



1           congregate living facilities in a coastal  
2           high-hazard area; amending s. 163.336, F.S.;  
3           revising the requirements for the placement of  
4           beach-compatible material that is excavated  
5           during the coastal resort area redevelopment  
6           pilot project; extending the expiration date of  
7           the pilot project; requiring a report; amending  
8           s. 381.0065, F.S.; requiring the issuance of  
9           certain permits by the Department of Health for  
10          work seaward of the coastal construction  
11          control line to be contingent upon receipt of a  
12          coastal construction control line permit from  
13          the Department of Environmental Protection;  
14          providing an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18           Section 1. Subsection (3) of section 161.085, Florida  
19 Statutes, is amended, and subsections (8) and (9) are added  
20 to that section, to read:

21           161.085 Rigid coastal armoring structures.--

22           (3) If erosion occurs as a result of a storm event  
23 which threatens private structures or public infrastructure  
24 and a permit has not been issued pursuant to subsection (2),  
25 unless the authority has been revoked by order of the  
26 department pursuant to subsection (8), an the agency,  
27 political subdivision, or municipality having jurisdiction  
28 over the impacted area may install or authorize installation  
29 of rigid coastal armoring structures for the protection of  
30 private structures or public infrastructure, or take other  
31 measures to relieve the threat to private structures or public

1 infrastructure as long as the following items are considered  
2 and incorporated into such emergency measures:

3 (a) Protection of the beach-dune system.

4 (b) Siting and design criteria for the protective  
5 structure.

6 (c) Impacts on adjacent properties.

7 (d) Preservation of public beach access.

8 (e) Protection of native coastal vegetation and  
9 nesting marine turtles and their hatchlings.

10 (8) If an agency, political subdivision, or  
11 municipality installs or authorizes installation of a rigid  
12 coastal armoring structure that does not comply with  
13 subsection (3), and if the department determines that the  
14 action harms or interferes with the protection of the  
15 beach-dune system, adversely impacts adjacent properties,  
16 interferes with public beach access, or harms native coastal  
17 vegetation or nesting marine turtles or their hatchlings, the  
18 department may revoke by order the authority of the agency,  
19 political subdivision, or municipality under subsection (3) to  
20 install or authorize the installation of rigid coastal  
21 armoring structures.

22 (9) The department, or an agency, political  
23 subdivision, or municipality described in subsection (3), may  
24 authorize sand-filled tubes or similar structures proposed as  
25 the core of a restored dune feature if the applicant meets the  
26 requirements of this part and:

27 (a) Demonstrates that the United States Fish and  
28 Wildlife Service has approved a habitat conservation plan that  
29 includes the shoreline where each structure will be placed;

30 (b) Provides reasonable assurance that adequate sand  
31 cover will be maintained over the structure such that the

1 structure will not interact with the beach dune system as  
2 rigid coastal armoring or adversely affect marine turtle  
3 nesting and provides for a responsible entity to conduct such  
4 maintenance; and

5 (c) Provides reasonable assurance that each structure  
6 will be removed if the maintenance required by paragraph (b)  
7 proves to be not feasible.

8 Section 2. Paragraphs (d) and (h) of subsection (2) of  
9 section 163.3178, Florida Statutes, are amended, and  
10 subsection (9) is added to that section, to read:

11 163.3178 Coastal management.--

12 (2) Each coastal management element required by s.  
13 163.3177(6)(g) shall be based on studies, surveys, and data;  
14 be consistent with coastal resource plans prepared and adopted  
15 pursuant to general or special law; and contain:

16 (d) A component which outlines principles for hazard  
17 mitigation and protection of human life against the effects of  
18 natural disaster, including population evacuation, which take  
19 into consideration the capability to safely evacuate the  
20 density of coastal population proposed in the future land use  
21 plan element in the event of an impending natural disaster.  
22 The Division of Emergency Management shall manage the update  
23 of the regional hurricane evacuation studies, ensure such  
24 studies are done in a consistent manner, and ensure that the  
25 methodology used for modeling storm surge is that used by the  
26 National Hurricane Center.

27 (h) Designation of coastal high-hazard ~~coastal~~ areas  
28 and the criteria for mitigation for a comprehensive plan  
29 amendment in the coastal high-hazard area as defined in  
30 subsection (9), which for uniformity and planning purposes  
31 herein, are defined as category 1 evacuation zones. The

1 coastal high-hazard area is the area below the elevation of  
2 the category 1 storm surge line as established by the Sea,  
3 Lake and Overland Surges from Hurricanes (SLOSH) computerized  
4 storm surge model. However, Application of mitigation and  
5 development and redevelopment policies, pursuant to s.  
6 380.27(2), and any rules adopted thereunder, shall be at the  
7 discretion of local government.

