entity, as  
116 applicable, to do any of the following:

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117 (a) Practice water well contracting without an active  
118 license issued pursuant to this part.

119 (b) Construct, repair, or abandon a water well, or operate  
120 drilling equipment for such purpose, unless employed by or under  
121 the supervision of a licensed water well contractor or exempt  
122 under s. 373.326.

123 (c) Give false or forged evidence to obtain a license.

124 (d) Present as his or her own the license of another.

125 (e) Use or attempt to use a license to practice water well  
126 contracting which license has been suspended, revoked, or placed  
127 on inactive status.

128 (f) Engage in willful or repeated violation of this part or  
129 of any department rule or regulation or water management  
130 district or state agency rule or regulation relating to water  
131 wells which endangers the public health, safety, and welfare.

132 (g) Advertise water well drilling or construction services  
133 if the business entity is not owned by a licensed water well  
134 contractor or does not employ a full-time water well contractor.

135 (3) A ~~Any~~ person who violates ~~any provision of~~ this part or  
136 a regulation or an order issued hereunder commits shall, upon  
137 ~~conviction, be guilty of~~ a misdemeanor of the second degree,  
138 punishable as provided in s. 775.082 or s. 775.083. Continuing  
139 violation after an order or a conviction constitutes shall  
140 ~~constitute~~ a separate violation for each day so continued.

141 Section 4. Paragraphs (h) and (w) of subsection (4) of  
142 section 381.0065, Florida Statutes, are amended to read:

143 381.0065 Onsite sewage treatment and disposal systems;  
144 regulation.—

145 (4) PERMITS; INSTALLATION; CONDITIONS.—A person may not

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146 construct, repair, modify, abandon, or operate an onsite sewage  
147 treatment and disposal system without first obtaining a permit  
148 approved by the department. The department may issue permits to  
149 carry out this section, except that the issuance of a permit for  
150 work seaward of the coastal construction control line  
151 established under s. 161.053 shall be contingent upon receipt of  
152 any required coastal construction control line permit from the  
153 department. A construction permit is valid for 18 months after  
154 the date of issuance and may be extended by the department for  
155 one 90-day period under rules adopted by the department. A  
156 repair permit is valid for 90 days after the date of issuance.  
157 An operating permit must be obtained before the use of any  
158 aerobic treatment unit or if the establishment generates  
159 commercial waste. Buildings or establishments that use an  
160 aerobic treatment unit or generate commercial waste shall be  
161 inspected by the department at least annually to assure  
162 compliance with the terms of the operating permit. The operating  
163 permit for a commercial wastewater system is valid for 1 year  
164 after the date of issuance and must be renewed annually. The  
165 operating permit for an aerobic treatment unit is valid for 2  
166 years after the date of issuance and must be renewed every 2  
167 years. If all information pertaining to the siting, location,  
168 and installation conditions or repair of an onsite sewage  
169 treatment and disposal system remains the same, a construction  
170 or repair permit for the onsite sewage treatment and disposal  
171 system may be transferred to another person, if the transferee  
172 files, within 60 days after the transfer of ownership, an  
173 amended application providing all corrected information and  
174 proof of ownership of the property. A fee is not associated with

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175 the processing of this supplemental information. A person may  
176 not contract to construct, modify, alter, repair, service,  
177 abandon, or maintain any portion of an onsite sewage treatment  
178 and disposal system without being registered under part III of  
179 chapter 489. A property owner who personally performs  
180 construction, maintenance, or repairs to a system serving his or  
181 her own owner-occupied single-family residence is exempt from  
182 registration requirements for performing such construction,  
183 maintenance, or repairs on that residence, but is subject to all  
184 permitting requirements. A municipality or political subdivision  
185 of the state may not issue a building or plumbing permit for any  
186 building that requires the use of an onsite sewage treatment and  
187 disposal system unless the owner or builder has received a  
188 construction permit for such system from the department. A  
189 building or structure may not be occupied and a municipality,  
190 political subdivision, or any state or federal agency may not  
191 authorize occupancy until the department approves the final  
192 installation of the onsite sewage treatment and disposal system.  
193 A municipality or political subdivision of the state may not  
194 approve any change in occupancy or tenancy of a building that  
195 uses an onsite sewage treatment and disposal system until the  
196 department has reviewed the use of the system with the proposed  
197 change, approved the change, and amended the operating permit.

