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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/11/2012	.	
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The Committee on Environmental Preservation and Conservation  
(Dean) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsections (1), (5), (6), and (7) of section  
381.0065, Florida Statutes, are amended, paragraphs (b) through  
(p) of subsection (2) of that section are redesignated as  
paragraphs (c) through (q), respectively, a new paragraph (b) is  
added to that subsection, paragraph (j) of subsection (3) and  
paragraph (n) of subsection (4) of that section are amended, and  
paragraphs (w) through (z) are added to subsection (4) of that  
section, to read:



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13           381.0065 Onsite sewage treatment and disposal systems;  
14 regulation.—

15           (1) LEGISLATIVE INTENT.—

16           (a) It is the intent of the Legislature that proper  
17 management of onsite sewage treatment and disposal systems is  
18 paramount to the health, safety, and welfare of the public.—~~It~~  
19 ~~is further the intent of the Legislature that the department~~  
20 ~~shall administer an evaluation program to ensure the operational~~  
21 ~~condition of the system and identify any failure with the~~  
22 ~~system.~~

23           ~~(b)~~ It is the intent of the Legislature that where a  
24 publicly owned or investor-owned sewerage system is not  
25 available, the department shall issue permits for the  
26 construction, installation, modification, abandonment, or repair  
27 of onsite sewage treatment and disposal systems under conditions  
28 as described in this section and rules adopted under this  
29 section. It is further the intent of the Legislature that the  
30 installation and use of onsite sewage treatment and disposal  
31 systems not adversely affect the public health or significantly  
32 degrade the groundwater or surface water.

33           (2) DEFINITIONS.—As used in ss. 381.0065-381.0067, the  
34 term:

35           (b)1. "Bedroom" means a room that can be used for sleeping  
36 and that:

37           a. For site-built dwellings, has a minimum of 70 square  
38 feet of conditioned space;

39           b. For manufactured homes, is constructed according to  
40 standards of the United States Department of Housing and Urban  
41 Development and has a minimum of 50 square feet of floor area;



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42 c. Is located along an exterior wall;

43 d. Has a closet and a door or an entrance where a door  
44 could be reasonably installed; and

45 e. Has an emergency means of escape and rescue opening to  
46 the outside.

47 2. A room may not be considered a bedroom if it is used to  
48 access another room except a bathroom or closet.

49 3. "Bedroom" does not include a hallway, bathroom, kitchen,  
50 living room, family room, dining room, den, breakfast nook,  
51 pantry, laundry room, sunroom, recreation room, media/video  
52 room, or exercise room.

53 (3) DUTIES AND POWERS OF THE DEPARTMENT OF HEALTH.—The  
54 department shall:

55 (j) Supervise research on, demonstration of, and training  
56 on the performance, environmental impact, and public health  
57 impact of onsite sewage treatment and disposal systems within  
58 this state. Research fees collected under s. 381.0066(2)(k)  
59 ~~381.0066(2)(l)~~ must be used to develop and fund hands-on  
60 training centers designed to provide practical information about  
61 onsite sewage treatment and disposal systems to septic tank  
62 contractors, master septic tank contractors, contractors,  
63 inspectors, engineers, and the public and must also be used to  
64 fund research projects which focus on improvements of onsite  
65 sewage treatment and disposal systems, including use of  
66 performance-based standards and reduction of environmental  
67 impact. Research projects shall be initially approved by the  
68 technical review and advisory panel and shall be applicable to  
69 and reflect the soil conditions specific to Florida. Such  
70 projects shall be awarded through competitive negotiation, using



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71 the procedures provided in s. 287.055, to public or private  
72 entities that have experience in onsite sewage treatment and  
73 disposal systems in Florida and that are principally located in  
74 Florida. Research projects shall not be awarded to firms or  
75 entities that employ or are associated with persons who serve on  
76 either the technical review and advisory panel or the research  
77 review and advisory committee.

78 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not  
79 construct, repair, modify, abandon, or operate an onsite sewage  
80 treatment and disposal system without first obtaining a permit  
81 approved by the department. The department may issue permits to  
82 carry out this section, but shall not make the issuance of such  
83 permits contingent upon prior approval by the Department of  
84 Environmental Protection, except that the issuance of a permit  
85 for work seaward of the coastal construction control line  
86 established under s. 161.053 shall be contingent upon receipt of  
87 any required coastal construction control line permit from the  
88 Department of Environmental Protection. A construction permit is  
89 valid for 18 months from the issuance date and may be extended  
90 by the department for one 90-day period under rules adopted by  
91 the department. A repair permit is valid for 90 days from the  
92 date of issuance. An operating permit must be obtained prior to  
93 the use of any aerobic treatment unit or if the establishment  
94 generates commercial waste. Buildings or establishments that use  
95 an aerobic treatment unit or generate commercial waste shall be  
96 inspected by the department at least annually to assure  
97 compliance with the terms of the operating permit. The operating  
98 permit for a commercial wastewater system is valid for 1 year  
99 from the date of issuance and must be renewed annually. The



