

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 rules  
18 adopted by Department of Environmental Protection  
19 relating to the location of onsite sewage treatment  
20 and disposal systems allow a licensed water well  
21 contractor to apply for and receive a variance for the  
22 installation of a private or public potable water well  
23 under certain conditions; providing that the  
24 Department of Environmental Protection's variance  
25 review and advisory committee is not responsible for

26 reviewing water well permitting; requiring the  
 27 committee to consider certain requirements when making  
 28 recommendations on variance requests for onsite sewage  
 29 treatment and disposal system permits; providing an  
 30 effective date.

31  
 32 Be It Enacted by the Legislature of the State of Florida:

33  
 34 Section 1. Subsections (3) and (10) of section 373.323,  
 35 Florida Statutes, are amended to read:

36 373.323 Licensure of water well contractors; application,  
 37 qualifications, and examinations; equipment identification.—

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

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

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

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

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

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

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

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

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

64           (c) Has completed the application form and remitted a  
 65 nonrefundable application fee.

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

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

75           373.333 Disciplinary guidelines; adoption and enforcement;

76 license suspension or revocation.—

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

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

91 (b) Distinguish minor violations from those which endanger  
 92 public health, safety, and welfare or contaminate the water  
 93 resources.

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

96  
 97 A specific finding of mitigating or aggravating circumstances  
 98 shall allow a water management district to impose a penalty  
 99 other than that provided in the guidelines. Disciplinary action  
 100 may be taken by any water management district, regardless of

101 where the contractor's license was issued.

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

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

124 373.336 Unlawful acts; penalties.—

125 (1) It is unlawful for any person or business entity, as

126 applicable, to do any of the following:

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

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

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

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

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

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

142 (g) Advertise water well drilling or construction services  
143 if the business entity is not owned by a licensed water well  
144 contractor or does not employ a full-time licensed water well  
145 contractor.

146 (3) A ~~Any~~ person who violates ~~any provision of~~ this part  
147 or a regulation or an order issued hereunder commits ~~shall, upon~~  
148 ~~conviction, be guilty of~~ a misdemeanor of the second degree,  
149 punishable as provided in s. 775.082 or s. 775.083. Continuing  
150 violation after an order or a conviction constitutes ~~shall~~

151 ~~constitute~~ a separate violation for each day so continued.

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

154 381.0065 Onsite sewage treatment and disposal systems;  
 155 regulation.—

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

176 operating permit for an aerobic treatment unit is valid for 2  
177 years after the date of issuance and must be renewed every 2  
178 years. If all information pertaining to the siting, location,  
179 and installation conditions or repair of an onsite sewage  
180 treatment and disposal system remains the same, a construction  
181 or repair permit for the onsite sewage treatment and disposal  
182 system may be transferred to another person, if the transferee  
183 files, within 60 days after the transfer of ownership, an  
184 amended application providing all corrected information and  
185 proof of ownership of the property. A fee is not associated with  
186 the processing of this supplemental information. A person may  
187 not contract to construct, modify, alter, repair, service,  
188 abandon, or maintain any portion of an onsite sewage treatment  
189 and disposal system without being registered under part III of  
190 chapter 489. A property owner who personally performs  
191 construction, maintenance, or repairs to a system serving his or  
192 her own owner-occupied single-family residence is exempt from  
193 registration requirements for performing such construction,  
194 maintenance, or repairs on that residence, but is subject to all  
195 permitting requirements. A municipality or political subdivision  
196 of the state may not issue a building or plumbing permit for any  
197 building that requires the use of an onsite sewage treatment and  
198 disposal system unless the owner or builder has received a  
199 construction permit for such system from the department. A  
200 building or structure may not be occupied and a municipality,



201 political subdivision, or any state or federal agency may not  
 202 authorize occupancy until the department approves the final  
 203 installation of the onsite sewage treatment and disposal system.  
 204 A municipality or political subdivision of the state may not  
 205 approve any change in occupancy or tenancy of a building that  
 206 uses an onsite sewage treatment and disposal system until the  
 207 department has reviewed the use of the system with the proposed  
 208 change, approved the change, and amended the operating permit.

