

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 Committee on Health Policy

BILL: SB 1160

INTRODUCER: Senator Bullard

SUBJECT: Onsite Sewage Treatment and Disposal Systems

DATE: March 15, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Pre-meeting
2.	_____	_____	CA	_____
3.	_____	_____	EP	_____
4.	_____	_____	RC	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 1160 provides that a maintenance entity must inspect each aerobic treatment unit (ATU) system at least twice each year for the initial two years of the maintenance service agreement and only once a year thereafter, that the maintenance entity must report semiannually to the Department of Health (DOH) and that maintenance entity service agreements must conspicuously disclose that a property owner of an owner-occupied single-family residence is exempt from the registration requirements for performing construction, maintenance, or repairs on a residence, but is subject to all permitting requirements.

This bill substantially amends section 381.0065 of the Florida Statutes.

II. Present Situation:

The Bureau of Onsite Sewage Programs (Bureau), within the DOH, develops statewide rules and provides training and standardization for county health department employees responsible for issuing permits for the installation and repair of septic systems within the state.¹ The Bureau

¹ The DOH does not permit the use of onsite sewage treatment and disposal systems where the estimated domestic sewage flow from the establishment is over 10,000 gallons per day (gpd) or the commercial sewage flow is over 5,000 gpd; where there is a likelihood that the system will receive toxic, hazardous or industrial wastes; where a sewer system is available; or of any system or flow from the establishment is currently regulated by the DEP. The DEP issues the permits for systems that discharge more than 10,000 gpd.

also licenses over 700 septic tank contractors² and oversees 2.5 million onsite wastewater systems in Florida³

In Florida, septic systems are referred to as onsite sewage treatment and disposal systems (OSTDS). An OSTDS can contain any one of the following components: a septic tank; a subsurface drainfield; an ATU; a graywater tank; a laundry wastewater tank; a grease interceptor; a pump tank; a waterless, incinerating or organic waste-composting toilet; and a sanitary pit privy.⁴ Septic tanks are tanks in the ground that treat sewage without the presence of oxygen. Sewage flows from a home or business through a pipe into the first chamber, where solids are removed. The liquid then flows into the second chamber where anaerobic bacteria in the sewage break down the organic matter, allowing cleaner water to flow out of the second chamber.⁵

The ATUs are similar to septic tanks, except that air is introduced and mixed with the wastewater inside the tank.⁶ Aerobic (requiring oxygen) bacteria consume the organic matter in the sewage.⁷ The effluent discharge from an aerobic system is typically released through a subsurface distribution system or may be disinfected and discharged directly into surface water.⁸

The ATUs require the removal and disposal of solids that accumulate in the tank. Therefore, routine maintenance is necessary for them to function properly. The National Sanitation Foundation requires ATU manufacturers to provide an initial two-year warranty with two inspections per year.⁹ According to the DOH analysis, there are 11,600 ATUs in operation in Florida, with 8,770 in four counties: Brevard, Charlotte, Franklin, and Monroe.

Pursuant to s. 381.0065, F.S., and Rule 64E-6.012, F.A.C., owners of ATUs are required to enter into a maintenance entity service agreement with a maintenance entity that is permitted by the DOH. That agreement must initially be for a period of at least two years and subsequent maintenance agreement renewals must be for at least one-year periods for the life of the system. The maintenance entity must obtain a system operating permit from the DOH for each ATU under service contract. The maintenance entity, which sets the fee for service contracts, must inspect each ATU at least twice each year and report quarterly to the DOH the number of ATUs inspected and serviced.

² About the Division of Disease Control and Health Protection, found at: <http://www.myfloridaeh.com/about/index.html>, last visited on Mar. 15, 2013.

³ Division of Disease Control and Health Protection fact sheet, found at: <http://www.myfloridaeh.com/about/EHfactsheet2012.pdf>, last visited on Mar. 15, 2013.

⁴ Department of Environmental Protection (DEP) website on septic systems. See <http://www.dep.state.fl.us/water/wastewater/dom/septic.htm>

⁵ The EPA's *Primer for Municipal Wastewater Treatment Systems*, 2005, p. 22, found at http://water.epa.gov/aboutow/owm/upload/2005_08_19_primer.pdf, last visited on Mar. 15, 2013.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ The National Sanitation Foundation is an "independent, not-for-profit organization that provides standards development, product certification, auditing, education, and risk management for public health and the environment". See http://www.nsf.org/business/about_NSF/

Furthermore, maintenance entities are required to provide documentation that they have been trained by the ATU manufacturer, who sets the maintenance requirements, and have access to required manuals and spare repairs. Maintenance entities are also required to be registered as either a state-licensed septic tank contractor or a state-licensed plumber.

Homeowners are exempt from the requirement that a person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of ch. 489, F.S.,¹⁰ but the homeowner must be permitted as a maintenance entity by the DOH and be trained and certified by the manufacturer. The annual maintenance entity permit fee is \$25.

III. Effect of Proposed Changes:

Section 1 amends s. 381.0065, F.S., to provide that:

- A maintenance entity must inspect each ATU system at least twice each year for the initial two years of the maintenance service agreement and only once a year thereafter
- The maintenance entity must report semiannually, instead of quarterly, to the DOH the number of ATU systems inspected and serviced; and
- Maintenance entity service agreements must conspicuously disclose that a property owner of an owner-occupied single-family residence is exempt from the registration requirements for performing construction, maintenance, or repairs on their ATU, but is subject to all permitting requirements.

Section 2 creates an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹⁰ s. 381.0065(4), F.S.

B. Private Sector Impact:

SB 1160 may have a positive fiscal impact on ATU maintenance entities due to reduced reporting requirements to the DOH and may also have a positive fiscal on home-owners with ATU systems due to the reduced number of mandatory inspections required.

C. Government Sector Impact:

The DOH would have to amend Rule 64E-6.012, F.A.C. to comply with the changes in the bill and the DOH estimates the cost of notices and meetings will be \$5,000, which can be absorbed within their existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.