8 (9)(a) A local government may elect to comply with  
9 rules 9J-5.012(3)(b)(6) and 9J-5.012(3)(b)(7), Florida  
10 Administrative Code, through the process provided in this  
11 section. A proposed amendment to a comprehensive plan is in  
12 compliance with state coastal high-hazard provisions as  
13 provided in rule 9J-5.012(3)(b)(6) and 9J-5.012(3)(b)(7) if:

14 1. The adopted level of service for out-of-county  
15 hurricane evacuation is maintained for a category 5 storm  
16 event, as measured by the Saffir-Simpson Scale;

17 2. A 12-hour evacuation time-to-shelter is maintained  
18 for the category 5 storm event, as measured by the  
19 Saffir-Simpson Scale, and shelter space reasonably  
20 attributable to the development contemplated by a proposed  
21 amendment to the comprehensive plan is available; or

22 3. Appropriate mitigation to satisfy the provisions of  
23 subparagraph 1. or subparagraph 2. is provided. For the  
24 purpose of this subparagraph, the term "appropriate  
25 mitigation" includes, without limitation, payment of money,  
26 contributions of land, and construction of hurricane shelters  
27 and transportation facilities. Mitigation by the developer as  
28 required by the local government may not exceed the amount  
29 required for a developer to accommodate impacts reasonably  
30 attributable to its development. For those local governments  
31 that have not established a level of service for an

1 out-of-county hurricane evacuation by July 1, 2008, the level  
2 of service shall be no greater than 16 hours for a category 5  
3 storm event, as measured on the Saffir-Simpson Scale.

4 (b) New adult congregate living facilities, community  
5 residential homes, group homes, homes for the aged, hospitals,  
6 or nursing homes may not be located within the coastal  
7 high-hazard area.

8 (c) By July 1, 2008, each local government must amend  
9 its future land use map and coastal management element to  
10 include the new definition of coastal high-hazard area and to  
11 depict the coastal high-hazard area on the future land use  
12 maps.

13 (d) This subsection shall take effect upon this act  
14 becoming a law and applies to all local governments.

15 Section 3. Subsections (2) and (3) of section 163.336,  
16 Florida Statutes, are amended to read:

17 163.336 Coastal resort area redevelopment pilot  
18 project.--

19 (2) PILOT PROJECT ADMINISTRATION.--

20 (a) To be eligible to participate in this pilot  
21 project, all or a portion of the area must be within:

22 1. The coastal building zone as defined in s. 161.54;  
23 and

24 2. A community redevelopment area, enterprise zone,  
25 brownfield area, empowerment zone, or other such economically  
26 deprived areas as designated by the county or municipality  
27 with jurisdiction over the area.

28 (b) Local governments are encouraged to use the full  
29 range of economic and tax incentives available to facilitate  
30 and promote redevelopment and revitalization within the pilot  
31 project areas.

1           (c) The Office of the Governor, Department of  
2 Environmental Protection, and the Department of Community  
3 Affairs are directed to provide technical assistance to  
4 expedite permitting for redevelopment projects and  
5 construction activities within the pilot project areas  
6 consistent with the principles, processes, and timeframes  
7 provided in s. 403.973.

8           (d) The Department of Environmental Protection shall  
9 exempt construction activities within the pilot project area  
10 in locations seaward of a coastal construction control line  
11 and landward of existing armoring from certain siting and  
12 design criteria pursuant to s. 161.053. However, such  
13 exemption shall not be deemed to exempt property within the  
14 pilot project area from applicable local land development  
15 regulations, including but not limited to, setback, side lot  
16 line, and lot coverage requirements. Such exemption shall  
17 apply to construction and redevelopment of structures  
18 involving the coverage, excavation, and impervious surface  
19 criteria of s. 161.053, and related adopted rules, as follows:

20           1. This review by the department of applications for  
21 permits for coastal construction within the pilot project area  
22 must apply to construction and redevelopment of structures  
23 subject to the coverage, excavation, and impervious surface  
24 criteria of s. 161.053, and related adopted rules. It is the  
25 intent of these provisions that the pilot project area be  
26 enabled to redevelop in a manner which meets the economic  
27 needs of the area while preserving public safety and existing  
28 resources, including natural resources.

29           2. The criteria for review under s. 161.053 are  
30 applicable within the pilot project area, except that the  
31 structures within the pilot project area shall not be subject

1 | to specific shore parallel coverage requirements and are  
2 | allowed to exceed the 50 percent impervious surface  
3 | requirement. In no case shall stormwater discharge be allowed  
4 | onto, or seaward of, the frontal dune. Structures are also not  
5 | bound by the restrictions on excavation unless the  
6 | construction will adversely affect the integrity of the  
7 | existing seawall or rigid coastal armoring structure or  
8 | stability of the existing beach and dune system. It is  
9 | specifically contemplated that underground structures,  
10 | including garages, will be permitted. All beach-compatible  
11 | material excavated under this subparagraph must be maintained  
12 | on site seaward of the coastal construction control line.  
13 | However, during the permit-review process, pursuant to s.  
14 | 161.053, the department may favorably consider authorized sand  
15 | placement on adjacent properties if the permittee has  
16 | demonstrated every reasonable effort to effectively use all  
17 | beach-quality material on site to enhance the beach and dune  
18 | system, and has prepared a comprehensive plan for beach and  
19 | dune nourishment for the adjoining area.

