

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 2634

SPONSOR: Senator King

SUBJECT: Onsite Sewage Treatment and Disposal Systems

DATE: April 16, 1999 REVISED: 4/21/99 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Liem</u>	<u>Wilson</u>	<u>HC</u>	<u>Fav/2 amendments</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Senate Bill 2634 provides regulatory and permitting requirements for maintenance entities involved with performance-based sewage treatment systems and aerobic sewage treatment unit systems. The Department of Health is given rule authority and criteria to be addressed in standards for maintenance entities. The bill requires maintenance entities to file a surety bond with the department contingent on the faithful compliance with s. 381.0065, F.S., and rules adopted under that section. The bond is for the benefit of a system owner who suffers a financial loss as a result of the misuse of funds collected pursuant to the section. The bill requires surety companies canceling or not renewing bonds to notify the department 30 days in advance of the action, giving the reason for the action.

The bill requires owners of engineer-designed performance-based systems and aerobic treatment unit systems to maintain current maintenance service agreements with entities permitted by the department. The maintenance entities must obtain an annual system operating permit from the department for each system it has under service contract. The bill requires the department to inspect the systems annually or as often as the fee collected permits. The bill requires the maintenance entity to inspect each system at least twice each year and report quarterly to the department the number of performance-based systems inspected and serviced. The bill requires the owner of an aerobic treatment unit system to allow the department to inspect the system during reasonable hours at least twice each year and annually collect and analyze samples for compliance with performance criteria established by the department.

The bill reduces the operating permit fee for these systems from the current range of \$150 to \$300 to not more than \$50. A fee is established for a maintenance entity permit for performance-based treatment systems.

The bill amends s. 381.0065, F.S., 1998 Supplement, and s. 381.0066, F.S.

II. Present Situation:

Performance-based treatment systems and aerobic treatment units (ATUs) are mechanical onsite sewage treatment and disposal systems. They are generally used in environmentally sensitive areas where a standard onsite sewage disposal system such as a septic tank is not appropriate due to the presence of a high water table or insufficient land. These systems require routine servicing and monitoring to ensure proper operation, and to prevent creation of a sanitary nuisance through failure. Systems that are not functioning properly can dump raw, untreated sewage directly onto the land. Many manufacturers will not sell these systems to an end user without a 2 year maintenance agreement.

ATUs must be serviced by representatives of an authorized maintenance entity who have been trained by the manufacturer, and who have access to approved spare parts. The department is granted authority to charge fees for ATU maintenance entity permits in s. 381.0066, F.S., but is not given specific authority to regulate these entities or performance-based maintenance entities.

For ATUs installed after July 1, 1991, the department charges an annual fee of \$150 for an operating permit. The annual fee for an aerobic treatment unit maintenance entity permit is \$25. Both of these fees are the minimum authorized by current statute. These fees support administration for monitoring both the permitted and the non-permitted ATUs. Non-permitted ATUs are units installed prior to July 1, 1991. These non-permitted units are monitored for current maintenance contracts even though no annual operating permit fees are collected from them.

Current statutes do not specifically provide for a maintenance entity for performance-based treatment systems. However, the majority of these units currently incorporate an ATU and would require maintenance under the statute and rule.

Permitted ATUs should be inspected twice a year by the health department and twice a year by the maintenance entity that services the unit (maintenance entities inspect commercial establishments four time a year). The county health department monitors to ensure that there is a current maintenance contract and samples for effluent quality. The maintenance entity furnishes the county health departments a listing of all aerobic units inspected or serviced during the respective reporting system. They also report the date of the system inspection and the maintenance or service performed. The permit fees support these functions and are used to pay for the testing of the effluent samples, responding to complaints, and monitoring maintenance entity ATU inspection reports. Residential ATU owners are not billed additionally for the cost of analyzing effluent samples.

