

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 1318

INTRODUCER: Community Affairs Committee and Senator Gaetz

SUBJECT: Onsite Sewage Treatment and Disposal Systems

DATE: April 9, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Garner	Wilson	HR	Fav/1 amendment
2.	Wilson	Wilson	GO	Favorable
3.	Molloy	Yeatman	CA	Fav/CS
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes
- B. AMENDMENTS..... Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

The committee substitute (bill) revises membership requirements for the Research Review and Advisory Committee and the Technical Review and Advisory Panel established by the Department of Health for the purposes of onsite sewage treatment and disposal system regulation, provides an exemption from certification requirements for certain persons who perform environmental health or sanitary evaluations in any primary program area of environmental health, and establishes minimum continuing education credits for such exempt persons.

The bill amends the following sections of Florida Statutes: ss. 381.0065, 381.0068, and 381.0101.

II. Present Situation:

Sewage Treatment and Disposal Systems and Their Effect on Public Health

Human sewage contains disease-causing viruses, bacteria, and parasites. Preventing sewage contamination of drinking water has been the primary way that public health officials have

prevented the epidemics that occurred in early United States history. Sewage also contains nutrients, such as nitrogen and phosphorous, that can adversely affect the ground and surface water quality, as well as the public health. Nitrogen levels in the environment as low as one milligram per liter (mg/L) have been shown to degrade the aquatic environment in Florida's springs, and nitrogen levels of 10 mg/L or more have been found to cause illnesses like blue baby syndrome (methemoglobinemia) in infants.¹

In most parts of the state, municipalities and other local governmental entities own and/or operate regional sewage treatment and disposal systems. In areas where a centralized sewage system is not available, residential and commercial buildings are required to have onsite sewage treatment and disposal systems (e.g., septic tanks and drainfields). Florida's Department of Health (DOH or department) regulates the installation and use of onsite sewage treatment and disposal systems to ensure that human sewage does "not adversely affect the public health or significantly degrade the groundwater or surface water."²

The Research Review and Advisory Committee

Section 381.0066(2)(k), F.S., assesses a \$5 fee on each new onsite sewage treatment and disposal system construction permit issued by the DOH. The statute requires that the proceeds from this assessment be used to fund onsite sewage treatment and disposal system research, demonstration, and treatment projects. The department's Research Review and Advisory Committee (RRAC or committee) is created in s. 381.0065(4)(o), F.S., to advise the department "on directions for new research, review and rank proposals for research contracts, and review draft research reports and make comments" that are funded by the research assessment in s. 381.0066, F.S. Currently, the committee is comprised of nine members including:³

- A representative of the Division of Environmental Health of the department;
- A representative from the septic tank industry;
- A representative from the home building industry;
- A representative from an environmental interest group;
- A representative from the State University System, from a department knowledgeable about onsite sewage treatment and disposal systems;
- A professional engineer registered in this state who has work experience in onsite sewage treatment and disposal systems;
- A representative from the real estate profession;
- A representative from the restaurant industry; and,
- A consumer.

The RRAC meets on a quarterly basis to review ongoing research projects, to examine the implementation of future research and demonstration projects, to set research priorities, and other activities. During the January 23, 2008, meeting of the RRAC, the committee identified the following research priorities for 2008:⁴

¹ <http://www.emedicine.com/MED/topic1466.htm> (last visited on February 28, 2008).

² Section 381.0065(1), F.S.

³ Section 381.0065(4)(o), F.S.

⁴ http://floridashealth.com/Environment/ostds/research/Research_Priorities_2008.pdf (last visited on February 28, 2008).

- Restoration of the University of South Florida's Lysimeter Station (\$20,000 to \$50,000 approximate cost).
- Phase II of the Florida Passive Nitrogen Removal Project (\$200,000 approximate cost).
- Wekiva Onsite Sewage Treatment and Disposal System Seasonal Variability Assessment (\$200,000 approximate cost).
- Alternative Drainfield Product Assessment (\$300,000 approximate cost).
- Long-term Deformation of Tanks on Different Materials (\$20,000 approximate cost).

Section 381.0065(3)(j), F.S., specifies that "research projects shall not be awarded to firms or entities that employ or are associated with persons who serve on either the technical review and advisory panel or the research review and advisory committee."

