

By the Committees on Rules; Community Affairs; and Military and Veterans Affairs, Space, and Domestic Security

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1 A bill to be entitled
2 An act relating to development permits; amending s.
3 125.022, F.S.; requiring counties and municipalities
4 to attach certain disclaimers and include certain
5 permit conditions when issuing development permits;
6 amending s. 125.35, F.S.; providing that a county may
7 include a commercial development that is ancillary to
8 a professional sports facility in the lease of a
9 sports facility; amending. s. 166.033, F.S.;
10 conforming provisions to changes made by the act;
11 amending s. 381.0065, F.S.; revising treatment
12 standards for onsite sewage and disposal systems in
13 Monroe County; requiring areas in Monroe County not
14 served by certain sewage and disposal systems to
15 comply with specified rules and standards; deleting a
16 requirement for new, modified, and repaired systems in
17 Monroe County to meet specified standards; authorizing
18 certain property owners in Monroe County to install
19 certain tanks and systems; providing that certain
20 systems in Monroe County are not required to connect
21 to the central sewer system until a specified date;
22 providing an extension and renewal of certain permits
23 issued by the Department of Environmental Protection
24 or by a water management district for areas to be
25 served by central sewer systems within the Florida
26 Keys Area of Critical State Concern; providing that
27 certain extensions may not exceed a specified number
28 of years; prohibiting certain extensions; providing
29 for applicability; amending chapter 2012-205, Laws of

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30 Florida; revising the deadline for the holder of
31 certain permits to notify the authorizing agency of
32 automatic extension eligibility; providing an
33 effective date.

34
35 Be It Enacted by the Legislature of the State of Florida:

36
37 Section 1. Section 125.022, Florida Statutes, is amended to
38 read:

39 125.022 Development permits.—When a county denies an
40 application for a development permit, the county shall give
41 written notice to the applicant. The notice must include a
42 citation to the applicable portions of an ordinance, rule,
43 statute, or other legal authority for the denial of the permit.
44 As used in this section, the term “development permit” has the
45 same meaning as in s. 163.3164. For any development permit
46 application filed with the county after July 1, 2012, a county
47 may not require as a condition of processing or issuing a
48 development permit that an applicant obtain a permit or approval
49 from any state or federal agency unless the agency has issued a
50 final agency action that denies the federal or state permit
51 before the county action on the local development permit.
52 Issuance of a development permit by a county does not in any way
53 create any rights on the part of the applicant to obtain a
54 permit from a state or federal agency and does not create any
55 liability on the part of the county for issuance of the permit
56 if the applicant fails to obtain requisite approvals or fulfill
57 the obligations imposed by a state or federal agency or
58 undertakes actions that result in a violation of state or

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59 federal law. A county shall ~~may~~ attach such a disclaimer to the
60 issuance of a development permit and shall ~~may~~ include a permit
61 condition that all other applicable state or federal permits be
62 obtained before commencement of the development. This section
63 does not prohibit a county from providing information to an
64 applicant regarding what other state or federal permits may
65 apply.

66 Section 2. Paragraph (b) of subsection (1) of section
67 125.35, Florida Statutes, is amended to read:

68 125.35 County authorized to sell real and personal property
69 and to lease real property.-

70 (1)

71 (b) Notwithstanding ~~the provisions of~~ paragraph (a), under
72 terms and conditions negotiated by the board, the board of
73 county commissioners may ~~is expressly authorized to~~:

74 1. Negotiate the lease of an airport or seaport facility;

75 2. Modify or extend an existing lease of real property for
76 an additional term not to exceed 25 years, where the improved
77 value of the lease has an appraised value in excess of \$20
78 million; or

79 3. Lease a professional sports franchise facility financed
80 by revenues received pursuant to s. 125.0104 or s. 212.20 which
81 may include commercial development that is ancillary to the
82 sports facility if the ancillary development property is part of
83 or contiguous to the professional sports franchise facility†