20 |         3. The review criteria in subparagraph 2. will apply  
21 | to all construction within the pilot project area lying  
22 | seaward of the coastal construction control line and landward  
23 | of an existing viable seawall or rigid coastal armoring  
24 | structure, if such construction is fronted by a seawall or  
25 | rigid coastal armoring structure extending at least 1,000 feet  
26 | without any interruptions other than beach access points. For  
27 | purposes of this section, a viable seawall or rigid coastal  
28 | armoring structure is a structure that has not deteriorated,  
29 | dilapidated, or been damaged to such a degree that it no  
30 | longer provides adequate protection to the upland property  
31 |

1 when considering the following criteria, including, but not  
2 limited to:

3 a. The top must be at or above the still water level,  
4 including setup, for the design storm of 30-year return storm  
5 plus the breaking wave calculated at its highest achievable  
6 level based on the maximum eroded beach profile and highest  
7 surge level combination, and must be high enough to preclude  
8 runup overtopping;

9 b. The armoring must be stable under the design storm  
10 of 30-year return storm, including maximum localized scour,  
11 with adequate penetration; and

12 c. The armoring must have sufficient continuity or  
13 return walls to prevent flooding under the design storm of  
14 30-year return storm from impacting the proposed construction.

15 4. Where there exists a continuous line of rigid  
16 coastal armoring structure on either side of unarmored  
17 property and the adjacent line of rigid coastal armoring  
18 structures are having an adverse effect on or threaten the  
19 unarmored property, and the gap does not exceed 100 feet, the  
20 department may grant the necessary permits under s. 161.085 to  
21 close the gap.

22 5. Structures approved pursuant to this section shall  
23 not cause flooding of or result in adverse impacts to existing  
24 upland structures or properties and shall comply with all  
25 other requirements of s. 161.053 and its implementing rules.

26 6. Where there exists a continuous line of viable  
27 rigid coastal armoring structure on either side of a nonviable  
28 rigid coastal armoring structure, the department shall grant  
29 the necessary permits under s. 161.085 to replace such  
30 nonviable rigid coastal armoring structure with a viable rigid  
31 coastal armoring structure as defined in this section. This

1 shall not apply to rigid coastal armoring structures  
2 constructed after May 1, 1998, unless such structures have  
3 been permitted pursuant to s. 161.085(2).

4 (3) PILOT PROJECT EXPIRATION.--The authorization for  
5 the pilot project and the provisions of this section expire  
6 December 31, ~~2014~~ ~~2006~~. The department and affected local  
7 governments shall provide for an independent analysis of the  
8 economic value and environmental impact of the pilot project  
9 and provide a report to the Legislature on or before February  
10 1, 2008.

11 Section 4. Subsection (4) of section 381.0065, Florida  
12 Statutes, is amended to read:

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

15 (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person  
16 may not construct, repair, modify, abandon, or operate an  
17 onsite sewage treatment and disposal system without first  
18 obtaining a permit approved by the department. The department  
19 may issue permits to carry out this section, but shall not  
20 make the issuance of such permits contingent upon prior  
21 approval by the Department of Environmental Protection, except  
22 that the issuance of a permit for work seaward of the coastal  
23 construction control line established under s. 161.053 shall  
24 be contingent upon receipt of any required coastal  
25 construction control line permit from the Department of  
26 Environmental Protection. A construction permit is valid for  
27 18 months from the issuance date and may be extended by the  
28 department for one 90-day period under rules adopted by the  
29 department. A repair permit is valid for 90 days from the date  
30 of issuance. An operating permit must be obtained prior to the  
31 use of any aerobic treatment unit or if the establishment

