

By the Committee on Environmental Preservation and Conservation;
and Senator Dean

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1 A bill to be entitled
2 An act relating to onsite sewage treatment and
3 disposal systems; amending s. 381.0065, F.S.; deleting
4 legislative intent; defining the term "bedroom";
5 conforming cross-references; providing for any permit
6 issued and approved by the Department of Health for
7 the installation, modification, or repair of an onsite
8 sewage treatment and disposal system to transfer with
9 the title of the property; providing circumstances in
10 which an onsite sewage treatment and disposal system
11 is not considered abandoned; providing for the
12 validity of an onsite sewage treatment and disposal
13 system permit if rules change before final approval of
14 the constructed system; providing that a system
15 modification, replacement, or upgrade is not required
16 unless a bedroom is added to a single-family home;
17 deleting provisions requiring the department to
18 administer an evaluation and assessment program of
19 onsite sewage treatment and disposal systems and
20 requiring property owners to have such systems
21 evaluated at least once every 5 years; deleting
22 obsolete provisions; creating s. 381.00651, F.S.;
23 requiring a county or municipality containing a first
24 magnitude spring to adopt by ordinance, under certain
25 circumstances, the program for the periodic evaluation
26 and assessment of onsite sewage treatment and disposal
27 systems; requiring the county or municipality to
28 notify the Secretary of State of the ordinance;
29 authorizing a county or municipality, in specified

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30 circumstances, to opt out by a majority plus one vote
31 of certain requirements by a specified date;
32 authorizing a county or municipality to adopt or
33 repeal, after a specified date, an ordinance creating
34 an evaluation and assessment program, subject to
35 notification of the Secretary of State; providing
36 criteria for evaluations, qualified contractors, and
37 repair of systems; providing for certain procedures
38 and exemptions in special circumstances; defining the
39 term "system failure"; requiring that certain
40 procedures be used for conducting tank and drainfield
41 evaluations; providing for certain procedures in
42 special circumstances; providing for assessment
43 procedures; providing requirements for county health
44 departments; requiring the county or municipality to
45 develop a system for tracking the evaluations;
46 providing criteria; requiring counties and
47 municipalities to notify the Secretary of
48 Environmental Protection and the Department of Health
49 that an evaluation program ordinance is adopted;
50 requiring the Department of Environmental Protection
51 to notify those counties or municipalities of the use
52 of, and access to, certain state and federal program
53 funds and to provide certain guidance and technical
54 assistance upon request; prohibiting the adoption of
55 certain rules by the Department of Health; providing
56 for applicability; repealing s. 381.00656, F.S.,
57 relating to a grant program for the repair of onsite
58 sewage treatment and disposal systems; amending s.

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59 381.0066, F.S.; lowering the fees imposed by the
60 department for certain permits; conforming cross-
61 references; providing an effective date.

62
63 Be It Enacted by the Legislature of the State of Florida:

64
65 Section 1. Subsections (1), (5), (6), and (7) of section
66 381.0065, Florida Statutes, are amended, paragraphs (b) through
67 (p) of subsection (2) of that section are redesignated as
68 paragraphs (c) through (q), respectively, a new paragraph (b) is
69 added to that subsection, paragraph (j) of subsection (3) and
70 paragraph (n) of subsection (4) of that section are amended, and
71 paragraphs (w) through (z) are added to subsection (4) of that
72 section, to read:

73 381.0065 Onsite sewage treatment and disposal systems;
74 regulation.—

75 (1) LEGISLATIVE INTENT.—

76 (a) It is the intent of the Legislature that proper
77 management of onsite sewage treatment and disposal systems is
78 paramount to the health, safety, and welfare of the public. ~~It~~
79 ~~is further the intent of the Legislature that the department~~
80 ~~shall administer an evaluation program to ensure the operational~~
81 ~~condition of the system and identify any failure with the~~
82 ~~system.~~

83 ~~(b)~~ It is the intent of the Legislature that where a
84 publicly owned or investor-owned sewerage system is not
85 available, the department shall issue permits for the
86 construction, installation, modification, abandonment, or repair
87 of onsite sewage treatment and disposal systems under conditions

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88 as described in this section and rules adopted under this
89 section. It is further the intent of the Legislature that the
90 installation and use of onsite sewage treatment and disposal
91 systems not adversely affect the public health or significantly
92 degrade the groundwater or surface water.