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100 operating permit for an aerobic treatment unit is valid for 2  
101 years from the date of issuance and must be renewed every 2  
102 years. If all information pertaining to the siting, location,  
103 and installation conditions or repair of an onsite sewage  
104 treatment and disposal system remains the same, a construction  
105 or repair permit for the onsite sewage treatment and disposal  
106 system may be transferred to another person, if the transferee  
107 files, within 60 days after the transfer of ownership, an  
108 amended application providing all corrected information and  
109 proof of ownership of the property. There is no fee associated  
110 with the processing of this supplemental information. A person  
111 may not contract to construct, modify, alter, repair, service,  
112 abandon, or maintain any portion of an onsite sewage treatment  
113 and disposal system without being registered under part III of  
114 chapter 489. A property owner who personally performs  
115 construction, maintenance, or repairs to a system serving his or  
116 her own owner-occupied single-family residence is exempt from  
117 registration requirements for performing such construction,  
118 maintenance, or repairs on that residence, but is subject to all  
119 permitting requirements. A municipality or political subdivision  
120 of the state may not issue a building or plumbing permit for any  
121 building that requires the use of an onsite sewage treatment and  
122 disposal system unless the owner or builder has received a  
123 construction permit for such system from the department. A  
124 building or structure may not be occupied and a municipality,  
125 political subdivision, or any state or federal agency may not  
126 authorize occupancy until the department approves the final  
127 installation of the onsite sewage treatment and disposal system.  
128 A municipality or political subdivision of the state may not



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129 approve any change in occupancy or tenancy of a building that  
130 uses an onsite sewage treatment and disposal system until the  
131 department has reviewed the use of the system with the proposed  
132 change, approved the change, and amended the operating permit.

133 (n) Evaluations for determining the seasonal high-water  
134 table elevations or the suitability of soils for the use of a  
135 new onsite sewage treatment and disposal system shall be  
136 performed by department personnel, professional engineers  
137 registered in the state, or such other persons with expertise,  
138 as defined by rule, in making such evaluations. Evaluations for  
139 determining mean annual flood lines shall be performed by those  
140 persons identified in paragraph (2)(j) ~~(2)(i)~~. The department  
141 shall accept evaluations submitted by professional engineers and  
142 such other persons as meet the expertise established by this  
143 section or by rule unless the department has a reasonable  
144 scientific basis for questioning the accuracy or completeness of  
145 the evaluation.

146 (w) Any permit issued and approved by the department for  
147 the installation, modification, or repair of an onsite sewage  
148 treatment and disposal system shall transfer with the title to  
149 the property in a real estate transaction. A title may not be  
150 encumbered at the time of transfer by new permit requirements by  
151 a governmental entity for an onsite sewage treatment and  
152 disposal system that differ from the permitting requirements in  
153 effect at the time the system was permitted, modified, or  
154 repaired. No inspection of a system shall be mandated by any  
155 governmental entity at the point of sale in a real estate  
156 transaction.

157 (x)1. An onsite sewage treatment and disposal system is not



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158 considered abandoned if the system is disconnected from a  
159 structure that was made unusable or destroyed following a  
160 disaster and was properly functioning at the time of  
161 disconnection and not adversely affected by the disaster. The  
162 onsite sewage treatment and disposal system may be reconnected  
163 to a rebuilt structure if:

164 a. The reconnection of the system is to the same type of  
165 structure which contains the same number of bedrooms or less,  
166 provided the square footage of the structure is less than or  
167 equal to 110 percent of the original square footage of the  
168 structure that existed prior to the disaster;

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

170 c. The system has not been altered without prior  
171 authorization.

172 2. An onsite sewage treatment and disposal system that  
173 serves a property that is foreclosed upon is not considered  
174 abandoned.

175 (y) If an onsite sewage treatment and disposal system  
176 permittee receives, relies upon, and undertakes construction of  
177 a system based upon a validly issued construction permit under  
178 rules applicable at the time of construction but a change to a  
179 rule occurs after the approval of the system for construction  
180 but before the final approval of the system, the rules  
181 applicable and in effect at the time of construction approval  
182 apply at the time of final approval if fundamental site  
183 conditions have not changed between the time of construction  
184 approval and final approval.

185 (z) A modification, replacement, or upgrade of an onsite  
186 sewage treatment and disposal system is not required for a



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187 remodeling addition to a single-family home if a bedroom is not  
188 added.