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

215 1. Consider conventional and enhanced nutrient-reducing  
 216 onsite sewage treatment and disposal system designs, impaired or  
 217 degraded water bodies, domestic wastewater and drinking water  
 218 infrastructure, potable water sources, nonpotable wells,  
 219 stormwater infrastructure, the onsite sewage treatment and  
 220 disposal system remediation plans developed pursuant to s.  
 221 403.067(7)(a)9.b., nutrient pollution, and the recommendations  
 222 of the onsite sewage treatment and disposal systems technical  
 223 advisory committee established pursuant to former s. 381.00652.

224 2. ~~The rules must also~~ Allow a person to apply for and  
 225 receive a variance from a rule requirement upon demonstration

226 that the requirement would cause an undue hardship and that  
227 granting the variance would not cause or contribute to the  
228 exceedance of a total maximum daily load.

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

234 (h)1. The department may grant variances in hardship cases  
235 which may be less restrictive than the provisions specified in  
236 this section. If a variance is granted and the onsite sewage  
237 treatment and disposal system construction permit has been  
238 issued, the variance may be transferred with the system  
239 construction permit, if the transferee files, within 60 days  
240 after the transfer of ownership, an amended construction permit  
241 application providing all corrected information and proof of  
242 ownership of the property and if the same variance would have  
243 been required for the new owner of the property as was  
244 originally granted to the original applicant for the variance. A  
245 fee is not associated with the processing of this supplemental  
246 information. A variance may not be granted under this section  
247 until the department is satisfied that:

248 a. The hardship was not caused intentionally by the action  
249 of the applicant;

250 b. A reasonable alternative, taking into consideration

251 factors such as cost, does not exist for the treatment of the  
 252 sewage; and

253 c. The discharge from the onsite sewage treatment and  
 254 disposal system will not adversely affect the health of the  
 255 applicant or the public or significantly degrade the groundwater  
 256 or surface waters.

257  
 258 Where soil conditions, water table elevation, and setback  
 259 provisions are determined by the department to be satisfactory,  
 260 special consideration must be given to those lots platted before  
 261 1972.

262 2. The department shall appoint and staff a variance  
 263 review and advisory committee, which shall meet monthly to  
 264 recommend agency action on variance requests. The committee  
 265 shall make its recommendations on variance requests at the  
 266 meeting in which the application is scheduled for consideration,  
 267 except for an extraordinary change in circumstances, the receipt  
 268 of new information that raises new issues, or when the applicant  
 269 requests an extension. The committee shall consider the criteria  
 270 in subparagraph 1. in its recommended agency action on variance  
 271 requests and shall also strive to allow property owners the full  
 272 use of their land where possible.

273 a. The committee is composed ~~consists~~ of the following:

274 (I)a. The Secretary of Environmental Protection or his or  
 275 her designee.

276        (II)~~b.~~ A representative from the county health  
 277 departments.

278        (III)~~c.~~ A representative from the home building industry  
 279 recommended by the Florida Home Builders Association.

280        (IV)~~d.~~ A representative from the septic tank industry  
 281 recommended by the Florida Onsite Wastewater Association.

282        (V)~~e.~~ A representative from the Department of Health.

283        (VI)~~f.~~ A representative from the real estate industry who  
 284 is also a developer in this state who develops lots using onsite  
 285 sewage treatment and disposal systems, recommended by the  
 286 Florida Association of Realtors.

287        (VII)~~g.~~ A representative from the engineering profession  
 288 recommended by the Florida Engineering Society.

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

294        3. The variance review and advisory committee is not  
 295 responsible for reviewing water well permitting. However, the  
 296 committee shall consider all requirements of law related to  
 297 onsite sewage treatment and disposal systems when making  
 298 recommendations on variance requests for onsite sewage treatment  
 299 and disposal system permits.

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