

# **New Septic Tank Rules May Be Flushed**

**This information is important to all area septic tank owners!**

The final State Budget contains language which temporarily stops the state Department of Health (DOH) from moving forward with tough new residential septic system rules in the Wekiva River Basin. The DOH rules would have had all area residents install new septic systems costing about \$20,000 before they could sell their home or when their current system fails. This would include most people living in Seminole, Orange, and Lake Counties. The Budget was voted on May 8<sup>th</sup>. Governor Crist may be able to veto the language using his line item veto. Crist could take as long as thirty days reviewing things.

Also, Senate Bill 274, sponsored by Senator Lee Constantine, was defeated by the State Senate the last week in April. Bill 274 would have effectively extended the DOH power to enact similar septic rules statewide.

For over three years now, the DOH has claimed it needed to enact its expensive new rules under direction of the Wekiva Parkway and Protection Act passed in 2004. Included in the Act were provisions to clean up nitrogen and phosphate pollution in the Wekiva River. The Act gave the DOH authority to change residential septic system rules but only “if necessary” and “if appropriate.” Opponents of the new rules are all in favor of a clean Wekiva River but feel DOH’s studies on sources of pollution in the River are unscientific, and they feel DOH’s proposed solutions are not cost effective. Opponents claim that DOH’s proposed rules are neither necessary nor appropriate.

The DOH has stated that residential septic systems contribute between 6% and 22% of the nitrogen found in groundwater; but admits it does not know how much, if any, of this nitrogen makes its way to the River. Scientists and Engineers have given testimony that Florida’s sandy soil filters most, if not all, septic system nitrogen before it gets to the River, and that commercial and private fertilizer is the real pollution culprit.

Also DOH opponents have claimed the new \$20,000 septic systems are for the most part untested. They barely meet the new DOH proposed tough standards for nitrogen leakage. These new systems also require electricity, and manufacturers suggest they not be used during power outages. The systems are also sensitive. Warranty instructions contain a full page of household items not to be used in them including the systems not being used by people who are taking certain medicines.

Also, DOH would have the new rules effective by June or July, 2009 despite most septic companies being untrained in the system’s installation, and most local government agencies untrained to inspect and certify the systems.

The Markham Woods Association (MWA) has been following developments involved in the septic issue since 2005 and took a stand against the DOH proposed rules shortly thereafter. They, along with the Florida Realtors Association and the Florida Homebuilders Association have fought DOH at many public hearings and have educated

local and state lawmakers along the way. Seminole County Commissioner Brenda Carey and Orange County Commissioner Fred Brummer have been very instrumental in fighting the septic issue as well. Both counties passed resolutions against the DOH's actions.

MWA recently hired former House Speaker Tom Feeney to do legal work on the issue. With Tom's help, House Representatives Scott Plakon, Chris Dorworth, Bryan Nelson, Tridi Williams and other lawmakers were recently successful in inserting proviso language in the State Budget which would effectively stop the DOH's actions until more extensive studies are completed. Such studies would take two to four years. But the proviso language was changed in Legislative Conference negotiations to hold off DOH for only one year.

There is a chance that the one year proviso language may still be challenged by Governor Charlie Crist. Using his line item veto, he may be able to remove it. If it is removed, or if the DOH uses some other loophole to move forward with its intended rules, MWA will retain Tom Feeney and his firm to seek an administrative law injunction against the DOH. Such a procedure would be expensive. MWA has created a Wekiva Study Area (WSA) Legal Fund for Seminole, Orange, and Lake County HOA groups and residents to contribute the necessary monies. Wingfield Reserve, Markham Place, Trilby Bend and Bent Oaks HOA's have pledged a guideline of \$30.00 per household to this end. MWA is in the process of seeking pledges from the other developments in the WSA. All funds would be accounted for and returned if not needed.

If the proviso language is not vetoed and DOH does not conjure up some other questionable basis for moving ahead, residents will have effectively delayed the DOH until July 10, 2010. But MWA and others following the issue fear Senator Constantine may introduce his harsh septic legislation again next year. Because of this, MWA is committed to remain diligent, and will continue to raise defense funds. For ongoing news on this and other issues facing Markham Woods Road residents, see MWA's website at [www.markhamwoodsassociation.org](http://www.markhamwoodsassociation.org).

Submitted by John J. Higgins, Vice President, Markham Woods Association 5/12/2009