189 ~~(5) EVALUATION AND ASSESSMENT.—~~

190 ~~(a) Beginning July 1, 2011, the department shall administer~~  
191 ~~an onsite sewage treatment and disposal system evaluation~~  
192 ~~program for the purpose of assessing the fundamental operational~~  
193 ~~condition of systems and identifying any failures within the~~  
194 ~~systems. The department shall adopt rules implementing the~~  
195 ~~program standards, procedures, and requirements, including, but~~  
196 ~~not limited to, a schedule for a 5-year evaluation cycle,~~  
197 ~~requirements for the pump-out of a system or repair of a failing~~  
198 ~~system, enforcement procedures for failure of a system owner to~~  
199 ~~obtain an evaluation of the system, and failure of a contractor~~  
200 ~~to timely submit evaluation results to the department and the~~  
201 ~~system owner. The department shall ensure statewide~~  
202 ~~implementation of the evaluation and assessment program by~~  
203 ~~January 1, 2016.~~

204 ~~(b) Owners of an onsite sewage treatment and disposal~~  
205 ~~system, excluding a system that is required to obtain an~~  
206 ~~operating permit, shall have the system evaluated at least once~~  
207 ~~every 5 years to assess the fundamental operational condition of~~  
208 ~~the system, and identify any failure within the system.~~

209 ~~(c) All evaluation procedures must be documented and~~  
210 ~~nothing in this subsection limits the amount of detail an~~  
211 ~~evaluator may provide at his or her professional discretion. The~~  
212 ~~evaluation must include a tank and drainfield evaluation, a~~  
213 ~~written assessment of the condition of the system, and, if~~  
214 ~~necessary, a disclosure statement pursuant to the department's~~  
215 ~~procedure.~~





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216           ~~(d)1. Systems being evaluated that were installed prior to~~  
217 ~~January 1, 1983, shall meet a minimum 6-inch separation from the~~  
218 ~~bottom of the drainfield to the wettest season water table~~  
219 ~~elevation as defined by department rule. All drainfield repairs,~~  
220 ~~replacements or modifications to systems installed prior to~~  
221 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~  
222 ~~the bottom of the drainfield to the wettest season water table~~  
223 ~~elevation as defined by department rule.~~

224           ~~2. Systems being evaluated that were installed on or after~~  
225 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~  
226 ~~the bottom of the drainfield to the wettest season water table~~  
227 ~~elevation as defined by department rule. All drainfield repairs,~~  
228 ~~replacements or modification to systems developed on or after~~  
229 ~~January 1, 1983, shall meet a minimum 24-inch separation from~~  
230 ~~the bottom of the drainfield to the wettest season water table~~  
231 ~~elevation.~~

232           ~~(c) If documentation of a tank pump-out or a permitted new~~  
233 ~~installation, repair, or modification of the system within the~~  
234 ~~previous 5 years is provided, and states the capacity of the~~  
235 ~~tank and indicates that the condition of the tank is not a~~  
236 ~~sanitary or public health nuisance pursuant to department rule,~~  
237 ~~a pump-out of the system is not required.~~

238           ~~(f) Owners are responsible for paying the cost of any~~  
239 ~~required pump-out, repair, or replacement pursuant to department~~  
240 ~~rule, and may not request partial evaluation or the omission of~~  
241 ~~portions of the evaluation.~~

242           ~~(g) Each evaluation or pump-out required under this~~  
243 ~~subsection must be performed by a septic tank contractor or~~  
244 ~~master septic tank contractor registered under part III of~~



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245 ~~chapter 489, a professional engineer with wastewater treatment~~  
246 ~~system experience licensed pursuant to chapter 471, or an~~  
247 ~~environmental health professional certified under chapter 381 in~~  
248 ~~the area of onsite sewage treatment and disposal system~~  
249 ~~evaluation.~~

250 ~~(h) The evaluation report fee collected pursuant to s.~~  
251 ~~381.0066(2) (b) shall be remitted to the department by the~~  
252 ~~evaluator at the time the report is submitted.~~

253 ~~(i) Prior to any evaluation deadline, the department must~~  
254 ~~provide a minimum of 60 days' notice to owners that their~~  
255 ~~systems must be evaluated by that deadline. The department may~~  
256 ~~include a copy of any homeowner educational materials developed~~  
257 ~~pursuant to this section which provides information on the~~  
258 ~~proper maintenance of onsite sewage treatment and disposal~~  
259 ~~systems.~~

260 ~~(5)(6) ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.-~~

261 (a) Department personnel who have reason to believe  
262 noncompliance exists, may at any reasonable time, enter the  
263 premises permitted under ss. 381.0065-381.0066, or the business  
264 premises of any septic tank contractor or master septic tank  
265 contractor registered under part III of chapter 489, or any  
266 premises that the department has reason to believe is being  
267 operated or maintained not in compliance, to determine  
268 compliance with the provisions of this section, part I of  
269 chapter 386, or part III of chapter 489 or rules or standards  
270 adopted under ss. 381.0065-381.0067, part I of chapter 386, or  
271 part III of chapter 489. As used in this paragraph, the term  
272 "premises" does not include a residence or private building. To  
273 gain entry to a residence or private building, the department



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274 must obtain permission from the owner or occupant or secure an  
275 inspection warrant from a court of competent jurisdiction.

