

House Bill No. 749

An act relating to sewage treatment and disposal systems; amending s. 153.54, F.S.; requiring county commissions to include certain studies for the construction of a new proposed sewerage system or the extension of an existing sewerage system in certain reports; amending s. 153.73, F.S.; requiring county water and sewer districts to conduct certain studies for the construction of a new proposed sewerage system or the extension of an existing sewerage system prior to the levying of certain assessments; amending s. 163.3180, F.S.; authorizing local governments to use certain onsite sewage treatment and disposal systems to meet certain concurrency requirements; amending s. 180.03, F.S.; requiring municipalities to conduct certain studies for the construction of a new proposed sewerage system or the extension of an existing sewerage system prior to the adoption of certain resolutions or ordinances; amending s. 381.00655, F.S.; authorizing local governments and certain water and sewer districts to grant variances from connecting to a publicly owned or investor-owned sewerage system under certain circumstances; providing construction; amending s. 381.0067, F.S.; authorizing the department or its agents to require repair or replacement of drainfields under certain circumstances; requiring the department or its agents to issue an order for the replacement of an onsite sewage treatment and disposal system under certain circumstances; providing construction; amending s. 489.554, F.S.; increasing annual continuing education requirements for septic tank contractors and master septic tank contractors; providing an effective date.

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

Section 1. Subsection (5) is added to section 153.54, Florida Statutes, to read:

153.54 Preliminary report by county commissioners with respect to creation of proposed district.—Upon receipt of a petition duly signed by not less than 25 qualified electors who are also freeholders residing within an area proposed to be incorporated into a water and sewer district pursuant to this law and describing in general terms the proposed boundaries of such proposed district, the board of county commissioners if it shall deem it necessary and advisable to create and establish such proposed district for the purpose of constructing, establishing or acquiring a water system or a sewer system or both in and for such district (herein called “improvements”), shall first cause a preliminary report to be made which such report together with any other relevant or pertinent matters, shall include at least the following:

(5) For the construction of a new proposed sewerage system or the extension of an existing sewerage system that was not previously approved, the report shall include a study that includes the available information from the Department of Health on the history of onsite sewage treatment and disposal systems currently in use in the area and a comparison of the projected

costs to the owner of a typical lot or parcel of connecting to and using the proposed sewerage system versus installing, operating, and properly maintaining an onsite sewage treatment system that is approved by the Department of Health and that provides for the comparable level of environmental and health protection as the proposed central sewerage system; consideration of the local authority's obligations or reasonably anticipated obligations for water body cleanup and protection under state or federal programs, including requirements for water bodies listed under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by the local authority.

Such report shall be filed in the office of the clerk of the circuit court and shall be open for the inspection of any taxpayer, property owner, qualified elector or any other interested or affected person.

Section 2. Paragraph (c) is added to subsection (2) of section 153.73, Florida Statutes, to read:

153.73 Assessable improvements; levy and payment of special assessments.—Any district may provide for the construction or reconstruction of assessable improvements as defined in s. 153.52, and for the levying of special assessments upon benefited property for the payment thereof, under the provisions of this section.

(2)

(c) For the construction of a new proposed sewerage system or the extension of an existing sewerage system that was not previously approved, the report shall include a study that includes the available information from the Department of Health on the history of onsite sewage treatment and disposal systems currently in use in the area and a comparison of the projected costs to the owner of a typical lot or parcel of connecting to and using the proposed sewerage system versus installing, operating, and properly maintaining an onsite sewage treatment system that is approved by the Department of Health and that provides for the comparable level of environmental and health protection as the proposed central sewerage system; consideration of the local authority's obligations or reasonably anticipated obligations for water body cleanup and protection under state or federal programs, including requirements for water bodies listed under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by the local authority.