93 (2) DEFINITIONS.—As used in ss. 381.0065–381.0067, the
94 term:

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

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

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

102 c. Is located along an exterior wall;

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

105 e. Has an emergency means of escape and rescue opening to
106 the outside.

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

109 3. "Bedroom" does not include a hallway, bathroom, kitchen,
110 living room, family room, dining room, den, breakfast nook,
111 pantry, laundry room, sunroom, recreation room, media/video
112 room, or exercise room.

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

115 (j) Supervise research on, demonstration of, and training
116 on the performance, environmental impact, and public health

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117 impact of onsite sewage treatment and disposal systems within
118 this state. Research fees collected under s. 381.0066(2)(k)
119 ~~381.0066(2)(1)~~ must be used to develop and fund hands-on
120 training centers designed to provide practical information about
121 onsite sewage treatment and disposal systems to septic tank
122 contractors, master septic tank contractors, contractors,
123 inspectors, engineers, and the public and must also be used to
124 fund research projects which focus on improvements of onsite
125 sewage treatment and disposal systems, including use of
126 performance-based standards and reduction of environmental
127 impact. Research projects shall be initially approved by the
128 technical review and advisory panel and shall be applicable to
129 and reflect the soil conditions specific to Florida. Such
130 projects shall be awarded through competitive negotiation, using
131 the procedures provided in s. 287.055, to public or private
132 entities that have experience in onsite sewage treatment and
133 disposal systems in Florida and that are principally located in
134 Florida. Research projects shall not be awarded to firms or
135 entities that employ or are associated with persons who serve on
136 either the technical review and advisory panel or the research
137 review and advisory committee.

138 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not
139 construct, repair, modify, abandon, or operate an onsite sewage
140 treatment and disposal system without first obtaining a permit
141 approved by the department. The department may issue permits to
142 carry out this section, but shall not make the issuance of such
143 permits contingent upon prior approval by the Department of
144 Environmental Protection, except that the issuance of a permit
145 for work seaward of the coastal construction control line

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146 established under s. 161.053 shall be contingent upon receipt of
147 any required coastal construction control line permit from the
148 Department of Environmental Protection. A construction permit is
149 valid for 18 months from the issuance date and may be extended
150 by the department for one 90-day period under rules adopted by
151 the department. A repair permit is valid for 90 days from the
152 date of issuance. An operating permit must be obtained prior to
153 the use of any aerobic treatment unit or if the establishment
154 generates commercial waste. Buildings or establishments that use
155 an aerobic treatment unit or generate commercial waste shall be
156 inspected by the department at least annually to assure
157 compliance with the terms of the operating permit. The operating
158 permit for a commercial wastewater system is valid for 1 year
159 from the date of issuance and must be renewed annually. The
160 operating permit for an aerobic treatment unit is valid for 2
161 years from the date of issuance and must be renewed every 2
162 years. If all information pertaining to the siting, location,
163 and installation conditions or repair of an onsite sewage
164 treatment and disposal system remains the same, a construction
165 or repair permit for the onsite sewage treatment and disposal
166 system may be transferred to another person, if the transferee
167 files, within 60 days after the transfer of ownership, an
168 amended application providing all corrected information and
169 proof of ownership of the property. There is no fee associated
170 with the processing of this supplemental information. A person
171 may not contract to construct, modify, alter, repair, service,
172 abandon, or maintain any portion of an onsite sewage treatment
173 and disposal system without being registered under part III of
174 chapter 489. A property owner who personally performs

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175 construction, maintenance, or repairs to a system serving his or
176 her own owner-occupied single-family residence is exempt from
177 registration requirements for performing such construction,
178 maintenance, or repairs on that residence, but is subject to all
179 permitting requirements. A municipality or political subdivision
180 of the state may not issue a building or plumbing permit for any
181 building that requires the use of an onsite sewage treatment and
182 disposal system unless the owner or builder has received a
183 construction permit for such system from the department. A
184 building or structure may not be occupied and a municipality,
185 political subdivision, or any state or federal agency may not
186 authorize occupancy until the department approves the final
187 installation of the onsite sewage treatment and disposal system.
188 A municipality or political subdivision of the state may not
189 approve any change in occupancy or tenancy of a building that
190 uses an onsite sewage treatment and disposal system until the
191 department has reviewed the use of the system with the proposed
192 change, approved the change, and amended the operating permit.