III. Effect of Proposed Changes:

The bill requires the Department of Health to regulate and permit maintenance entities for performance-based treatment systems and aerobic treatment unit systems. The department is given rule authority; criteria are specified which must be addressed in standards for maintenance entities. A requirement is established that maintenance entities file a surety bond contingent on the faithful compliance of the maintenance entity with s. 381.0065, F.S., and rules adopted under that section. The bond is for the benefit of a system owner who suffers a financial loss as a result of

the misuse or misappropriation by the maintenance entity of funds collected pursuant to the section. The bill requires surety companies canceling or not renewing bonds to notify the department 30 days in advance of the action, giving the reason for the action.

The bill requires owners of engineer-designed performance-based systems and aerobic treatment unit systems to maintain a current maintenance service agreement with a maintenance entity which has been permitted by the department, and transfers the responsibility for obtaining the operating permit for the system from the owner to the maintenance entity. The bill requires the department to inspect an engineer-designed performance-based system at least annually, or on such periodic basis as the fee collected permits. The bill specifies that the department must inspect aerobic treatment unit systems twice annually and requires the owner of such a system to allow the department to inspect during reasonable hours, and collect and analyze effluent samples for performance criteria established by rule of the department. The bill requires both types of systems to be inspected twice each year by the maintenance entity, and requires maintenance entities to report quarterly to the department the number of performance-based systems inspected and serviced.

The bill adds an operating permit fee for performance-based treatment systems, and reduces the operating permit fee for both types of systems from the currently allowed range of between \$150 and \$300 per year to \$50 per year. The department reports that these fees would not generate enough funds to cover the costs of administering the program. The department reports that the program is necessary to assure that performance-based treatment systems and ATUs function and perform adequately to protect the public health and the environment.

The bill adds a fee for performance-based treatment system maintenance entity permits of between \$25 and \$150 per year. The department does not expect that any significant revenue will be generated from adding a permit fee to performance-based treatment system maintenance entities since the majority of these are already permitted as ATU maintenance entities.

The bill takes effect July 1, 1999.

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, Subsections 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. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

The bill will reduce annual operating permit costs for aerobic treatment units and performance-based treatment systems.

B. Private Sector Impact:

The Department of Health reports that the bill may increase competition in the maintenance entity market and drive down costs of servicing units.

C. Government Sector Impact:

Each permitted ATU costs the department \$135.38 to regulate annually. This figure is calculated using the midpoint salary, plus benefits, for an Environmental Specialist II (\$25.08 an hour), a sampling cost of \$50.00, and a supervision and administration cost of an additional 15 percent. This assumes 2.7 hours of staff time for two inspections and one sample collection plus re-inspection of an estimated 10% of units which are found to be in substantial noncompliance. Costs to the department associated with non-permitted ATUs (those systems in place prior to July 1, 1991) are not reflected in the calculation. The fee of \$150 for permitted systems helps to offset some of the expenses associated with non-permitted ATUs.

With the current \$150 ATU annual operating permit fee the program is fully self-supported. If fees are set at \$50, there will be a net loss in revenue of \$100 per unit. The department projects that there will be 1,200 permitted ATUs in 1999 and 1,700 permitted ATUs in 2000. The number of performance-based treatment systems installed in the state is not significant at the current time, but will increase, particularly in the Florida Keys where advanced treatment systems are required.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The original legislation relating to performance-based treatment systems and ATUs, as passed in 1991, required that each county health department provide oversight to ensure that these mechanical sewage treatment plants operate satisfactorily over the life of the system. The fee range and the associated duties described in statute were intended to cover the cost of these county health department responsibilities. Under the bill, the county health departments cannot continue to provide the services required in statute.

VIII. Amendments:

#1 by Health Aging and Long-Term Care:

Allows the maintenance entities which collect less than \$1500 annually, in lieu of a bond, to establish in a Florida bank, savings and loan association or Florida trust company acceptable to the department, an escrow account equal to 50% of permitting revenues collected annually.

#2 by Health Aging and Long-Term Care:

Establishes sewage disposal standards for the Florida Keys area of critical state concern and Monroe county.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