1 generates commercial waste. Buildings or establishments that  
2 use an aerobic treatment unit or generate commercial waste  
3 shall be inspected by the department at least annually to  
4 assure compliance with the terms of the operating permit. The  
5 operating permit for a commercial wastewater system is valid  
6 for 1 year from the date of issuance and must be renewed  
7 annually. The operating permit for an aerobic treatment unit  
8 is valid for 2 years from the date of issuance and must be  
9 renewed every 2 years. If all information pertaining to the  
10 siting, location, and installation conditions or repair of an  
11 onsite sewage treatment and disposal system remains the same,  
12 a construction or repair permit for the onsite sewage  
13 treatment and disposal system may be transferred to another  
14 person, if the transferee files, within 60 days after the  
15 transfer of ownership, an amended application providing all  
16 corrected information and proof of ownership of the property.  
17 There is no fee associated with the processing of this  
18 supplemental information. A person may not contract to  
19 construct, modify, alter, repair, service, abandon, or  
20 maintain any portion of an onsite sewage treatment and  
21 disposal system without being registered under part III of  
22 chapter 489. A property owner who personally performs  
23 construction, maintenance, or repairs to a system serving his  
24 or her own owner-occupied single-family residence is exempt  
25 from registration requirements for performing such  
26 construction, maintenance, or repairs on that residence, but  
27 is subject to all permitting requirements. A municipality or  
28 political subdivision of the state may not issue a building or  
29 plumbing permit for any building that requires the use of an  
30 onsite sewage treatment and disposal system unless the owner  
31 or builder has received a construction permit for such system

1 | from the department. A building or structure may not be  
2 | occupied and a municipality, political subdivision, or any  
3 | state or federal agency may not authorize occupancy until the  
4 | department approves the final installation of the onsite  
5 | sewage treatment and disposal system. A municipality or  
6 | political subdivision of the state may not approve any change  
7 | in occupancy or tenancy of a building that uses an onsite  
8 | sewage treatment and disposal system until the department has  
9 | reviewed the use of the system with the proposed change,  
10 | approved the change, and amended the operating permit.

11 |       (a) Subdivisions and lots in which each lot has a  
12 | minimum area of at least one-half acre and either a minimum  
13 | dimension of 100 feet or a mean of at least 100 feet of the  
14 | side bordering the street and the distance formed by a line  
15 | parallel to the side bordering the street drawn between the  
16 | two most distant points of the remainder of the lot may be  
17 | developed with a water system regulated under s. 381.0062 and  
18 | onsite sewage treatment and disposal systems, provided the  
19 | projected daily sewage flow does not exceed an average of  
20 | 1,500 gallons per acre per day, and provided satisfactory  
21 | drinking water can be obtained and all distance and setback,  
22 | soil condition, water table elevation, and other related  
23 | requirements of this section and rules adopted under this  
24 | section can be met.

25 |       (b) Subdivisions and lots using a public water system  
26 | as defined in s. 403.852 may use onsite sewage treatment and  
27 | disposal systems, provided there are no more than four lots  
28 | per acre, provided the projected daily sewage flow does not  
29 | exceed an average of 2,500 gallons per acre per day, and  
30 | provided that all distance and setback, soil condition, water  
31 | table elevation, and other related requirements that are

1 generally applicable to the use of onsite sewage treatment and  
2 disposal systems are met.

3 (c) Notwithstanding the provisions of paragraphs (a)  
4 and (b), for subdivisions platted of record on or before  
5 October 1, 1991, when a developer or other appropriate entity  
6 has previously made or makes provisions, including financial  
7 assurances or other commitments, acceptable to the Department  
8 of Health, that a central water system will be installed by a  
9 regulated public utility based on a density formula, private  
10 potable wells may be used with onsite sewage treatment and  
11 disposal systems until the agreed-upon densities are reached.  
12 The department may consider assurances filed with the  
13 Department of Business and Professional Regulation under  
14 chapter 498 in determining the adequacy of the financial  
15 assurance required by this paragraph. In a subdivision  
16 regulated by this paragraph, the average daily sewage flow may  
17 not exceed 2,500 gallons per acre per day. This section does  
18 not affect the validity of existing prior agreements. After  
19 October 1, 1991, the exception provided under this paragraph  
20 is not available to a developer or other appropriate entity.

21 (d) Paragraphs (a) and (b) do not apply to any  
22 proposed residential subdivision with more than 50 lots or to  
23 any proposed commercial subdivision with more than 5 lots  
24 where a publicly owned or investor-owned sewerage system is  
25 available. It is the intent of this paragraph not to allow  
26 development of additional proposed subdivisions in order to  
27 evade the requirements of this paragraph.

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

- 30 1. Seventy-five feet from a private potable well.  
31

1           2. Two hundred feet from a public potable well serving  
2 a residential or nonresidential establishment having a total  
3 sewage flow of greater than 2,000 gallons per day.

4           3. One hundred feet from a public potable well serving  
5 a residential or nonresidential establishment having a total  
6 sewage flow of less than or equal to 2,000 gallons per day.

7           4. Fifty feet from any nonpotable well.

8           5. Ten feet from any storm sewer pipe, to the maximum  
9 extent possible, but in no instance shall the setback be less  
10 than 5 feet.

11          6. Seventy-five feet from the mean high-water line of  
12 a tidally influenced surface water body.

13          7. Seventy-five feet from the mean annual flood line  
14 of a permanent nontidal surface water body.