The Technical Review and Advisory Panel

The Technical Review and Advisory Panel (TRAP or panel) is created in s. 381.0068, F.S., "to assist the department in rulemaking and decisionmaking by drawing on the expertise of representatives from several groups that are affected by onsite sewage treatment and disposal systems. The panel may also review and comment on any legislation or any existing or proposed state policy or issue related to onsite sewage treatment and disposal systems." Currently, the committee is comprised of the following ten members:⁵

- A soil scientist;
- A professional engineer, recommended by the Florida Engineering Society, who has work experience in onsite sewage treatment and disposal systems;
- Two representatives from the home building industry, recommended by the Florida Home Builders Association, including one who is a developer who develops lots using onsite sewage treatment and disposal systems;
- A representative from the county health departments who has experience permitting and inspecting the installation of onsite sewage treatment and disposal systems;
- A representative from the real estate industry, recommended by the Florida Association of Realtors;
- A consumer with a science background;
- Two representatives of the septic tank industry, recommended by the Florida Onsite Wastewater Association, including one who is a manufacturer of onsite sewage treatment and disposal systems; and,
- A representative from the environmental health profession, recommended by the Florida Environmental Health Association, who is not employed by a county health department.

At its most recent meeting (January 24, 2008), the panel discussed several issues, which included:⁶

- Septic tank lids, Rule 64E-6.013, F.A.C., requiring all treatment receptacles to have a watertight lid.

⁵ Section 381.0068(2), F.S.

⁶ <http://www.doh.state.fl.us/environment/ostds/trap/agenda/Ag20080124.pdf> (last visited on February 28, 2008).

- Mound stabilization, Rule 64E-6.009, F.A.C., allowing mounds to be hydro seeded.
- Alternative Systems, Rule 64E-6.009, F.A.C., removing the requirement that the county health department (CHD) require an engineer to design a system having a total absorption area greater than 1,000 square feet and removing the requirement that the CHD require the design engineer to certify that the installed system complies with the approved design and installation requirements.
- Septic tank installation, Rule 64E-6.013, F.A.C., removing the requirement that the access manhole over the inlet and outlet extend within eight inches and requiring the manhole to be exposed at the ground surface. Also requiring all fiberglass tanks to be covered with a minimum of four inches of soil, with the exception of the exposed hatch or riser covers.

Members of both the committee and panel receive reimbursement for per diem and travel expenses to attend scheduled meetings and public hearings.

Penalty Provisions

Section 381.0025, F.S., provides that any person who violates any of the provisions in chapter 381, or any rule of the department under the provisions of chapter 381, commits a second degree misdemeanor, punishable by a fine of not more than \$500, a jail sentence of not more than 60 days, or both.⁷

Subsection (8) of s. 381.0101, F.S., authorizes the Department of Health to deny, suspend, or revoke a certificate or impose an administrative fine of up to \$500 for each violation of s. 381.0101, or pursue any other enforcement action authorized by law. Any person whose certificate is revoked may not conduct environmental health evaluations in a primary program area for a minimum of 5 years from the date of revocation.

III. Effect of Proposed Changes:

Section 1. Amends s. 381.0065, F.S., to add a local government representative who is knowledgeable about domestic wastewater treatment to the research review and advisory committee that advises the DOH on research relating to onsite sewage treatment and disposal systems.

Section 2. Amends s. 381.0068, F.S., to add a local government representative who is knowledgeable about domestic wastewater treatment and who is recommended by the Florida Association of Counties and the Florida League of Cities to the technical review and advisory panel that advises the DOH on rulemaking and decisionmaking related to onsite sewage treatment and disposal systems.

Section 3. Amends s. 381.0101, F.S., to provide that a person who performs site evaluations in order to determine proper placement and installation of onsite wastewater treatment and disposal systems is exempt from having to be certified as an environmental health professional by DOH if the person has successfully completed a DOH-approved soils morphology course and is working under the direct responsible charge of an engineer licensed under chapter 471. Such persons must

⁷ See ss. 773.082 and 773.083, F.S.

receive a minimum of 6 continuing education units of department approved training in soils morphology every two years.

Section 4. Provides that the act takes effect on July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons who work under the direct responsible charge of a licensed engineer must receive at least 6 units of continuing education training in soils morphology every two years.

C. Government Sector Impact:

The DOH estimates that the travel and per diem for an additional member on the RRAC and the TRAP will cost approximately \$500 per member per meeting. With four meetings per year per member, the total trust fund expenditure is estimated to be \$4,000 per year.

The fiscal impact to the department from provisions of the bill requiring certain persons to successfully complete a department-approved soil morphology course and continuing education is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

It is unclear if the penalty provisions of s. 381.0025, F.S., apply to persons who violate the continuing education requirements contained in the bill. The department indicated that the administrative penalties in s. 381.0101, F.S., will supersede the penalties for violations of s. 381.0025, F.S. The department is given authority to pursue any other enforcement action authorized by law but the provisions of s. 381.0025, F.S., do not appear to be discretionary. Persons who violate the provisions of chapter 381 or rules of the department commit a second degree misdemeanor and are subject to the penalties provided by law.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs Committee on April 9, 2008:

The committee substitute creates an exemption from certification requirements of the Department of Health for certain persons who perform environmental health or sanitary evaluations in any primary program area of environmental health, and creates continuing education requirements for such persons. (WITH TITLE AMENDMENT)

- B. **Amendments:**

None.