276 (b)1. The department may issue citations that may contain  
277 an order of correction or an order to pay a fine, or both, for  
278 violations of ss. 381.0065-381.0067, part I of chapter 386, or  
279 part III of chapter 489 or the rules adopted by the department,  
280 when a violation of these sections or rules is enforceable by an  
281 administrative or civil remedy, or when a violation of these  
282 sections or rules is a misdemeanor of the second degree. A  
283 citation issued under ss. 381.0065-381.0067, part I of chapter  
284 386, or part III of chapter 489 constitutes a notice of proposed  
285 agency action.

286 2. A citation must be in writing and must describe the  
287 particular nature of the violation, including specific reference  
288 to the provisions of law or rule allegedly violated.

289 3. The fines imposed by a citation issued by the department  
290 may not exceed \$500 for each violation. Each day the violation  
291 exists constitutes a separate violation for which a citation may  
292 be issued.

293 4. The department shall inform the recipient, by written  
294 notice pursuant to ss. 120.569 and 120.57, of the right to an  
295 administrative hearing to contest the citation within 21 days  
296 after the date the citation is received. The citation must  
297 contain a conspicuous statement that if the recipient fails to  
298 pay the fine within the time allowed, or fails to appear to  
299 contest the citation after having requested a hearing, the  
300 recipient has waived the recipient's right to contest the  
301 citation and must pay an amount up to the maximum fine.

302 5. The department may reduce or waive the fine imposed by



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303 the citation. In determining whether to reduce or waive the  
304 fine, the department must consider the gravity of the violation,  
305 the person's attempts at correcting the violation, and the  
306 person's history of previous violations including violations for  
307 which enforcement actions were taken under ss. 381.0065-  
308 381.0067, part I of chapter 386, part III of chapter 489, or  
309 other provisions of law or rule.

310 6. Any person who willfully refuses to sign and accept a  
311 citation issued by the department commits a misdemeanor of the  
312 second degree, punishable as provided in s. 775.082 or s.  
313 775.083.

314 7. The department, pursuant to ss. 381.0065-381.0067, part  
315 I of chapter 386, or part III of chapter 489, shall deposit any  
316 fines it collects in the county health department trust fund for  
317 use in providing services specified in those sections.

318 8. This section provides an alternative means of enforcing  
319 ss. 381.0065-381.0067, part I of chapter 386, and part III of  
320 chapter 489. This section does not prohibit the department from  
321 enforcing ss. 381.0065-381.0067, part I of chapter 386, or part  
322 III of chapter 489, or its rules, by any other means. However,  
323 the department must elect to use only a single method of  
324 enforcement for each violation.

325 ~~(6)(7) LAND APPLICATION OF SEPTAGE PROHIBITED.-Effective~~  
326 ~~January 1, 2016, the land application of septage from onsite~~  
327 ~~sewage treatment and disposal systems is prohibited. By February~~  
328 ~~1, 2011, the department, in consultation with the Department of~~  
329 ~~Environmental Protection, shall provide a report to the~~  
330 ~~Governor, the President of the Senate, and the Speaker of the~~  
331 ~~House of Representatives, recommending alternative methods to~~



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332 ~~establish enhanced treatment levels for the land application of~~  
333 ~~septage from onsite sewage and disposal systems. The report~~  
334 ~~shall include, but is not limited to, a schedule for the~~  
335 ~~reduction in land application, appropriate treatment levels,~~  
336 ~~alternative methods for treatment and disposal, enhanced~~  
337 ~~application site permitting requirements including any~~  
338 ~~requirements for nutrient management plans, and the range of~~  
339 ~~costs to local governments, affected businesses, and individuals~~  
340 ~~for alternative treatment and disposal methods. The report shall~~  
341 ~~also include any recommendations for legislation or rule~~  
342 ~~authority needed to reduce land application of septage.~~

343 Section 2. Section 381.00651, Florida Statutes, is created  
344 to read:

345 381.00651 Periodic evaluation and assessment of onsite  
346 sewage treatment and disposal systems.—

347 (1) For the purposes of this section, the term "first  
348 magnitude spring" means a spring that has a median water  
349 discharge of greater than or equal to 100 cubic feet per second  
350 for the period of record, as determined by the Department of  
351 Environmental Protection.

352 (2) A county or municipality that contains a first  
353 magnitude spring shall, by no later than January 1, 2013,  
354 develop and adopt by local ordinance an onsite sewage treatment  
355 and disposal system evaluation and assessment program which  
356 meets the requirements of this section. The ordinance may apply  
357 within all or part of its geographic area. Those counties or  
358 municipalities containing a first magnitude spring that have  
359 already adopted an onsite sewage treatment and disposal system  
360 evaluation and assessment program which meet the grandfathering



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361 requirements contained in this section, or that have chosen to  
362 opt out of this section in the manner provided herein, are  
363 exempt from the requirement to adopt an ordinance implementing  
364 an evaluation and assessment program. The governing body of a  
365 local government that chooses to opt out of this section shall  
366 do so by adopting a resolution by majority vote which indicates  
367 an intent on the part of such local government not to adopt an  
368 onsite sewage treatment and disposal system evaluation and  
369 assessment program. Such resolution shall be addressed and  
370 transmitted to the Secretary of State. Absent an inter-local  
371 agreement or county charter provision to the contrary, a  
372 municipality may elect to opt out of the requirements of this  
373 section notwithstanding a contrary decision of the governing  
374 body of a county. Any local government that has properly opted  
375 out of this section but subsequently chooses to adopt an  
376 evaluation and assessment program may do so only pursuant to the  
377 requirements of this section and may not deviate from such  
378 requirements.