15          8. Fifteen feet from the design high-water line of  
16 retention areas, detention areas, or swales designed to  
17 contain standing or flowing water for less than 72 hours after  
18 a rainfall or the design high-water level of normally dry  
19 drainage ditches or normally dry individual lot stormwater  
20 retention areas.

21           (f) Except as provided under paragraphs (e) and (t),  
22 no limitations shall be imposed by rule, relating to the  
23 distance between an onsite disposal system and any area that  
24 either permanently or temporarily has visible surface water.

25           (g) All provisions of this section and rules adopted  
26 under this section relating to soil condition, water table  
27 elevation, distance, and other setback requirements must be  
28 equally applied to all lots, with the following exceptions:

29           1. Any residential lot that was platted and recorded  
30 on or after January 1, 1972, or that is part of a residential  
31 subdivision that was approved by the appropriate permitting

1 agency on or after January 1, 1972, and that was eligible for  
2 an onsite sewage treatment and disposal system construction  
3 permit on the date of such platting and recording or approval  
4 shall be eligible for an onsite sewage treatment and disposal  
5 system construction permit, regardless of when the application  
6 for a permit is made. If rules in effect at the time the  
7 permit application is filed cannot be met, residential lots  
8 platted and recorded or approved on or after January 1, 1972,  
9 shall, to the maximum extent possible, comply with the rules  
10 in effect at the time the permit application is filed. At a  
11 minimum, however, those residential lots platted and recorded  
12 or approved on or after January 1, 1972, but before January 1,  
13 1983, shall comply with those rules in effect on January 1,  
14 1983, and those residential lots platted and recorded or  
15 approved on or after January 1, 1983, shall comply with those  
16 rules in effect at the time of such platting and recording or  
17 approval. In determining the maximum extent of compliance with  
18 current rules that is possible, the department shall allow  
19 structures and appurtenances thereto which were authorized at  
20 the time such lots were platted and recorded or approved.

21         2. Lots platted before 1972 are subject to a 50-foot  
22 minimum surface water setback and are not subject to lot size  
23 requirements. The projected daily flow for onsite sewage  
24 treatment and disposal systems for lots platted before 1972  
25 may not exceed:

26             a. Two thousand five hundred gallons per acre per day  
27 for lots served by public water systems as defined in s.  
28 403.852.

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

31

1           (h)1. The department may grant variances in hardship  
2 cases which may be less restrictive than the provisions  
3 specified in this section. If a variance is granted and the  
4 onsite sewage treatment and disposal system construction  
5 permit has been issued, the variance may be transferred with  
6 the system construction permit, if the transferee files,  
7 within 60 days after the transfer of ownership, an amended  
8 construction permit application providing all corrected  
9 information and proof of ownership of the property and if the  
10 same variance would have been required for the new owner of  
11 the property as was originally granted to the original  
12 applicant for the variance. There is no fee associated with  
13 the processing of this supplemental information. A variance  
14 may not be granted under this section until the department is  
15 satisfied that:

16           a. The hardship was not caused intentionally by the  
17 action of the applicant;

18           b. No reasonable alternative, taking into  
19 consideration factors such as cost, exists for the treatment  
20 of the sewage; and

21           c. The discharge from the onsite sewage treatment and  
22 disposal system will not adversely affect the health of the  
23 applicant or the public or significantly degrade the  
24 groundwater or surface waters.

25  
26 Where soil conditions, water table elevation, and setback  
27 provisions are determined by the department to be  
28 satisfactory, special consideration must be given to those  
29 lots platted before 1972.

30           2. The department shall appoint and staff a variance  
31 review and advisory committee, which shall meet monthly to

1 recommend agency action on variance requests. The committee  
2 shall make its recommendations on variance requests at the  
3 meeting in which the application is scheduled for  
4 consideration, except for an extraordinary change in  
5 circumstances, the receipt of new information that raises new  
6 issues, or when the applicant requests an extension. The  
7 committee shall consider the criteria in subparagraph 1. in  
8 its recommended agency action on variance requests and shall  
9 also strive to allow property owners the full use of their  
10 land where possible. The committee consists of the following:  
11       a. The Division Director for Environmental Health of  
12 the department or his or her designee.  
13       b. A representative from the county health  
14 departments.  
15       c. A representative from the home building industry  
16 recommended by the Florida Home Builders Association.  
17       d. A representative from the septic tank industry  
18 recommended by the Florida Onsite Wastewater Association.  
19       e. A representative from the Department of  
20 Environmental Protection.  
21       f. A representative from the real estate industry who  
22 is also a developer in this state who develops lots using  
23 onsite sewage treatment and disposal systems, recommended by  
24 the Florida Association of Realtors.  
25       g. A representative from the engineering profession  
26 recommended by the Florida Engineering Society.  
27  
28 Members shall be appointed for a term of 3 years, with such  
29 appointments being staggered so that the terms of no more than  
30 two members expire in any one year. Members shall serve  
31

1 without remuneration, but if requested, shall be reimbursed  
2 for per diem and travel expenses as provided in s. 112.061.