193 (n) Evaluations for determining the seasonal high-water
194 table elevations or the suitability of soils for the use of a
195 new onsite sewage treatment and disposal system shall be
196 performed by department personnel, professional engineers
197 registered in the state, or such other persons with expertise,
198 as defined by rule, in making such evaluations. Evaluations for
199 determining mean annual flood lines shall be performed by those
200 persons identified in paragraph (2)(j) ~~(2)(i)~~. The department
201 shall accept evaluations submitted by professional engineers and
202 such other persons as meet the expertise established by this
203 section or by rule unless the department has a reasonable

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204 scientific basis for questioning the accuracy or completeness of
205 the evaluation.

206 (w) Any permit issued and approved by the department for
207 the installation, modification, or repair of an onsite sewage
208 treatment and disposal system shall transfer with the title to
209 the property in a real estate transaction. A title may not be
210 encumbered at the time of transfer by new permit requirements by
211 a governmental entity for an onsite sewage treatment and
212 disposal system which differ from the permitting requirements in
213 effect at the time the system was permitted, modified, or
214 repaired. No inspection of a system shall be mandated by any
215 governmental entity at the point of sale in a real estate
216 transaction.

217 (x)1. An onsite sewage treatment and disposal system is not
218 considered abandoned if the system is disconnected from a
219 structure that was made unusable or destroyed following a
220 disaster and was properly functioning at the time of
221 disconnection and not adversely affected by the disaster. The
222 onsite sewage treatment and disposal system may be reconnected
223 to a rebuilt structure if:

224 a. The reconnection of the system is to the same type of
225 structure which contains the same number of bedrooms or less,
226 provided the square footage of the structure is less than or
227 equal to 110 percent of the original square footage of the
228 structure that existed prior to the disaster;

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

230 c. The system has not been altered without prior
231 authorization.

232 2. An onsite sewage treatment and disposal system that

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233 serves a property that is foreclosed upon is not considered
234 abandoned.

235 (y) If an onsite sewage treatment and disposal system
236 permittee receives, relies upon, and undertakes construction of
237 a system based upon a validly issued construction permit under
238 rules applicable at the time of construction but a change to a
239 rule occurs after the approval of the system for construction
240 but before the final approval of the system, the rules
241 applicable and in effect at the time of construction approval
242 apply at the time of final approval if fundamental site
243 conditions have not changed between the time of construction
244 approval and final approval.

245 (z) A modification, replacement, or upgrade of an onsite
246 sewage treatment and disposal system is not required for a
247 remodeling addition to a single-family home if a bedroom is not
248 added.

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

250 ~~(a) Beginning July 1, 2011, the department shall administer~~
251 ~~an onsite sewage treatment and disposal system evaluation~~
252 ~~program for the purpose of assessing the fundamental operational~~
253 ~~condition of systems and identifying any failures within the~~
254 ~~systems. The department shall adopt rules implementing the~~
255 ~~program standards, procedures, and requirements, including, but~~
256 ~~not limited to, a schedule for a 5-year evaluation cycle,~~
257 ~~requirements for the pump-out of a system or repair of a failing~~
258 ~~system, enforcement procedures for failure of a system owner to~~
259 ~~obtain an evaluation of the system, and failure of a contractor~~
260 ~~to timely submit evaluation results to the department and the~~
261 ~~system owner. The department shall ensure statewide~~

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262 ~~implementation of the evaluation and assessment program by~~
263 ~~January 1, 2016.~~

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

269 ~~(c) All evaluation procedures must be documented and~~
270 ~~nothing in this subsection limits the amount of detail an~~
271 ~~evaluator may provide at his or her professional discretion. The~~
272 ~~evaluation must include a tank and drainfield evaluation, a~~
273 ~~written assessment of the condition of the system, and, if~~
274 ~~necessary, a disclosure statement pursuant to the department's~~
275 ~~procedure.~~