379 (3) Any county or municipality that does not contain a  
380 first magnitude spring may at any time develop and adopt by  
381 local ordinance an onsite sewage treatment and disposal system  
382 evaluation and assessment program, provided such program meets  
383 and does not deviate from the requirements of this section.

384 (4) Any county or municipality that has adopted such a  
385 program before July 1, 2011, may continue to enforce its program  
386 without having to meet the requirements of this section,  
387 provided such program does not require an evaluation at the  
388 point of sale in a real estate transaction.

389 (5) Any county or municipality may repeal an ordinance



390 adopted pursuant to this section only if the county or  
391 municipality notifies the Secretary of State by letter of the  
392 repeal. No county or municipality may adopt an onsite sewage  
393 treatment and disposal system evaluation and assessment program  
394 except pursuant to this section.

395 (6) The requirements for an onsite sewage treatment and  
396 disposal system evaluation and assessment program are as  
397 follows:

398 (a) Evaluations.—An evaluation of each onsite sewage  
399 treatment and disposal system within all or part of the county's  
400 or municipality's jurisdiction must take place once every 5  
401 years to assess the fundamental operational condition of the  
402 system and to identify system failures. The ordinance may not  
403 mandate an evaluation at the point of sale in a real estate  
404 transaction and may not require a soil examination. The location  
405 of the system shall be identified. A tank and drainfield  
406 evaluation and a written assessment of the overall condition of  
407 the system pursuant to the assessment procedure prescribed in  
408 subsection (7) are required.

409 (b) Qualified contractors.—Each evaluation required under  
410 this subsection must be performed by a qualified contractor, who  
411 may be a septic tank contractor or master septic tank contractor  
412 registered under part III of chapter 489, a professional  
413 engineer having wastewater treatment system experience and  
414 licensed under chapter 471, or an environmental health  
415 professional certified under this chapter in the area of onsite  
416 sewage treatment and disposal system evaluation. Evaluations and  
417 pump-outs may also be performed by an authorized employee  
418 working under the supervision of an individual listed in this



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419 paragraph; however, all evaluation forms must be signed by a  
420 qualified contractor in writing or by electronic signature.

421 (c) Repair of systems.—The local ordinance may not require  
422 a repair, modification, or replacement of a system as a result  
423 of an evaluation unless the evaluation identifies a system  
424 failure. For purposes of this subsection, the term "system  
425 failure" means a condition existing within an onsite sewage  
426 treatment and disposal system that results in the discharge of  
427 untreated or partially treated wastewater onto the ground  
428 surface or into surface water or that results in the failure of  
429 building plumbing to discharge properly and presents a sanitary  
430 nuisance. A system is not in failure if the system does not have  
431 a minimum separation distance between the drainfield and the  
432 wettest season water table or if an obstruction in a sanitary  
433 line or an effluent screen or filter prevents effluent from  
434 flowing into a drainfield. If a system failure is identified and  
435 several allowable remedial measures are available to resolve the  
436 failure, the system owner may choose the least costly allowable  
437 remedial measure to fix the system. There may be instances in  
438 which a pump-out is sufficient to resolve a system failure.  
439 Allowable remedial measures to resolve a system failure are  
440 limited to what is necessary to resolve the failure and must  
441 meet, to the maximum extent practicable, the requirements of the  
442 repair code in effect when the repair is made, subject to the  
443 exceptions specified in s. 381.0065(4)(g). An engineer-designed  
444 performance-based treatment system to reduce nutrients may not  
445 be required as an alternative remediation measure to resolve the  
446 failure of a conventional system.

447 (d) Exemptions.—





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448           1. The local ordinance shall exempt from the evaluation  
449 requirements any system that is required to obtain an operating  
450 permit pursuant to state law or that is inspected by the  
451 department pursuant to the annual permit inspection requirements  
452 of chapter 513.

453           2. The local ordinance may provide for an exemption or an  
454 extension of time to obtain an evaluation and assessment if  
455 connection to a sewer system is available, connection to the  
456 sewer system is imminent, and written arrangements for payment  
457 of any utility assessments or connection fees have been made by  
458 the system owner.

459           3. An onsite sewage treatment and disposal system serving a  
460 residential dwelling unit on a lot with a ratio of one bedroom  
461 per acre or greater is exempt from the requirements of this  
462 section and may not be included in any onsite sewage treatment  
463 and disposal system inspection program.

