

By the Committee on Community Affairs; and Senator Trumbull

578-02602-24

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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.; requiring that certain
18 rules adopted by Department of Environmental
19 Protection relating to the location of onsite sewage
20 treatment and disposal systems allow licensed water
21 well contractors to apply for and receive from the
22 water management district within the region of
23 installation a variance for private or public potable
24 well installations; deleting provisions relating to
25 the variance review and advisory committee for onsite
26 sewage treatment and disposal system permits;
27 providing an effective date.

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29 Be It Enacted by the Legislature of the State of Florida:

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

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

(3) An applicant who meets all of the following requirements is eligible ~~shall be entitled~~ to take the water well contractor licensure examination:

(a) Is at least 18 years of age.

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

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

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

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

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

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

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

61 (c) Has completed the application form and remitted a
62 nonrefundable application fee.

63 (10) Water well contractors licensed under this section may
64 install, repair, and modify pumps and tanks in accordance with
65 the Florida Building Code, Plumbing; Section 614-Wells ~~Section~~
66 ~~612-Wells~~ Pumps And Tanks Used For Private Potable Water
67 Systems. In addition, licensed water well contractors may
68 install pumps, tanks, and water conditioning equipment for all
69 water systems.

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

72 373.333 Disciplinary guidelines; adoption and enforcement;
73 license suspension or revocation.—

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

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

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88 (b) Distinguish minor violations from those which endanger
89 public health, safety, and welfare or contaminate the water
90 resources.

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

93
94 A specific finding of mitigating or aggravating circumstances
95 shall allow a water management district to impose a penalty
96 other than that provided in the guidelines. Disciplinary action
97 may be taken by any water management district, regardless of
98 where the contractor's license was issued.

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

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117 violation, stating that compliance with the order has been
118 achieved.

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

121 373.336 Unlawful acts; penalties.—

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

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

126 (b) Construct, repair, or abandon a water well, or operate
127 drilling equipment for such purpose, unless employed by or under
128 the supervision of a licensed water well contractor or exempt
129 under s. 373.326.

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

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

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

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

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

142 (3) A ~~Any~~ person who violates ~~any provision of~~ this part or
143 a regulation or an order issued hereunder commits shall, upon
144 ~~conviction, be guilty of~~ a misdemeanor of the second degree,
145 punishable as provided in s. 775.082 or s. 775.083. Continuing

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146 violation after an order or a conviction constitutes ~~shall~~
147 ~~constitute~~ a separate violation for each day so continued.

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

150 381.0065 Onsite sewage treatment and disposal systems;
151 regulation.—

152 (4) PERMITS; INSTALLATION; CONDITIONS.—A person may not
153 construct, repair, modify, abandon, or operate an onsite sewage
154 treatment and disposal system without first obtaining a permit
155 approved by the department. The department may issue permits to
156 carry out this section, except that the issuance of a permit for
157 work seaward of the coastal construction control line
158 established under s. 161.053 shall be contingent upon receipt of
159 any required coastal construction control line permit from the
160 department. A construction permit is valid for 18 months after
161 the date of issuance and may be extended by the department for
162 one 90-day period under rules adopted by the department. A
163 repair permit is valid for 90 days after the date of issuance.
164 An operating permit must be obtained before the use of any
165 aerobic treatment unit or if the establishment generates
166 commercial waste. Buildings or establishments that use an
167 aerobic treatment unit or generate commercial waste shall be
168 inspected by the department at least annually to assure
169 compliance with the terms of the operating permit. The operating
170 permit for a commercial wastewater system is valid for 1 year
171 after the date of issuance and must be renewed annually. The
172 operating permit for an aerobic treatment unit is valid for 2
173 years after the date of issuance and must be renewed every 2
174 years. If all information pertaining to the siting, location,

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175 and installation conditions or repair of an onsite sewage
176 treatment and disposal system remains the same, a construction
177 or repair permit for the onsite sewage treatment and disposal
178 system may be transferred to another person, if the transferee
179 files, within 60 days after the transfer of ownership, an
180 amended application providing all corrected information and
181 proof of ownership of the property. A fee is not associated with
182 the processing of this supplemental information. A person may
183 not contract to construct, modify, alter, repair, service,
184 abandon, or maintain any portion of an onsite sewage treatment
185 and disposal system without being registered under part III of
186 chapter 489. A property owner who personally performs
187 construction, maintenance, or repairs to a system serving his or
188 her own owner-occupied single-family residence is exempt from
189 registration requirements for performing such construction,
190 maintenance, or repairs on that residence, but is subject to all
191 permitting requirements. A municipality or political subdivision
192 of the state may not issue a building or plumbing permit for any
193 building that requires the use of an onsite sewage treatment and
194 disposal system unless the owner or builder has received a
195 construction permit for such system from the department. A
196 building or structure may not be occupied and a municipality,
197 political subdivision, or any state or federal agency may not
198 authorize occupancy until the department approves the final
199 installation of the onsite sewage treatment and disposal system.
200 A municipality or political subdivision of the state may not
201 approve any change in occupancy or tenancy of a building that
202 uses an onsite sewage treatment and disposal system until the
203 department has reviewed the use of the system with the proposed

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204 change, approved the change, and amended the operating permit.