Section 3. Paragraph (a) of subsection (2) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(2)(a) Consistent with public health and safety, sanitary sewer, solid waste, drainage, adequate water supplies, and potable water facilities shall be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent. Prior to approval of a building permit or its functional equivalent, the local government shall consult with the applicable water supplier

to determine whether adequate water supplies to serve the new development will be available no later than the anticipated date of issuance by the local government of a certificate of occupancy or its functional equivalent. A local government may meet the concurrency requirement for sanitary sewer through the use of onsite sewage treatment and disposal systems approved by the Department of Health to serve new development.

Section 4. Subsection (3) is added to section 180.03, Florida Statutes, to read:

180.03 Resolution or ordinance proposing construction or extension of utility; objections to same.—

(3) For the construction of a new proposed sewerage system or the extension of an existing sewerage system that was not previously approved, the report shall include a study that includes the available information from the Department of Health on the history of onsite sewage treatment and disposal systems currently in use in the area and a comparison of the projected costs to the owner of a typical lot or parcel of connecting to and using the proposed sewerage system versus installing, operating, and properly maintaining an onsite sewage treatment system that is approved by the Department of Health and that provides for the comparable level of environmental and health protection as the proposed central sewerage system; consideration of the local authority's obligations or reasonably anticipated obligations for water body cleanup and protection under state or federal programs, including requirements for water bodies listed under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by the local authority. The results of such a study shall be included in the resolution or ordinance required under subsection (1).

Section 5. Paragraph (c) is added to subsection (2) of section 381.00655, Florida Statutes, to read:

381.00655 Connection of existing onsite sewage treatment and disposal systems to central sewerage system; requirements.—

(2) The provisions of subsection (1) or any other provision of law to the contrary notwithstanding:

(c) A local government or water and sewer district responsible for the operation of a centralized sewer system under s. 153.62 may grant a variance to an owner of a performance-based onsite sewage treatment and disposal system permitted by the department as long as the onsite system is functioning properly and satisfying the conditions of the operating permit. Nothing in this paragraph shall be construed to require a local government or water and sewer district to issue a variance under any circumstance. Nothing in this paragraph shall be construed as limiting local government authority to enact ordinances under s. 4 of chapter 99-395, Laws of Florida. A local government or water and sewer district located in any of the following areas shall not be required to issue a variance under any circumstance:

1. An area of critical state concern.

2. An area that was designated as an area of critical state concern for at least 20 consecutive years prior to removal of the designation.
3. An area in the South Florida Water Management District west C-11 basin that discharges through the S-9 pump into the Everglades.
4. An area designated by the Lake Okeechobee Protection Act.

Section 6. Section 381.0067, Florida Statutes, is amended to read:

381.0067 Corrective orders; private and certain public water systems and onsite sewage treatment and disposal systems.—When the department or its agents, through investigation, find that any private water system, public water system not covered or included in the Florida Safe Drinking Water Act (part VI of chapter 403), or onsite sewage treatment and disposal system constitutes a nuisance or menace to the public health or significantly degrades the groundwater or surface water, the department or its agents it may issue an order requiring the owner to correct the improper condition. If the improper condition relates to the drainfield of an onsite sewage treatment and disposal system, the department or its agents may issue an order requiring the owner to repair or replace the drainfield. If an onsite sewage treatment and disposal system has failed, the department or its agents shall issue an order requiring the owner to replace the system. For purposes of this section, an onsite sewage treatment and disposal system has failed if the operation of the system constitutes a nuisance or menace to the public health or significantly degrades the groundwater or surface water and the system cannot be repaired.

Section 7. Subsection (2) of section 489.554, Florida Statutes, is amended to read:

489.554 Registration renewal.—

(2) At a minimum, annual renewal shall include continuing education requirements of not less than 12 ~~6~~ classroom hours annually for septic tank contractors and not less than 18 ~~12~~ classroom hours annually for master septic tank contractors. The 18 ~~12~~ classroom hours of continuing education required for master septic tank contractors may include the 12 ~~6~~ classroom hours required for septic tank contractors, but at a minimum must include 6 classroom hours of approved master septic tank contractor coursework.

Section 8. This act shall take effect July 1, 2006.

Approved by the Governor June 20, 2006.

Filed in Office Secretary of State June 20, 2006.