3 (i) A construction permit may not be issued for an  
4 onsite sewage treatment and disposal system in any area zoned  
5 or used for industrial or manufacturing purposes, or its  
6 equivalent, where a publicly owned or investor-owned sewage  
7 treatment system is available, or where a likelihood exists  
8 that the system will receive toxic, hazardous, or industrial  
9 waste. An existing onsite sewage treatment and disposal system  
10 may be repaired if a publicly owned or investor-owned sewerage  
11 system is not available within 500 feet of the building sewer  
12 stub-out and if system construction and operation standards  
13 can be met. This paragraph does not require publicly owned or  
14 investor-owned sewerage treatment systems to accept anything  
15 other than domestic wastewater.

16 1. A building located in an area zoned or used for  
17 industrial or manufacturing purposes, or its equivalent, when  
18 such building is served by an onsite sewage treatment and  
19 disposal system, must not be occupied until the owner or  
20 tenant has obtained written approval from the department. The  
21 department shall not grant approval when the proposed use of  
22 the system is to dispose of toxic, hazardous, or industrial  
23 wastewater or toxic or hazardous chemicals.

24 2. Each person who owns or operates a business or  
25 facility in an area zoned or used for industrial or  
26 manufacturing purposes, or its equivalent, or who owns or  
27 operates a business that has the potential to generate toxic,  
28 hazardous, or industrial wastewater or toxic or hazardous  
29 chemicals, and uses an onsite sewage treatment and disposal  
30 system that is installed on or after July 5, 1989, must obtain  
31 an annual system operating permit from the department. A

1 person who owns or operates a business that uses an onsite  
2 sewage treatment and disposal system that was installed and  
3 approved before July 5, 1989, need not obtain a system  
4 operating permit. However, upon change of ownership or  
5 tenancy, the new owner or operator must notify the department  
6 of the change, and the new owner or operator must obtain an  
7 annual system operating permit, regardless of the date that  
8 the system was installed or approved.

9           3. The department shall periodically review and  
10 evaluate the continued use of onsite sewage treatment and  
11 disposal systems in areas zoned or used for industrial or  
12 manufacturing purposes, or its equivalent, and may require the  
13 collection and analyses of samples from within and around such  
14 systems. If the department finds that toxic or hazardous  
15 chemicals or toxic, hazardous, or industrial wastewater have  
16 been or are being disposed of through an onsite sewage  
17 treatment and disposal system, the department shall initiate  
18 enforcement actions against the owner or tenant to ensure  
19 adequate cleanup, treatment, and disposal.

20           (j) An onsite sewage treatment and disposal system for  
21 a single-family residence that is designed by a professional  
22 engineer registered in the state and certified by such  
23 engineer as complying with performance criteria adopted by the  
24 department must be approved by the department subject to the  
25 following:

26           1. The performance criteria applicable to  
27 engineer-designed systems must be limited to those necessary  
28 to ensure that such systems do not adversely affect the public  
29 health or significantly degrade the groundwater or surface  
30 water. Such performance criteria shall include consideration  
31 of the quality of system effluent, the proposed total sewage

1 | flow per acre, wastewater treatment capabilities of the  
2 | natural or replaced soil, water quality classification of the  
3 | potential surface-water-receiving body, and the structural and  
4 | maintenance viability of the system for the treatment of  
5 | domestic wastewater. However, performance criteria shall  
6 | address only the performance of a system and not a system's  
7 | design.

8 |         2. The technical review and advisory panel shall  
9 | assist the department in the development of performance  
10 | criteria applicable to engineer-designed systems.

11 |         3. A person electing to utilize an engineer-designed  
12 | system shall, upon completion of the system design, submit  
13 | such design, certified by a registered professional engineer,  
14 | to the county health department. The county health department  
15 | may utilize an outside consultant to review the  
16 | engineer-designed system, with the actual cost of such review  
17 | to be borne by the applicant. Within 5 working days after  
18 | receiving an engineer-designed system permit application, the  
19 | county health department shall request additional information  
20 | if the application is not complete. Within 15 working days  
21 | after receiving a complete application for an  
22 | engineer-designed system, the county health department either  
23 | shall issue the permit or, if it determines that the system  
24 | does not comply with the performance criteria, shall notify  
25 | the applicant of that determination and refer the application  
26 | to the department for a determination as to whether the system  
27 | should be approved, disapproved, or approved with  
28 | modification. The department engineer's determination shall  
29 | prevail over the action of the county health department. The  
30 | applicant shall be notified in writing of the department's  
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1 determination and of the applicant's rights to pursue a  
2 variance or seek review under the provisions of chapter 120.