276 ~~(d)1. Systems being evaluated that were installed prior to~~
277 ~~January 1, 1983, shall meet a minimum 6-inch separation from the~~
278 ~~bottom of the drainfield to the wettest season water table~~
279 ~~elevation as defined by department rule. All drainfield repairs,~~
280 ~~replacements or modifications to systems installed prior to~~
281 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~
282 ~~the bottom of the drainfield to the wettest season water table~~
283 ~~elevation as defined by department rule.~~

284 ~~2. Systems being evaluated that were installed on or after~~
285 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~
286 ~~the bottom of the drainfield to the wettest season water table~~
287 ~~elevation as defined by department rule. All drainfield repairs,~~
288 ~~replacements or modification to systems developed on or after~~
289 ~~January 1, 1983, shall meet a minimum 24-inch separation from~~
290 ~~the bottom of the drainfield to the wettest season water table~~

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291 elevation.

292 ~~(c) If documentation of a tank pump-out or a permitted new~~
293 ~~installation, repair, or modification of the system within the~~
294 ~~previous 5 years is provided, and states the capacity of the~~
295 ~~tank and indicates that the condition of the tank is not a~~
296 ~~sanitary or public health nuisance pursuant to department rule,~~
297 ~~a pump-out of the system is not required.~~

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

302 ~~(g) Each evaluation or pump-out required under this~~
303 ~~subsection must be performed by a septic tank contractor or~~
304 ~~master septic tank contractor registered under part III of~~
305 ~~chapter 489, a professional engineer with wastewater treatment~~
306 ~~system experience licensed pursuant to chapter 471, or an~~
307 ~~environmental health professional certified under chapter 381 in~~
308 ~~the area of onsite sewage treatment and disposal system~~
309 ~~evaluation.~~

310 ~~(h) The evaluation report fee collected pursuant to s.~~
311 ~~381.0066(2)(b) shall be remitted to the department by the~~
312 ~~evaluator at the time the report is submitted.~~

313 ~~(i) Prior to any evaluation deadline, the department must~~
314 ~~provide a minimum of 60 days' notice to owners that their~~
315 ~~systems must be evaluated by that deadline. The department may~~
316 ~~include a copy of any homeowner educational materials developed~~
317 ~~pursuant to this section which provides information on the~~
318 ~~proper maintenance of onsite sewage treatment and disposal~~
319 ~~systems.~~

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320 (5)~~(6)~~ ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.—

321 (a) Department personnel who have reason to believe
322 noncompliance exists, may at any reasonable time, enter the
323 premises permitted under ss. 381.0065-381.0066, or the business
324 premises of any septic tank contractor or master septic tank
325 contractor registered under part III of chapter 489, or any
326 premises that the department has reason to believe is being
327 operated or maintained not in compliance, to determine
328 compliance with the provisions of this section, part I of
329 chapter 386, or part III of chapter 489 or rules or standards
330 adopted under ss. 381.0065-381.0067, part I of chapter 386, or
331 part III of chapter 489. As used in this paragraph, the term
332 "premises" does not include a residence or private building. To
333 gain entry to a residence or private building, the department
334 must obtain permission from the owner or occupant or secure an
335 inspection warrant from a court of competent jurisdiction.

336 (b)1. The department may issue citations that may contain
337 an order of correction or an order to pay a fine, or both, for
338 violations of ss. 381.0065-381.0067, part I of chapter 386, or
339 part III of chapter 489 or the rules adopted by the department,
340 when a violation of these sections or rules is enforceable by an
341 administrative or civil remedy, or when a violation of these
342 sections or rules is a misdemeanor of the second degree. A
343 citation issued under ss. 381.0065-381.0067, part I of chapter
344 386, or part III of chapter 489 constitutes a notice of proposed
345 agency action.

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

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349 3. The fines imposed by a citation issued by the department
350 may not exceed \$500 for each violation. Each day the violation
351 exists constitutes a separate violation for which a citation may
352 be issued.

353 4. The department shall inform the recipient, by written
354 notice pursuant to ss. 120.569 and 120.57, of the right to an
355 administrative hearing to contest the citation within 21 days
356 after the date the citation is received. The citation must
357 contain a conspicuous statement that if the recipient fails to
358 pay the fine within the time allowed, or fails to appear to
359 contest the citation after having requested a hearing, the
360 recipient has waived the recipient's right to contest the
361 citation and must pay an amount up to the maximum fine.

