

FINAL BILL REPORT

SSB 5838

C 447 L 97

Synopsis as Enacted

Brief Description: Requiring health boards to respond to requests for on-site sewage permits in a timely manner.

Sponsors: Senate Committee on Agriculture & Environment (originally sponsored by Senators Swecker, Morton and Winsley).

Senate Committee on Agriculture & Environment
House Committee on Agriculture & Ecology

Background: *On-Site System Permitting.* There are a variety of devices and systems used for the on-site treatment of sewage. Under state Department of Health regulations, an on-site system other than a conventional gravity system or conventional pressure distribution system is regulated as an "alternative system." The regulation of alternative and conventional on-site systems is undertaken at both the state and local levels.

The state has adopted statewide minimum standards for the siting and operation of on-site systems, which were last substantially revised by rules adopted in 1994. Local health agencies must administer programs consistent with these standards but may exceed the standards to address local circumstances.

For alternative systems, the Department of Health, with the assistance of an advisory committee called the Technical Review Committee (TRC), approves specific proprietary systems or devices. The TRC is created by state rule and comprises representatives of various state and local health agencies, engineering and on-site system design and installation firms, product manufacturers, and others.

Once a device is state-approved, it is added to a list of approved devices that becomes available to engineers and designers who develop site-specific proposals for an on-site system. These proposals are reviewed and approved by the local health agency. The local approval may condition all or part of the proposed alternative system to address specific site issues and operation and maintenance needs.

Water-Sewer District Formation. To form a new water-sewer district, 10 percent of the registered voters in an area must petition the county legislative authority. If the county, after a hearing, determines that the district will be conducive to the public health and welfare, formation of the district is submitted to the voters. There is no method for forming a water-sewer district in a development that does not yet have residents.

On-Site System Operation and Maintenance. Regulations adopted by the state Board of Health require local governments to establish operation and maintenance programs for on-site septic systems by January 1, 2000. However, the authority for cities, counties, and water-sewer districts to operate on-site system operation and maintenance programs is unclear.

Under current law, counties are authorized to 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.

Counties are also authorized to establish aquifer protection districts, shellfish protection districts, lake management districts, and diking, drainage, and sewerage improvement districts, which may include elements for monitoring on-site septic systems. 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 operate systems of sewerage. The definition of systems of sewerage applicable to cities includes only traditional sanitary sewage disposal facilities, and does not allow cities to include on-site septic systems within their sewage utility programs.

Water-sewer districts are authorized to maintain and operate systems of sewers, including on-site sewage disposal facilities and approved septic tanks. As part of their programs, water-sewer districts may provide systems for controlling pollution from wastewater, and for protecting and preserving surface and groundwater. Water-sewer districts are authorized to adjust rates and charges for low income persons.

Certification Requirements. There are currently no state requirements governing the qualifications of those who design, install, and maintain on-site systems. The on-site system rules adopted by the state Board of Health require the Department of Health to establish guidelines defining qualifications for designers, installers, pumpers, inspectors and maintenance personnel. These guidelines have not been completed.

Summary: On-Site System Permitting. A local health officer must respond to an applicant for an on-site sewage system permit within 30 days after receiving a completed application. The application may be approved, denied, or identified as pending. Any denial must be for cause and based upon public health and environmental protection concerns, including concerns regarding the ability to operate and maintain the system, or conflicts with other existing laws or regulations. The applicant must be provided with a written justification for the denial, along with an explanation of the appeal process.

If an application to install an on-site system is identified as pending, the local health officer must provide the applicant with written justification that site-specific conditions or circumstances require more time for a decision. The local health officer also must estimate the time required for a decision to be made.

The local health officer may not limit the number of alternative systems allowed within the jurisdiction without cause. Any limitation must be based on environmental concerns or conflicts with other laws, and justified in writing.

The Department of Health must include one person familiar with the operation and maintenance of alternative on-site systems on the Technical Review Committee. The Department of Health must review and update the technical guidelines and standards for

alternative on-site systems every three years, with the first review to be completed by January 1, 1999.

Water-Sewer District Formation. An alternative method for forming a water-sewer district is established for developments that do not yet have any residents. At the written request of 60 percent of the owners of the area to be included in the proposed district, the county legislative authority may authorize the formation of a water-sewer district to serve a new development. The district must be in compliance with the local comprehensive plan and any local plan for provision of water or sewerage facilities. The initial commissioners are appointed by the county legislative authority, and serve until 75 percent of the development is occupied. The water-sewer district may be subsequently transferred or dissolved at the request of 60 percent of the owners of the area in the district.

On-Site System Operation and Maintenance. The following programs are authorized for cities, counties, and water sewer-districts as part of a sewer utility: on-site or off-site sanitary sewerage facilities; inspection and maintenance services for on-site systems; point and nonpoint source water pollution monitoring programs that are directly related to sewerage facilities; and public restroom and sanitary facilities. Before adopting on-site system inspection and maintenance services, the city, county or water-sewer district must provide notification to all residences within the proposed service area.

Any requirement for pumping an on-site system septic tank should be based on actual measurement of accumulation of sludge by a trained inspector or owner. The training must be in a program approved by the state Board of Health or local health district.

A city, county, or water-sewer district may not provide on-site sewage system inspection, pumping services, or other maintenance or repair services using city, county or water-sewer district employees unless the on-site system is connected by a publicly-owned collection system to the city, county or waste-sewer district sewerage system.

Cities and counties may provide assistance to aid low-income persons in connection with sewerage systems.

A metropolitan municipal corporation authorized to perform water pollution abatement may exercise the same powers related to systems of sewerage as a county. A port district may exercise the same powers related to systems of sewerage as a city or town.

Counties are authorized to operate, as part of their sewer utilities, programs or facilities currently authorized by other statutes for storm water, flood control, pollution prevention, drainage services, aquifer protection, lake management districts, diking districts, and shellfish protection districts. Counties may not impose overlapping rates or charges for the same programs or services.

Certification Requirements. The Department of Health is directed to convene a work group to make recommendations to the Legislature on the development of a certification program for persons who pump, install, design, perform maintenance, inspect, or regulate on-site septic systems. Members of the work group are appointed by the Governor to represent persons involved with on-site system construction and maintenance, and relevant state and local agencies. The work group must report its findings and recommendations to the House

Agriculture and Ecology Committee and Senate Agriculture and Environment Committee by January 1, 1998.

Votes on Final Passage:

Senate	48	0	
House	89	8	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 27, 1997