3 4. The owner of an engineer-designed performance-based  
4 system must maintain a current maintenance service agreement  
5 with a maintenance entity permitted by the department. The  
6 maintenance entity shall obtain a biennial system operating  
7 permit from the department for each system under service  
8 contract. The department shall inspect the system at least  
9 annually, or on such periodic basis as the fee collected  
10 permits, and may collect system-effluent samples if  
11 appropriate to determine compliance with the performance  
12 criteria. The fee for the biennial operating permit shall be  
13 collected beginning with the second year of system operation.  
14 The maintenance entity shall inspect each system at least  
15 twice each year and shall report quarterly to the department  
16 on the number of systems inspected and serviced.

17 5. If an engineer-designed system fails to properly  
18 function or fails to meet performance standards, the system  
19 shall be re-engineered, if necessary, to bring the system into  
20 compliance with the provisions of this section.

21 (k) An innovative system may be approved in  
22 conjunction with an engineer-designed site-specific system  
23 which is certified by the engineer to meet the  
24 performance-based criteria adopted by the department.

25 (l) For the Florida Keys, the department shall adopt a  
26 special rule for the construction, installation, modification,  
27 operation, repair, maintenance, and performance of onsite  
28 sewage treatment and disposal systems which considers the  
29 unique soil conditions and which considers water table  
30 elevations, densities, and setback requirements. On lots where  
31 a setback distance of 75 feet from surface waters, saltmarsh,

1 and buttonwood association habitat areas cannot be met, an  
2 injection well, approved and permitted by the department, may  
3 be used for disposal of effluent from onsite sewage treatment  
4 and disposal systems.

5 (m) No product sold in the state for use in onsite  
6 sewage treatment and disposal systems may contain any  
7 substance in concentrations or amounts that would interfere  
8 with or prevent the successful operation of such system, or  
9 that would cause discharges from such systems to violate  
10 applicable water quality standards. The department shall  
11 publish criteria for products known or expected to meet the  
12 conditions of this paragraph. In the event a product does not  
13 meet such criteria, such product may be sold if the  
14 manufacturer satisfactorily demonstrates to the department  
15 that the conditions of this paragraph are met.

16 (n) Evaluations for determining the seasonal  
17 high-water table elevations or the suitability of soils for  
18 the use of a new onsite sewage treatment and disposal system  
19 shall be performed by department personnel, professional  
20 engineers registered in the state, or such other persons with  
21 expertise, as defined by rule, in making such evaluations.  
22 Evaluations for determining mean annual flood lines shall be  
23 performed by those persons identified in paragraph (2)(i). The  
24 department shall accept evaluations submitted by professional  
25 engineers and such other persons as meet the expertise  
26 established by this section or by rule unless the department  
27 has a reasonable scientific basis for questioning the accuracy  
28 or completeness of the evaluation.

29 (o) The department shall appoint a research review and  
30 advisory committee, which shall meet at least semiannually.  
31 The committee shall advise the department on directions for

1 new research, review and rank proposals for research  
2 contracts, and review draft research reports and make  
3 comments. The committee is comprised of:

4 1. A representative of the Division of Environmental  
5 Health of the Department of Health.

6 2. A representative from the septic tank industry.

7 3. A representative from the home building industry.

8 4. A representative from an environmental interest  
9 group.

10 5. A representative from the State University System,  
11 from a department knowledgeable about onsite sewage treatment  
12 and disposal systems.

13 6. A professional engineer registered in this state  
14 who has work experience in onsite sewage treatment and  
15 disposal systems.

16 7. A representative from the real estate profession.

17 8. A representative from the restaurant industry.

18 9. A consumer.

19

20 Members shall be appointed for a term of 3 years, with the  
21 appointments being staggered so that the terms of no more than  
22 four members expire in any one year. Members shall serve  
23 without remuneration, but are entitled to reimbursement for  
24 per diem and travel expenses as provided in s. 112.061.

25 (p) An application for an onsite sewage treatment and  
26 disposal system permit shall be completed in full, signed by  
27 the owner or the owner's authorized representative, or by a  
28 contractor licensed under chapter 489, and shall be  
29 accompanied by all required exhibits and fees. No specific  
30 documentation of property ownership shall be required as a  
31 prerequisite to the review of an application or the issuance

1 of a permit. The issuance of a permit does not constitute  
2 determination by the department of property ownership.

3 (q) The department may not require any form of  
4 subdivision analysis of property by an owner, developer, or  
5 subdivider prior to submission of an application for an onsite  
6 sewage treatment and disposal system.

7 (r) Nothing in this section limits the power of a  
8 municipality or county to enforce other laws for the  
9 protection of the public health and safety.

10 (s) In the siting of onsite sewage treatment and  
11 disposal systems, including drainfields, shoulders, and  
12 slopes, guttering shall not be required on single-family  
13 residential dwelling units for systems located greater than 5  
14 feet from the roof drip line of the house. If guttering is  
15 used on residential dwelling units, the downspouts shall be  
16 directed away from the drainfield.