362 5. The department may reduce or waive the fine imposed by
363 the citation. In determining whether to reduce or waive the
364 fine, the department must consider the gravity of the violation,
365 the person's attempts at correcting the violation, and the
366 person's history of previous violations including violations for
367 which enforcement actions were taken under ss. 381.0065-
368 381.0067, part I of chapter 386, part III of chapter 489, or
369 other provisions of law or rule.

370 6. Any person who willfully refuses to sign and accept a
371 citation issued by the department commits a misdemeanor of the
372 second degree, punishable as provided in s. 775.082 or s.
373 775.083.

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

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378 8. This section provides an alternative means of enforcing
379 ss. 381.0065-381.0067, part I of chapter 386, and part III of
380 chapter 489. This section does not prohibit the department from
381 enforcing ss. 381.0065-381.0067, part I of chapter 386, or part
382 III of chapter 489, or its rules, by any other means. However,
383 the department must elect to use only a single method of
384 enforcement for each violation.

385 ~~(6)-(7) LAND APPLICATION OF SEPTAGE PROHIBITED.-Effective~~
386 January 1, 2016, the land application of septage from onsite
387 sewage treatment and disposal systems is prohibited. ~~By February~~
388 ~~1, 2011, the department, in consultation with the Department of~~
389 ~~Environmental Protection, shall provide a report to the~~
390 ~~Governor, the President of the Senate, and the Speaker of the~~
391 ~~House of Representatives, recommending alternative methods to~~
392 ~~establish enhanced treatment levels for the land application of~~
393 ~~septage from onsite sewage and disposal systems. The report~~
394 ~~shall include, but is not limited to, a schedule for the~~
395 ~~reduction in land application, appropriate treatment levels,~~
396 ~~alternative methods for treatment and disposal, enhanced~~
397 ~~application site permitting requirements including any~~
398 ~~requirements for nutrient management plans, and the range of~~
399 ~~costs to local governments, affected businesses, and individuals~~
400 ~~for alternative treatment and disposal methods. The report shall~~
401 ~~also include any recommendations for legislation or rule~~
402 ~~authority needed to reduce land application of septage.~~

403 Section 2. Section 381.00651, Florida Statutes, is created
404 to read:

405 381.00651 Periodic evaluation and assessment of onsite
406 sewage treatment and disposal systems.-

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

412 (2) A county or municipality that contains a first
413 magnitude spring shall, by no later than January 1, 2013,
414 develop and adopt by local ordinance an onsite sewage treatment
415 and disposal system evaluation and assessment program that meets
416 the requirements of this section. The ordinance may apply within
417 all or part of its geographic area. Those counties or
418 municipalities containing a first magnitude spring which have
419 already adopted an onsite sewage treatment and disposal system
420 evaluation and assessment program and which meet the
421 grandfathering requirements contained in this section, or have
422 chosen to opt out of this section in the manner provided herein,
423 are exempt from the requirement to adopt an ordinance
424 implementing an evaluation and assessment program. The governing
425 body of a local government that chooses to opt out of this
426 section, by a majority plus one vote of the members of the
427 governing board, shall do so by adopting a resolution that
428 indicates an intent on the part of such local government not to
429 adopt an onsite sewage treatment and disposal system evaluation
430 and assessment program. Such resolution shall be addressed and
431 transmitted to the Secretary of State. Absent an interlocal
432 agreement or county charter provision to the contrary, a
433 municipality may elect to opt out of the requirements of this
434 section, by a majority plus one vote of the members of the
435 governing board, notwithstanding a contrary decision of the

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436 governing body of a county. Any local government that has
437 properly opted out of this section but subsequently chooses to
438 adopt an evaluation and assessment program may do so only
439 pursuant to the requirements of this section and may not deviate
440 from such requirements.

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

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

451 (5) Any county or municipality may repeal an ordinance
452 adopted pursuant to this section only if the county or
453 municipality notifies the Secretary of State by letter of the
454 repeal. No county or municipality may adopt an onsite sewage
455 treatment and disposal system evaluation and assessment program
456 except pursuant to this section.