464           (7) The following procedures shall be used for conducting  
465 evaluations:

466           (a) Tank evaluation.—The tank evaluation shall assess the  
467 apparent structural condition and watertightness of the tank and  
468 shall estimate the size of the tank. The evaluation must include  
469 a pump-out. However, an ordinance may not require a pump-out if  
470 there is documentation indicating that a tank pump-out or a  
471 permitted new installation, repair, or modification of the  
472 system has occurred within the previous 5 years, identifying the  
473 capacity of the tank, and indicating that the condition of the  
474 tank is structurally sound and watertight. Visual inspection of  
475 the tank must be made when the tank is empty to detect cracks,  
476 leaks, or other defects. Baffles or tees must be checked to



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477 ensure that they are intact and secure. The evaluation shall  
478 note the presence and condition of outlet devices, effluent  
479 filters, and compartment walls; any structural defect in the  
480 tank; the condition and fit of the tank lid, including manholes;  
481 whether surface water can infiltrate the tank; and whether the  
482 tank was pumped out. If the tank, in the opinion of the  
483 qualified contractor, is in danger of being damaged by leaving  
484 the tank empty after inspection, the tank shall be refilled  
485 before concluding the inspection. Broken or damaged lids or  
486 manholes shall be replaced without obtaining a repair permit.

487 (b) Drainfield evaluation.—The drainfield evaluation must  
488 include a determination of the approximate size and location of  
489 the drainfield. The evaluation shall state whether there is any  
490 sewage or effluent visible on the ground or discharging to a  
491 ditch or other water body and the location of any downspout or  
492 other source of water near or in the vicinity of the drainfield.

493 (c) Special circumstances.—If the system contains pumps,  
494 siphons, or alarms, the following information may be provided at  
495 the request of the homeowner:

496 1. An assessment of dosing tank integrity, including the  
497 approximate volume and the type of material used in the tank's  
498 construction;

499 2. Whether the pump is elevated off the bottom of the  
500 chamber and its operational status;

501 3. Whether the system has a check valve and purge hole; and

502 4. Whether the system has a high-water alarm, and if so  
503 whether the alarm is audio or visual or both, the location and  
504 operational condition of the alarm, and whether the electrical  
505 connections to the alarm appear satisfactory.



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506       (d) Assessment procedure.—All evaluation procedures used by  
507 a qualified contractor shall be documented. The qualified  
508 contractor shall provide a copy of a written, signed evaluation  
509 report to the property owner upon completion of the evaluation  
510 and to the county health department within 30 days after the  
511 evaluation. The report shall contain the name and license number  
512 of the company providing the report. A copy of the evaluation  
513 report shall be retained by the local county health department  
514 for a minimum of 5 years and until a subsequent inspection  
515 report is filed. The front cover of the report must identify any  
516 system failure and include a clear and conspicuous notice to the  
517 owner that the owner has a right to have any remediation of the  
518 failure performed by a qualified contractor other than the  
519 contractor performing the evaluation. The report must further  
520 identify any crack, leak, improper fit, or other defect in the  
521 tank, manhole, or lid, and any other damaged or missing  
522 component; any sewage or effluent visible on the ground or  
523 discharging to a ditch or other surface water body; any  
524 downspout, stormwater, or other source of water directed onto or  
525 toward the system; and any other maintenance need or condition  
526 of the system at the time of the evaluation that, in the opinion  
527 of the qualified contractor, would possibly interfere with or  
528 restrict any future repair or modification to the existing  
529 system. The report shall conclude with an overall assessment of  
530 the fundamental operational condition of the system.

531       (8) The county health department shall administer any  
532 evaluation program on behalf of a county, or a municipality  
533 within the county, that has adopted an evaluation program  
534 pursuant to this section. In order to administer the evaluation



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535 program, the county or municipality, in consultation with the  
536 county health department, may develop a reasonable fee schedule  
537 to be used solely to pay for the costs of administering the  
538 evaluation program. Such a fee schedule shall be identified in  
539 the ordinance that adopts the evaluation program. When arriving  
540 at a reasonable fee schedule, the estimated annual revenues to  
541 be derived from fees may not exceed reasonable estimated annual  
542 costs of the program. Fees shall be assessed to the system owner  
543 during an inspection and separately identified on the invoice of  
544 the qualified contractor. Fees shall be remitted by the  
545 qualified contractor to the county health department. The county  
546 health department's administrative responsibilities include the  
547 following:

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

552 (b) In consultation with the Department of Health,  
553 providing uniform disciplinary procedures and penalties for  
554 qualified contractors who do not comply with the requirements of  
555 the adopted ordinance, including, but not limited to, failure to  
556 provide the evaluation report as required in this subsection to  
557 the system owner and the county health department. Only the  
558 county health department may assess penalties against system  
559 owners for failure to comply with the adopted ordinance,  
560 consistent with existing requirements of law.