198 (h)~~1~~. The department may grant variances in hardship cases  
199 which may be less restrictive than the provisions specified in  
200 this section. If a variance is granted and the onsite sewage  
201 treatment and disposal system construction permit has been  
202 issued, the variance may be transferred with the system  
203 construction permit, if the transferee files, within 60 days

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204 after the transfer of ownership, an amended construction permit  
205 application providing all corrected information and proof of  
206 ownership of the property and if the same variance would have  
207 been required for the new owner of the property as was  
208 originally granted to the original applicant for the variance. A  
209 fee is not associated with the processing of this supplemental  
210 information. A variance may not be granted under this section  
211 until the department is satisfied that:

212 1.a. The hardship was not caused intentionally by the  
213 action of the applicant;

214 2.b. A reasonable alternative, taking into consideration  
215 factors such as cost, does not exist for the treatment of the  
216 sewage; and

217 3.e. The discharge from the onsite sewage treatment and  
218 disposal system will not adversely affect the health of the  
219 applicant or the public or significantly degrade the groundwater  
220 or surface waters.

221  
222 Where soil conditions, water table elevation, and setback  
223 provisions are determined by the department to be satisfactory,  
224 special consideration must be given to those lots platted before  
225 1972.

226 ~~2. The department shall appoint and staff a variance review~~  
227 ~~and advisory committee, which shall meet monthly to recommend~~  
228 ~~agency action on variance requests. The committee shall make its~~  
229 ~~recommendations on variance requests at the meeting in which the~~  
230 ~~application is scheduled for consideration, except for an~~  
231 ~~extraordinary change in circumstances, the receipt of new~~  
232 ~~information that raises new issues, or when the applicant~~



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233 ~~requests an extension. The committee shall consider the criteria~~  
234 ~~in subparagraph 1. in its recommended agency action on variance~~  
235 ~~requests and shall also strive to allow property owners the full~~  
236 ~~use of their land where possible. The committee consists of the~~  
237 ~~following:~~

238 ~~a. The Secretary of Environmental Protection or his or her~~  
239 ~~designee.~~

240 ~~b. A representative from the county health departments.~~

241 ~~e. A representative from the home building industry~~  
242 ~~recommended by the Florida Home Builders Association.~~

243 ~~d. A representative from the septic tank industry~~  
244 ~~recommended by the Florida Onsite Wastewater Association.~~

245 ~~e. A representative from the Department of Health.~~

246 ~~f. A representative from the real estate industry who is~~  
247 ~~also a developer in this state who develops lots using onsite~~  
248 ~~sewage treatment and disposal systems, recommended by the~~  
249 ~~Florida Association of Realtors.~~

250 ~~g. A representative from the engineering profession~~  
251 ~~recommended by the Florida Engineering Society.~~

252

253 ~~Members shall be appointed for a term of 3 years, with such~~  
254 ~~appointments being staggered so that the terms of no more than~~  
255 ~~two members expire in any one year. Members shall serve without~~  
256 ~~remuneration, but if requested, shall be reimbursed for per diem~~  
257 ~~and travel expenses as provided in s. 112.061.~~

258 ~~(w) A governmental entity, including a municipality,~~  
259 ~~county, or statutorily created commission, may not require an~~  
260 ~~engineer-designed performance-based treatment system, excluding~~  
261 ~~a passive engineer-designed performance-based treatment system,~~

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262 before the completion of the Florida Onsite Sewage Nitrogen  
263 Reduction Strategies Project. This paragraph does not apply to a  
264 governmental entity, including a municipality, county, or  
265 statutorily created commission, which adopted a local law,  
266 ordinance, or regulation on or before January 31, 2012.  
267 ~~Notwithstanding this paragraph, an engineer-designed~~  
268 ~~performance-based treatment system may be used to meet the~~  
269 ~~requirements of the variance review and advisory committee~~  
270 ~~recommendations.~~

271 Section 5. This act shall take effect July 1, 2024.