457 (6) The requirements for an onsite sewage treatment and
458 disposal system evaluation and assessment program are as
459 follows:

460 (a) *Evaluations.*—An evaluation of each onsite sewage
461 treatment and disposal system within all or part of the county's
462 or municipality's jurisdiction must take place once every 5
463 years to assess the fundamental operational condition of the
464 system and to identify system failures. The ordinance may not

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465 mandate an evaluation at the point of sale in a real estate
466 transaction and may not require a soil examination. The location
467 of the system shall be identified. A tank and drainfield
468 evaluation and a written assessment of the overall condition of
469 the system pursuant to the assessment procedure prescribed in
470 subsection (7) are required.

471 (b) *Qualified contractors.*—Each evaluation required under
472 this subsection must be performed by a qualified contractor, who
473 may be a septic tank contractor or master septic tank contractor
474 registered under part III of chapter 489, a professional
475 engineer having wastewater treatment system experience and
476 licensed under chapter 471, or an environmental health
477 professional certified under this chapter in the area of onsite
478 sewage treatment and disposal system evaluation. Evaluations and
479 pump-outs may also be performed by an authorized employee
480 working under the supervision of an individual listed in this
481 paragraph; however, all evaluation forms must be signed by a
482 qualified contractor in writing or by electronic signature.

483 (c) *Repair of systems.*—The local ordinance may not require
484 a repair, modification, or replacement of a system as a result
485 of an evaluation unless the evaluation identifies a system
486 failure. For purposes of this subsection, the term “system
487 failure” means a condition existing within an onsite sewage
488 treatment and disposal system which results in the discharge of
489 untreated or partially treated wastewater onto the ground
490 surface or into surface water or results in the failure of
491 building plumbing to discharge properly and presents a sanitary
492 nuisance. A system is not in failure if the system does not have
493 a minimum separation distance between the drainfield and the

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494 wettest season water table or if an obstruction in a sanitary
495 line or an effluent screen or filter prevents effluent from
496 flowing into a drainfield. If a system failure is identified and
497 several allowable remedial measures are available to resolve the
498 failure, the system owner may choose the least costly allowable
499 remedial measure to fix the system. There may be instances in
500 which a pump-out is sufficient to resolve a system failure.
501 Allowable remedial measures to resolve a system failure are
502 limited to what is necessary to resolve the failure and must
503 meet, to the maximum extent practicable, the requirements of the
504 repair code in effect when the repair is made, subject to the
505 exceptions specified in s. 381.0065(4)(g). An engineer-designed
506 performance-based treatment system to reduce nutrients may not
507 be required as an alternative remediation measure to resolve the
508 failure of a conventional system.

509 (d) Exemptions.—

510 1. The local ordinance shall exempt from the evaluation
511 requirements any system that is required to obtain an operating
512 permit pursuant to state law or that is inspected by the
513 department pursuant to the annual permit inspection requirements
514 of chapter 513.

515 2. The local ordinance may provide for an exemption or an
516 extension of time to obtain an evaluation and assessment if
517 connection to a sewer system is available, connection to the
518 sewer system is imminent, and written arrangements for payment
519 of any utility assessments or connection fees have been made by
520 the system owner.

521 3. An onsite sewage treatment and disposal system serving a
522 residential dwelling unit on a lot with a ratio of one bedroom

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523 per acre or greater is exempt from the requirements of this
524 section and may not be included in any onsite sewage treatment
525 and disposal system inspection program.

526 (7) The following procedures shall be used for conducting
527 evaluations:

528 (a) Tank evaluation.—The tank evaluation shall assess the
529 apparent structural condition and watertightness of the tank and
530 shall estimate the size of the tank. The evaluation must include
531 a pump-out. However, an ordinance may not require a pump-out if
532 there is documentation indicating that a tank pump-out or a
533 permitted new installation, repair, or modification of the
534 system has occurred within the previous 5 years, identifying the
535 capacity of the tank, and indicating that the condition of the
536 tank is structurally sound and watertight. Visual inspection of
537 the tank must be made when the tank is empty to detect cracks,
538 leaks, or other defects. Baffles or tees must be checked to
539 ensure that they are intact and secure. The evaluation shall
540 note the presence and condition of outlet devices, effluent
541 filters, and compartment walls; any structural defect in the
542 tank; the condition and fit of the tank lid, including manholes;
543 whether surface water can infiltrate the tank; and whether the
544 tank was pumped out. If the tank, in the opinion of the
545 qualified contractor, is in danger of being damaged by leaving
546 the tank empty after inspection, the tank shall be refilled
547 before concluding the inspection. Broken or damaged lids or
548 manholes shall be replaced without obtaining a repair permit.