17 (t) Notwithstanding the provisions of subparagraph  
18 (g)1., onsite sewage treatment and disposal systems located in  
19 floodways of the Suwannee and Aucilla Rivers must adhere to  
20 the following requirements:

21 1. The absorption surface of the drainfield shall not  
22 be subject to flooding based on 10-year flood elevations.  
23 Provided, however, for lots or parcels created by the  
24 subdivision of land in accordance with applicable local  
25 government regulations prior to January 17, 1990, if an  
26 applicant cannot construct a drainfield system with the  
27 absorption surface of the drainfield at an elevation equal to  
28 or above 10-year flood elevation, the department shall issue a  
29 permit for an onsite sewage treatment and disposal system  
30 within the 10-year floodplain of rivers, streams, and other  
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1 | bodies of flowing water if all of the following criteria are  
2 | met:

3 |       a. The lot is at least one-half acre in size;

4 |       b. The bottom of the drainfield is at least 36 inches  
5 | above the 2-year flood elevation; and

6 |       c. The applicant installs either: a waterless,  
7 | incinerating, or organic waste composting toilet and a  
8 | graywater system and drainfield in accordance with department  
9 | rules; an aerobic treatment unit and drainfield in accordance  
10 | with department rules; a system approved by the State Health  
11 | Office that is capable of reducing effluent nitrate by at  
12 | least 50 percent; or a system approved by the county health  
13 | department pursuant to department rule other than a system  
14 | using alternative drainfield materials. The United States  
15 | Department of Agriculture Soil Conservation Service soil maps,  
16 | State of Florida Water Management District data, and Federal  
17 | Emergency Management Agency Flood Insurance maps are resources  
18 | that shall be used to identify flood-prone areas.

19 |       2. The use of fill or mounding to elevate a drainfield  
20 | system out of the 10-year floodplain of rivers, streams, or  
21 | other bodies of flowing water shall not be permitted if such a  
22 | system lies within a regulatory floodway of the Suwannee and  
23 | Aucilla Rivers. In cases where the 10-year flood elevation  
24 | does not coincide with the boundaries of the regulatory  
25 | floodway, the regulatory floodway will be considered for the  
26 | purposes of this subsection to extend at a minimum to the  
27 | 10-year flood elevation.

28 |       (u) The owner of an aerobic treatment unit system  
29 | shall maintain a current maintenance service agreement with an  
30 | aerobic treatment unit maintenance entity permitted by the  
31 | department. The maintenance entity shall obtain a system

1 | operating permit from the department for each aerobic  
2 | treatment unit under service contract. The maintenance entity  
3 | shall inspect each aerobic treatment unit system at least  
4 | twice each year and shall report quarterly to the department  
5 | on the number of aerobic treatment unit systems inspected and  
6 | serviced. The owner shall allow the department to inspect  
7 | during reasonable hours each aerobic treatment unit system at  
8 | least annually, and such inspection may include collection and  
9 | analysis of system-effluent samples for performance criteria  
10 | established by rule of the department.

11 |         (v) The department may require the submission of  
12 | detailed system construction plans that are prepared by a  
13 | professional engineer registered in this state. The department  
14 | shall establish by rule criteria for determining when such a  
15 | submission is required.

16 |         Section 5. This act shall take effect upon becoming a  
17 | law.

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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                                   COMMITTEE SUBSTITUTE FOR  
3   CS for SB 2216

4 Allows a department, agency, political subdivision, or  
5 municipality to authorize use of sand-filled tubes or similar  
6 structures as the core of a restored sand dune feature, and  
7 specifies requirements for applications to use such  
8 structures.

9 Clarifies the meaning of "coastal high hazard area" to signify  
10 the area below the elevation of the category one storm surge  
11 line, as established by the Sea, Lake and Overland Surges from  
12 Hurricanes (SLOSH) computerized model.

13 Provides a process allowing a local government to elect to  
14 comply with Florida Administrative Code rules  
15 9J-5.012(3)(b)(6) and 9J5-.012(3)(b)(7), regarding emergency  
16 evacuation goals for the coastal management element of the  
17 local comprehensive plan.

18 Prohibits the location of certain new facilities, such as  
19 adult congregate living facilities, community residential  
20 homes, hospitals, or nursing homes, in coastal high-hazard  
21 zones.

22 Requires each local government to amend its future land use  
23 map and coastal management element to include the new  
24 definition of coastal high hazard area by July 1, 2008.

25 Amends the coastal resort area redevelopment pilot project  
26 found in s. 163.336, F.S., by extending its expiration date to  
27 December 31, 2014.

28 Requires that the Department of Environmental Protection and  
29 local governments provide an independent analysis of the  
30 economic value and environmental impact of the pilot project  
31 to the Legislature on or before February 1, 2008.