561 (c) Developing its own database and tracking systems to  
562 encompass evaluation programs adopted by the county or  
563 municipalities within its jurisdiction. The database shall also



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564 be used to collect, store, and index information obtained from  
565 the evaluation reports filed by each qualified contractor with  
566 the county health department. The tracking system:

567 1. Must include the ability to collect and store the  
568 description, addresses, and locations of the onsite sewage  
569 treatment and disposal systems within each jurisdiction; an  
570 inventory of the number of onsite sewage treatment and disposal  
571 systems within each jurisdiction; and the total number and types  
572 of system failures within each jurisdiction.

573 2. May include the ability to collect and store other  
574 trends deemed relevant by the county health department resulting  
575 from an assessment and evaluation of the overall condition of  
576 onsite sewage treatment and disposal systems.

577 3. May be Internet-based.

578 4. May be designed to be used by contractors to report all  
579 service and evaluation events and by the county health  
580 department to notify owners of onsite sewage treatment and  
581 disposal systems when evaluations are due. Data and information  
582 shall be recorded and updated as service and evaluations are  
583 conducted and reported.

584 (9) (a) A county or municipality that adopts an onsite  
585 sewage treatment and disposal system evaluation and assessment  
586 program pursuant to this section shall notify the Secretary of  
587 Environmental Protection, the Department of Health, and the  
588 applicable county health department upon the adoption of its  
589 ordinance establishing the program.

590 (b) Upon receipt of the notice under paragraph (a), the  
591 Department of Environmental Protection shall, within existing  
592 resources, notify the county or municipality of the potential



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593 use of, and access to, program funds under the Clean Water State  
594 Revolving Fund or s. 319 of the Clean Water Act, provide  
595 guidance in the application process to receive such moneys, and  
596 provide advice and technical assistance to the county or  
597 municipality on how to establish a low-interest revolving loan  
598 program or how to model a revolving loan program after the low-  
599 interest loan program of the Clean Water State Revolving Fund.  
600 This paragraph does not obligate the Department of Environmental  
601 Protection to provide any county or municipality with money to  
602 fund such programs.

603 (c) The Department of Health may not adopt any rule that  
604 alters the provisions of this section.

605 (10) This section does not:

606 (a) Derogate or limit county and municipal home rule  
607 authority to act outside the scope of the evaluation and  
608 assessment program set forth in this section.

609 (b) Repeal or affect any other law relating to the subject  
610 matter of this section.

611 (c) Prohibit a county or municipality that has adopted an  
612 evaluation and assessment program pursuant to this section from:

613 1. Enforcing existing ordinances or adopting new ordinances  
614 relating to onsite sewage treatment facilities to address public  
615 health and safety if such ordinances do not repeal, suspend, or  
616 alter the requirements or limitations of this section.

617 2. Adopting local environmental and pollution abatement  
618 measures for water quality improvement as provided for by law if  
619 such measures do not repeal, suspend, or alter the requirements  
620 or limitations of this section.

621 3. Exercising its independent and existing authority to use



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622 and meet the requirements of s. 381.00655.

623 Section 3. Section 381.00656, Florida Statutes, is  
624 repealed.

625 Section 4. Subsection (2) of section 381.0066, Florida  
626 Statutes, is amended to read:

627 381.0066 Onsite sewage treatment and disposal systems;  
628 fees.—

629 (2) The minimum fees in the following fee schedule apply  
630 until changed by rule by the department within the following  
631 limits:

632 (a) Application review, permit issuance, or system  
633 inspection, including repair of a subsurface, mound, filled, or  
634 other alternative system or permitting of an abandoned system: a  
635 fee of not less than \$25, or more than \$125.

636 ~~(b) A 5-year evaluation report submitted pursuant to s.~~  
637 ~~381.0065(5): a fee not less than \$15, or more than \$30. At least~~  
638 ~~\$1 and no more than \$5 collected pursuant to this paragraph~~  
639 ~~shall be used to fund a grant program established under s.~~  
640 ~~381.00656.~~

641 ~~(b)(e)~~ Site evaluation, site reevaluation, evaluation of a  
642 system previously in use, or a per annum septage disposal site  
643 evaluation: a fee of not less than \$40, or more than \$115.

644 ~~(c)(d)~~ Biennial Operating permit for aerobic treatment  
645 units or performance-based treatment systems: a fee of not more  
646 than \$100.

647 ~~(d)(e)~~ Annual operating permit for systems located in areas  
648 zoned for industrial manufacturing or equivalent uses or where  
649 the system is expected to receive wastewater which is not  
650 domestic in nature: a fee of not less than \$150, or more than



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651 \$300.

652 (e)~~(f)~~ Innovative technology: a fee not to exceed \$25,000.

653 (f)~~(g)~~ Septage disposal service, septage stabilization  
654 facility, portable or temporary toilet service, tank  
655 manufacturer inspection: a fee of not less than \$25, or more  
656 than \$200, per year.