549 (b) Drainfield evaluation.—The drainfield evaluation must
550 include a determination of the approximate size and location of
551 the drainfield. The evaluation shall state whether there is any

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552 sewage or effluent visible on the ground or discharging to a
553 ditch or other water body and the location of any downspout or
554 other source of water near or in the vicinity of the drainfield.

555 (c) *Special circumstances.*—If the system contains pumps,
556 siphons, or alarms, the following information may be provided at
557 the request of the homeowner:

558 1. An assessment of dosing tank integrity, including the
559 approximate volume and the type of material used in the tank's
560 construction;

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

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

564 4. Whether the system has a high-water alarm, and if so
565 whether the alarm is audio or visual or both, the location and
566 operational condition of the alarm, and whether the electrical
567 connections to the alarm appear satisfactory.

568 (d) *Assessment procedure.*—All evaluation procedures used by
569 a qualified contractor shall be documented. The qualified
570 contractor shall provide a copy of a written, signed evaluation
571 report to the property owner upon completion of the evaluation
572 and to the county health department within 30 days after the
573 evaluation. The report shall contain the name and license number
574 of the company providing the report. A copy of the evaluation
575 report shall be retained by the local county health department
576 for a minimum of 5 years and until a subsequent inspection
577 report is filed. The front cover of the report must identify any
578 system failure and include a clear and conspicuous notice to the
579 owner that the owner has a right to have any remediation of the
580 failure performed by a qualified contractor other than the

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581 contractor performing the evaluation. The report must further
582 identify any crack, leak, improper fit, or other defect in the
583 tank, manhole, or lid, and any other damaged or missing
584 component; any sewage or effluent visible on the ground or
585 discharging to a ditch or other surface water body; any
586 downspout, stormwater, or other source of water directed onto or
587 toward the system; and any other maintenance need or condition
588 of the system at the time of the evaluation which, in the
589 opinion of the qualified contractor, would possibly interfere
590 with or restrict any future repair or modification to the
591 existing system. The report shall conclude with an overall
592 assessment of the fundamental operational condition of the
593 system.

594 (8) The county health department shall administer any
595 evaluation program on behalf of a county, or a municipality
596 within the county, that has adopted an evaluation program
597 pursuant to this section. In order to administer the evaluation
598 program, the county or municipality, in consultation with the
599 county health department, may develop a reasonable fee schedule
600 to be used solely to pay for the costs of administering the
601 evaluation program. Such a fee schedule shall be identified in
602 the ordinance that adopts the evaluation program. When arriving
603 at a reasonable fee schedule, the estimated annual revenues to
604 be derived from fees may not exceed reasonable estimated annual
605 costs of the program. Fees shall be assessed to the system owner
606 during an inspection and separately identified on the invoice of
607 the qualified contractor. Fees shall be remitted by the
608 qualified contractor to the county health department. The county
609 health department's administrative responsibilities include the

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610 following:

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

615 (b) In consultation with the Department of Health,
616 providing uniform disciplinary procedures and penalties for
617 qualified contractors who do not comply with the requirements of
618 the adopted ordinance, including, but not limited to, failure to
619 provide the evaluation report as required in this subsection to
620 the system owner and the county health department. Only the
621 county health department may assess penalties against system
622 owners for failure to comply with the adopted ordinance,
623 consistent with existing requirements of law.

624 (c) Developing its own database and tracking systems to
625 encompass evaluation programs adopted by the county or
626 municipalities within its jurisdiction. The database shall also
627 be used to collect, store, and index information obtained from
628 the evaluation reports filed by each qualified contractor with
629 the county health department. The tracking system:

630 1. Must include the ability to collect and store the
631 description, addresses, and locations of the onsite sewage
632 treatment and disposal systems within each jurisdiction; an
633 inventory of the number of onsite sewage treatment and disposal
634 systems within each jurisdiction; and the total number and types
635 of system failures within each jurisdiction.

636 2. May include the ability to collect and store other data
637 trends deemed relevant by the county health department resulting
638 from an assessment and evaluation of the overall condition of

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639 onsite sewage treatment and disposal systems.

