

SENATE BILL REPORT

SB 6104

AS REPORTED BY COMMITTEE ON ECOLOGY & PARKS, FEBRUARY 2, 1994

Brief Description: Revising local government powers with respect to on-site septic system inspection and maintenance programs.

SPONSORS: Senator Fraser

SENATE COMMITTEE ON ECOLOGY & PARKS

Majority Report: That Substitute Senate Bill No. 6104 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fraser, Chairman; Deccio, Moore, Morton, Sutherland and Talmadge.

Staff: Cathy Baker (786-7708)

Hearing Dates: January 19, 1994; February 2, 1994

SENATE COMMITTEE ON WAYS & MEANS

Staff: Cindi Yates (786-7715)

Hearing Dates: February 7, 1994

BACKGROUND:

Failing on-site septic systems are regarded as a major contributor to water quality degradation. Statewide, there are approximately 630,000 on-site septic systems, and an estimated 25,000 new on-site systems are created each year. The 1992 State of the Sound Report, published by the Puget Sound Water Quality Authority, estimates that there are over 450,000 on-site septic systems in the Puget Sound region and that approximately 3.5 percent to 5 percent of these systems fail each year. In areas where shellfish restrictions are in effect, on-site system failure rates of 40 percent and higher have been documented.

Under current law, counties are authorized to control, regulate and manage systems of sewerage. The definition of systems of sewerage applicable to counties includes on-site septic systems. However, existing law does not provide explicit authorization for county sewage utilities to operate on-site septic system inspection and maintenance programs. A county sewage utility may fix rates and charges to finance its programs. Other sources of funding include general obligation bonds, revenue bonds, or local improvement district bonds or assessments.

Counties are also authorized to establish aquifer protection districts and shellfish protection districts, which may

include elements for monitoring on-site septic systems. These special districts may be financed by fees, charges or rates. In addition to the authority provided as part of utility programs and special districts, counties are also authorized, through local boards of health, to implement regulatory programs for abating on-site sewer system failures.

Cities are authorized to construct, condemn and purchase, acquire, and operate systems of sewerage. The definition of systems of sewerage applicable to cities includes only traditional sanitary sewage disposal facilities, and therefore, does not allow cities to include on-site septic systems within their sewage utility programs.

Sewer districts are special districts authorized to construct, condemn, and purchase, add to, maintain, and operate systems of sewers for the purpose of furnishing the district and its inhabitants with an adequate system of sewers, including on-site sewage disposal facilities and approved septic tanks. As part of its programs, sewer districts may provide systems for controlling pollution from wastewater, and for protecting and preserving surface and groundwater. Sewer districts are required to adopt comprehensive plans which are approved by the county and any city that is within the district's boundaries.

It is suggested that clarifying the authority of cities, counties, and sewer districts to operate on-site septic system and maintenance programs as part of their utility services will provide local governments with additional tools for addressing water quality problems.

The state water quality account, also known as the Centennial Clean Water Fund, provides grant and loan money to local governments for water pollution control facilities and activities. There is a statutory allocation formula which specifies how these monies are to be distributed. The statutory allocation formula specifies that 10 percent of the fund shall be discretionary, to be distributed for facilities and activities determined by the Department of Ecology. The allocation formula expires on June 30, 1995.

SUMMARY:

The definition of systems of sewerage is amended for cities, adding express authority to include septic system inspection and maintenance programs, water pollution control monitoring and education programs, and public restrooms in a city's sewer utility programs. Cities are provided additional authorization to implement water pollution control programs under their sewer utility powers.

The definition of systems of sewerage is amended for counties, adding express authority to include, as part of county sewerage utilities, septic system inspection and maintenance programs, water pollution monitoring and education programs, and public restrooms. Such additional programs are required

to be included in county sewerage general plans approved by a joint county-city-special district review committees.

Counties are provided additional authorization to implement water pollution control programs under their sewer utility powers. Counties are also provided authorization to include, as part of their sewer utilities, programs and facilities currently authorized by other statutes for: (1) county stormwater, drainage and flood management districts; (2) aquifer protection areas; (3) lake management districts; (4) conservation districts; and (5) shellfish districts. Under these provisions, counties may not impose overlapping rates for the same program or service. The procedures and restrictions applicable to these various entities apply to counties implementing these programs through their sewer utilities. Counties must follow the procedures required by applicable statutes to dissolve these districts.

Sewer districts are provided express authority to include septic system inspection and maintenance programs as part of their utility services. Sewer districts are required to include a description of their water pollution control programs in their comprehensive plan.

For fiscal year 1995, up to 10 percent of funds available for distribution from the discretionary category within the water quality account shall be available for assisting local governments in establishing on-site septic system inspection and maintenance programs.

Several standing committees in the House of Representatives and the Senate are directed to conduct an interim study of the water quality account, including: a review of historical funding needs; resources available to meet those needs; the extent to which the water quality account statutory allocation formula corresponds to current water quality needs; and recommendations for new methods of distributing water quality account money after the statutory allocation formula expires. A report is to be submitted to the Legislature by December 1, 1994.

EFFECT OF PROPOSED SUBSTITUTE:

Public utility districts are provided the authority to conduct on-site septic system inspection and maintenance programs as part of their sewage system programs. A definition of sewage systems applicable to public utility districts is provided.

On-site septic system pumping requirements should be based on an evaluation of the effectiveness of the system in disposing and treating sewerage.

Effective July 1, 2000, all on-site septic systems located in sensitive areas shall conform to minimum state standards in effect on July 1, 1995. This requirement shall not apply to on-site systems that are subject to an inspection and maintenance program, provided that the entity administering

the program has authorized alternative measures that adequately protect public health and the environment.

The Board of Health shall convene a task force to examine methods for financing the improvement, retrofitting, and replacement of nonconforming septic systems. The Board of Health shall also develop strategies for encouraging local jurisdictions to establish on-site septic system inspection and maintenance programs.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

The bill will allow local governments to use a more service-oriented, utility approach to inspection and maintenance of on-site septic systems, and will help clarify uncertainties in existing law regarding local government authority to establish these programs. Use of some Centennial funds will provide local governments with the resources to establish these programs.

TESTIMONY AGAINST:

This legislation does not go far enough in addressing the problem of failing septic systems. It is too discretionary.

TESTIFIED: Paul Parker, WA Association of Counties (pro); Hugh Spitzer, Puget Sound Water Quality Authority (pro); Tom Bjorgen, WA Association of Prosecuting Attorneys (pro); Judy Wilson, Thurston County Commissioner (pro); Cheryl Strange, Department of Ecology (pro); Karen Van Dusen, Department of Health; Naki Stevens, People for Puget Sound (pro); Kathleen Collins, Association of WA Cities (pro); Barbara Blowers (con)