657 (g)~~(h)~~ Application for variance: a fee of not less than  
658 \$150, or more than \$300.

659 (h)~~(i)~~ Annual operating permit for waterless, incinerating,  
660 or organic waste composting toilets: a fee of not less than \$15  
661 ~~\$50~~, or more than \$30 ~~\$150~~.

662 (i)~~(j)~~ Aerobic treatment unit or performance-based  
663 treatment system maintenance entity permit: a fee of not less  
664 than \$25, or more than \$150, per year.

665 (j)~~(k)~~ Reinspection fee per visit for site inspection after  
666 system construction approval or for noncompliant system  
667 installation per site visit: a fee of not less than \$25, or more  
668 than \$100.

669 (k)~~(l)~~ Research: An additional \$5 fee shall be added to  
670 each new system construction permit issued to be used to fund  
671 onsite sewage treatment and disposal system research,  
672 demonstration, and training projects. Five dollars from any  
673 repair permit fee collected under this section shall be used for  
674 funding the hands-on training centers described in s.  
675 381.0065(3)(j).

676 (l)~~(m)~~ Annual operating permit, including annual inspection  
677 and any required sampling and laboratory analysis of effluent,  
678 for an engineer-designed performance-based system: a fee of not  
679 less than \$150, or more than \$300.





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680  
681       ~~On or before January 1, 2011, the Surgeon General, after~~  
682 ~~consultation with the Revenue Estimating Conference, shall~~  
683 ~~determine a revenue neutral fee schedule for services provided~~  
684 ~~pursuant to s. 381.0065(5) within the parameters set in~~  
685 ~~paragraph (b). Such determination is not subject to the~~  
686 ~~provisions of chapter 120.~~ The funds collected pursuant to this  
687 subsection must be deposited in a trust fund administered by the  
688 department, to be used for the purposes stated in this section  
689 and ss. 381.0065 and 381.00655.

690       Section 5. This act shall take effect upon becoming a law.

691  
692  
693 ===== T I T L E   A M E N D M E N T =====

694 And the title is amended as follows:

695       Delete everything before the enacting clause  
696 and insert:

697                               A bill to be entitled

698       An act relating to ; onsite sewage treatment and disposal  
699 systems; amending s. 381.0065, F.S.; deleting legislative  
700 intent; defining the term "bedroom"; conforming cross-  
701 references; providing for any permit issued and approved by the  
702 Department of Health for the installation, modification, or  
703 repair of an onsite sewage treatment and disposal system to  
704 transfer with the title of the property; providing circumstances  
705 in which an onsite sewage treatment and disposal system is not  
706 considered abandoned; providing for the validity of an onsite  
707 sewage treatment and disposal system permit if rules change  
708 before final approval of the constructed system; providing that



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709 a system modification, replacement, or upgrade is not required  
710 unless a bedroom is added to a single-family home; deleting  
711 provisions requiring the department to administer an evaluation  
712 and assessment program of onsite sewage treatment and disposal  
713 systems and requiring property owners to have such systems  
714 evaluated at least once every 5 years; deleting obsolete  
715 provisions; creating s. 381.00651, F.S.; requiring a county or  
716 municipality containing a first magnitude spring to adopt by  
717 ordinance, under certain circumstances, the program for the  
718 periodic evaluation and assessment of onsite sewage treatment  
719 and disposal systems; requiring the county or municipality to  
720 notify the Secretary of State of the ordinance; authorizing a  
721 county or municipality, in specified circumstances, to opt out  
722 of certain requirements by a specified date; authorizing a  
723 county or municipality to adopt or repeal, after a specified  
724 date, an ordinance creating an evaluation and assessment  
725 program; subject to notification of the Secretary of State;  
726 providing criteria for evaluations, qualified contractors,  
727 repair of systems; providing for certain procedures and  
728 exemptions in special circumstances; defining the term "system  
729 failure"; requiring that certain procedures be used for  
730 conducting tank and drainfield evaluations; providing for  
731 certain procedures in special circumstances; providing for  
732 assessment procedures; providing requirements for county health  
733 departments; requiring the county or municipality to develop a  
734 system for tracking the evaluations; providing criteria;  
735 requiring counties and municipalities to notify the Secretary of  
736 Environmental Protection and the Department of Health that an  
737 evaluation program ordinance is adopted; requiring the



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738 Department of Environmental Protection to notify those counties  
739 or municipalities of the use of, and access to, certain state  
740 and federal program funds and to provide certain guidance and  
741 technical assistance upon request; prohibiting the adoption of  
742 certain rules by the Department of Health; providing  
743 applicability; repealing s. 381.00656, F.S., relating to a grant  
744 program for the repair of onsite sewage treatment and disposal  
745 systems; amending s. 381.0066, F.S.; lowering the fees imposed  
746 by the department for certain permits; conforming cross-  
747 references; providing an effective date.