640 3. May be Internet-based.

641 4. May be designed to be used by contractors to report all
642 service and evaluation events and by the county health
643 department to notify owners of onsite sewage treatment and
644 disposal systems when evaluations are due. Data and information
645 shall be recorded and updated as service and evaluations are
646 conducted and reported.

647 (9) (a) A county or municipality that adopts an onsite
648 sewage treatment and disposal system evaluation and assessment
649 program pursuant to this section shall notify the Secretary of
650 Environmental Protection, the Department of Health, and the
651 applicable county health department upon the adoption of its
652 ordinance establishing the program.

653 (b) Upon receipt of the notice under paragraph (a), the
654 Department of Environmental Protection shall, within existing
655 resources, notify the county or municipality of the potential
656 use of, and access to, program funds under the Clean Water State
657 Revolving Fund or s. 319 of the Clean Water Act, provide
658 guidance in the application process to receive such moneys, and
659 provide advice and technical assistance to the county or
660 municipality on how to establish a low-interest revolving loan
661 program or how to model a revolving loan program after the low-
662 interest loan program of the Clean Water State Revolving Fund.
663 This paragraph does not obligate the Department of Environmental
664 Protection to provide any county or municipality with money to
665 fund such programs.

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

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668 (10) This section does not:

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

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

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

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

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

684 3. Exercising its independent and existing authority to use
685 and meet the requirements of s. 381.00655.

686 Section 3. Section 381.00656, Florida Statutes, is
687 repealed.

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

690 381.0066 Onsite sewage treatment and disposal systems;
691 fees.—

692 (2) The minimum fees in the following fee schedule apply
693 until changed by rule by the department within the following
694 limits:

695 (a) Application review, permit issuance, or system
696 inspection, including repair of a subsurface, mound, filled, or

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697 other alternative system or permitting of an abandoned system: a
698 fee of not less than \$25, or more than \$125.

699 ~~(b) A 5-year evaluation report submitted pursuant to s.~~
700 ~~381.0065(5): a fee not less than \$15, or more than \$30. At least~~
701 ~~\$1 and no more than \$5 collected pursuant to this paragraph~~
702 ~~shall be used to fund a grant program established under s.~~
703 ~~381.00656.~~

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

707 (c)(d) Biennial Operating permit for aerobic treatment
708 units or performance-based treatment systems: a fee of not more
709 than \$100.

710 (d)(e) Annual operating permit for systems located in areas
711 zoned for industrial manufacturing or equivalent uses or where
712 the system is expected to receive wastewater which is not
713 domestic in nature: a fee of not less than \$150, or more than
714 \$300.

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

716 (f)(g) Septage disposal service, septage stabilization
717 facility, portable or temporary toilet service, tank
718 manufacturer inspection: a fee of not less than \$25, or more
719 than \$200, per year.

720 (g)(h) Application for variance: a fee of not less than
721 \$150, or more than \$300.

722 (h)(i) Annual operating permit for waterless, incinerating,
723 or organic waste composting toilets: a fee of not less than \$15
724 ~~\$50~~, or more than \$30 ~~\$150~~.

725 (i)(j) Aerobic treatment unit or performance-based

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726 treatment system maintenance entity permit: a fee of not less
727 than \$25, or more than \$150, per year.

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

732 (k)~~(l)~~ Research: An additional \$5 fee shall be added to
733 each new system construction permit issued to be used to fund
734 onsite sewage treatment and disposal system research,
735 demonstration, and training projects. Five dollars from any
736 repair permit fee collected under this section shall be used for
737 funding the hands-on training centers described in s.
738 381.0065(3)(j).

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

743

744 ~~On or before January 1, 2011, the Surgeon General, after~~
745 ~~consultation with the Revenue Estimating Conference, shall~~
746 ~~determine a revenue neutral fee schedule for services provided~~
747 ~~pursuant to s. 381.0065(5) within the parameters set in~~
748 ~~paragraph (b). Such determination is not subject to the~~
749 ~~provisions of chapter 120. The funds collected pursuant to this~~
750 ~~subsection must be deposited in a trust fund administered by the~~
751 ~~department, to be used for the purposes stated in this section~~
752 ~~and ss. 381.0065 and 381.00655.~~

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