205 (e) The department shall adopt rules relating to the
206 location of onsite sewage treatment and disposal systems,
207 including establishing setback distances, to prevent groundwater
208 contamination and surface water contamination and to preserve
209 the public health. In adopting such rules, the department ~~rules~~
210 must:

211 1. Consider conventional and enhanced nutrient-reducing
212 onsite sewage treatment and disposal system designs, impaired or
213 degraded water bodies, domestic wastewater and drinking water
214 infrastructure, potable water sources, nonpotable wells,
215 stormwater infrastructure, the onsite sewage treatment and
216 disposal system remediation plans developed pursuant to s.
217 403.067(7)(a)9.b., nutrient pollution, and the recommendations
218 of the onsite sewage treatment and disposal systems technical
219 advisory committee established pursuant to former s. 381.00652.

220 2. ~~The rules must also~~ Allow a person to apply for and
221 receive a variance from a rule requirement upon demonstration
222 that the requirement would cause an undue hardship and that
223 granting the variance would not cause or contribute to the
224 exceedance of a total maximum daily load.

225 3. In consultation with the water management districts,
226 allow a licensed water well contractor to apply for and receive
227 a variance for the installation of a private or public potable
228 water well from the applicable water management district within
229 the region of installation.

230 (h)~~4.~~ The department may grant variances in hardship cases
231 which may be less restrictive than the provisions specified in
232 this section. If a variance is granted and the onsite sewage

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233 treatment and disposal system construction permit has been
234 issued, the variance may be transferred with the system
235 construction permit, if the transferee files, within 60 days
236 after the transfer of ownership, an amended construction permit
237 application providing all corrected information and proof of
238 ownership of the property and if the same variance would have
239 been required for the new owner of the property as was
240 originally granted to the original applicant for the variance. A
241 fee is not associated with the processing of this supplemental
242 information. A variance may not be granted under this section
243 until the department is satisfied that:

244 1.a. The hardship was not caused intentionally by the
245 action of the applicant;

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

249 3.e. The discharge from the onsite sewage treatment and
250 disposal system will not adversely affect the health of the
251 applicant or the public or significantly degrade the groundwater
252 or surface waters.

253
254 Where soil conditions, water table elevation, and setback
255 provisions are determined by the department to be satisfactory,
256 special consideration must be given to those lots platted before
257 1972.

258 ~~2. The department shall appoint and staff a variance review~~
259 ~~and advisory committee, which shall meet monthly to recommend~~
260 ~~agency action on variance requests. The committee shall make its~~
261 ~~recommendations on variance requests at the meeting in which the~~

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262 ~~application is scheduled for consideration, except for an~~
263 ~~extraordinary change in circumstances, the receipt of new~~
264 ~~information that raises new issues, or when the applicant~~
265 ~~requests an extension. The committee shall consider the criteria~~
266 ~~in subparagraph 1. in its recommended agency action on variance~~
267 ~~requests and shall also strive to allow property owners the full~~
268 ~~use of their land where possible. The committee consists of the~~
269 ~~following:~~

270 ~~a. The Secretary of Environmental Protection or his or her~~
271 ~~designee.~~

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

273 ~~c. A representative from the home building industry~~
274 ~~recommended by the Florida Home Builders Association.~~

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

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

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

282 ~~g. A representative from the engineering profession~~
283 ~~recommended by the Florida Engineering Society.~~

284
285 ~~Members shall be appointed for a term of 3 years, with such~~
286 ~~appointments being staggered so that the terms of no more than~~
287 ~~two members expire in any one year. Members shall serve without~~
288 ~~remuneration, but if requested, shall be reimbursed for per diem~~
289 ~~and travel expenses as provided in s. 112.061.~~

290 ~~(w) A governmental entity, including a municipality,~~

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291 county, or statutorily created commission, may not require an
292 engineer-designed performance-based treatment system, excluding
293 a passive engineer-designed performance-based treatment system,
294 before the completion of the Florida Onsite Sewage Nitrogen
295 Reduction Strategies Project. This paragraph does not apply to a
296 governmental entity, including a municipality, county, or
297 statutorily created commission, which adopted a local law,
298 ordinance, or regulation on or before January 31, 2012.
299 ~~Notwithstanding this paragraph, an engineer-designed~~
300 ~~performance-based treatment system may be used to meet the~~
301 ~~requirements of the variance review and advisory committee~~
302 ~~recommendations.~~

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