84
85 ~~under such terms and conditions as negotiated by the board.~~

86 Section 3. Section 166.033, Florida Statutes, is amended to
87 read:

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88 166.033 Development permits.—When a municipality denies an
89 application for a development permit, the municipality shall
90 give written notice to the applicant. The notice must include a
91 citation to the applicable portions of an ordinance, rule,
92 statute, or other legal authority for the denial of the permit.
93 As used in this section, the term “development permit” has the
94 same meaning as in s. 163.3164. For any development permit
95 application filed with the municipality after July 1, 2012, a
96 municipality may not require as a condition of processing or
97 issuing a development permit that an applicant obtain a permit
98 or approval from any state or federal agency unless the agency
99 has issued a final agency action that denies the federal or
100 state permit before the municipal action on the local
101 development permit. Issuance of a development permit by a
102 municipality does not in any way create any right on the part of
103 an applicant to obtain a permit from a state or federal agency
104 and does not create any liability on the part of the
105 municipality for issuance of the permit if the applicant fails
106 to obtain requisite approvals or fulfill the obligations imposed
107 by a state or federal agency or undertakes actions that result
108 in a violation of state or federal law. A municipality shall ~~may~~
109 attach such a disclaimer to the issuance of development permits
110 and shall ~~may~~ include a permit condition that all other
111 applicable state or federal permits be obtained before
112 commencement of the development. This section does not prohibit
113 a municipality from providing information to an applicant
114 regarding what other state or federal permits may apply.

115 Section 4. Paragraph (1) of subsection (4) of section
116 381.0065, Florida Statutes, is amended to read:

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117 381.0065 Onsite sewage treatment and disposal systems;
118 regulation.—

119 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not
120 construct, repair, modify, abandon, or operate an onsite sewage
121 treatment and disposal system without first obtaining a permit
122 approved by the department. The department may issue permits to
123 carry out this section, but shall not make the issuance of such
124 permits contingent upon prior approval by the Department of
125 Environmental Protection, except that the issuance of a permit
126 for work seaward of the coastal construction control line
127 established under s. 161.053 shall be contingent upon receipt of
128 any required coastal construction control line permit from the
129 Department of Environmental Protection. A construction permit is
130 valid for 18 months from the issuance date and may be extended
131 by the department for one 90-day period under rules adopted by
132 the department. A repair permit is valid for 90 days from the
133 date of issuance. An operating permit must be obtained prior to
134 the use of any aerobic treatment unit or if the establishment
135 generates commercial waste. Buildings or establishments that use
136 an aerobic treatment unit or generate commercial waste shall be
137 inspected by the department at least annually to assure
138 compliance with the terms of the operating permit. The operating
139 permit for a commercial wastewater system is valid for 1 year
140 from the date of issuance and must be renewed annually. The
141 operating permit for an aerobic treatment unit is valid for 2
142 years from the date of issuance and must be renewed every 2
143 years. If all information pertaining to the siting, location,
144 and installation conditions or repair of an onsite sewage
145 treatment and disposal system remains the same, a construction

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146 or repair permit for the onsite sewage treatment and disposal
147 system may be transferred to another person, if the transferee
148 files, within 60 days after the transfer of ownership, an
149 amended application providing all corrected information and
150 proof of ownership of the property. There is no fee associated
151 with the processing of this supplemental information. A person
152 may not contract to construct, modify, alter, repair, service,
153 abandon, or maintain any portion of an onsite sewage treatment
154 and disposal system without being registered under part III of
155 chapter 489. A property owner who personally performs
156 construction, maintenance, or repairs to a system serving his or
157 her own owner-occupied single-family residence is exempt from
158 registration requirements for performing such construction,
159 maintenance, or repairs on that residence, but is subject to all
160 permitting requirements. A municipality or political subdivision
161 of the state may not issue a building or plumbing permit for any
162 building that requires the use of an onsite sewage treatment and
163 disposal system unless the owner or builder has received a
164 construction permit for such system from the department. A
165 building or structure may not be occupied and a municipality,
166 political subdivision, or any state or federal agency may not
167 authorize occupancy until the department approves the final
168 installation of the onsite sewage treatment and disposal system.
169 A municipality or political subdivision of the state may not
170 approve any change in occupancy or tenancy of a building that
171 uses an onsite sewage treatment and disposal system until the
172 department has reviewed the use of the system with the proposed
173 change, approved the change, and amended the operating permit.

174 (1) For the Florida Keys, the department shall adopt a

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175 special rule for the construction, installation, modification,
176 operation, repair, maintenance, and performance of onsite sewage
177 treatment and disposal systems which considers the unique soil
178 conditions and water table elevations, densities, and setback
179 requirements. On lots where a setback distance of 75 feet from
180 surface waters, saltmarsh, and buttonwood association habitat
181 areas cannot be met, an injection well, approved and permitted
182 by the department, may be used for disposal of effluent from
183 onsite sewage treatment and disposal systems. The following
184 additional requirements apply to onsite sewage treatment and
185 disposal systems in Monroe County:

186 1. The county, each municipality, and those special
187 districts established for the purpose of the collection,
188 transmission, treatment, or disposal of sewage shall ensure, in
189 accordance with the specific schedules adopted by the
190 Administration Commission under s. 380.0552, the completion of
191 onsite sewage treatment and disposal system upgrades to meet the
192 requirements of this paragraph.

193 2. Onsite sewage treatment and disposal systems must cease
194 discharge by December 31, 2015, or must comply with department
195 rules and provide the level of treatment which, on a permitted
196 annual average basis, produces an effluent that contains no more
197 than the following concentrations:

198 a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

199 b. Suspended Solids of 10 mg/l.

200 c. Total Nitrogen, expressed as N, of 10 mg/l or a
201 reduction in nitrogen of at least 70 percent. A system that has
202 been tested and certified to reduce nitrogen concentration by at
203 least 70 percent is in compliance with this standard.

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204 d. Total Phosphorus, expressed as P, of 1 mg/l.

205
206 In addition, onsite sewage treatment and disposal systems
207 discharging to an injection well must provide basic disinfection
208 as defined by department rule.

209 3. An area that is not scheduled to be served by a central
210 sewer, onsite sewage treatment, and disposal systems must, by
211 December 31, 2015, comply with department rules and provide the
212 level of treatment described in subparagraph 2.

213 ~~4.3. On or after July 1, 2010, all new, modified, and~~
214 ~~repaired onsite sewage treatment and disposal systems must~~
215 ~~provide the level of treatment described in subparagraph 2.~~
216 ~~However,~~ In areas scheduled to be served by central sewer by
217 December 31, 2015, if the property owner has paid a connection
218 fee or assessment for connection to the central sewer system,
219 the property owner may install a holding tank with a high-water
220 alarm or an onsite sewage treatment and disposal system that
221 meets ~~may be repaired to~~ the following minimum standards:

222 a. The existing tanks must be pumped and inspected and
223 certified as being watertight and free of defects in accordance
224 with department rule; and

225 b. A sand-lined drainfield or injection well in accordance
226 with department rule must be installed.

227 ~~5.4.~~ Onsite sewage treatment and disposal systems must be
228 monitored for total nitrogen and total phosphorus concentrations
229 as required by department rule.

230 ~~6.5.~~ The department shall enforce proper installation,
231 operation, and maintenance of onsite sewage treatment and
232 disposal systems pursuant to this chapter, including ensuring

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233 that the appropriate level of treatment described in
234 subparagraph 2. is met.

235 ~~7.6.~~ The authority of a local government, including a
236 special district, to mandate connection of an onsite sewage
237 treatment and disposal system is governed by s. 4, chapter 99-
238 395, Laws of Florida.

239 8. Notwithstanding any other provision of law, an onsite
240 sewage treatment and disposal system installed after July 1,
241 2010, in unincorporated Monroe County, excluding special
242 wastewater districts, which complies with the standards in
243 subparagraph 2., is not required to connect to a central sewer
244 system until December 31, 2020.

245 Section 5. For areas to be served by central sewer systems
246 by December 2015 within the Florida Keys Area of Critical State
247 Concern, any building permit and any permit issued by the
248 Department of Environmental Protection or by a water management
249 district pursuant to part IV of chapter 373, Florida Statutes,
250 which expires January 1, 2012, through January 1, 2016, is
251 extended and renewed for 3 years. This extension includes any
252 local government-issued development order or local government-
253 issued building permit, including certificates of levels of
254 service. This section does not prohibit conversion from the
255 construction phase to the operation phase upon completion of
256 construction and is in addition to any permit extension.
257 Extensions granted under this section; s. 14, chapter 2009-96,
258 Laws of Florida, as amended by s. 47, ch. 2010-147, Laws of
259 Florida; s. 46, chapter 2010-147, Laws of Florida; s. 74,
260 chapter 2011-139, Laws of Florida; s. 79, chapter 2011-139, Laws
261 of Florida, may not exceed 7 years. Specific development order

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262 extensions granted pursuant to s. 380.06(19)(c)2., Florida
263 Statutes, may not be further extended by this section. This
264 section applies only in unincorporated Monroe County, excluding
265 special wastewater districts.

266 Section 6. Subsection (3) of section 24 of chapter 2012-
267 205, Laws of Florida, is amended to read:

268 Section 24. (3) The holder of a valid permit or other
269 authorization that is eligible for the 2-year extension must
270 notify the authorizing agency in writing by October 1, 2013
271 ~~December 31, 2012~~, identifying the specific authorization for
272 which the holder intends to use the extension and the
273 anticipated timeframe for acting on the authorization.

274 Section 7. This act shall take effect July 1, 2013.