

HOUSE BILL REPORT

2SSB 5821

As Passed House - Amended:

April 13, 1999

Title: An act relating to professional designers of on-site wastewater treatment systems.

Brief Description: Regulating designers of on-site wastewater treatment systems.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Eide, Morton, Patterson, Swecker, McAuliffe and Fraser).

Brief History:

Committee Activity:

Commerce & Labor: 3/29/99, 4/2/99 [DPA];

Appropriations: 4/5/99 [DPA(CL)].

Floor Activity:

Passed House - Amended: 4/13/99, 95-0.

Brief Summary of Second Substitute Bill (As Amended by House Committee)

- A license is required for persons who design on-site wastewater treatment systems. Inspectors of on-site wastewater treatment systems must be certified to have the same level of knowledge required for the designers of the on-site wastewater treatment systems.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 8 members: Representatives Clements, Republican Co-Chair; Conway, Democratic Co-Chair; B. Chandler, Republican Vice Chair; Wood, Democratic Vice Chair; Hurst; Lisk; McIntire and McMorris.

Staff: Douglas Ruth (786-7134).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Commerce & Labor. Signed by 32 members: Representatives Huff, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Alexander, Republican Vice Chair; Doumit, Democratic Vice Chair; D. Schmidt, Republican Vice Chair; Barlean; Benson; Boldt; Carlson; Clements; Cody; Crouse; Gombosky; Grant; Kagi; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McIntire; McMorris; Mulliken; Parlette; Regala; Rockefeller; Ruderman; Sullivan; Tokuda and Wensman.

Staff: Mark Matteson (786-7145).

Background:

In 1997, the Legislature directed the Department of Health to create a work group to make recommendations to the Legislature regarding certification or occupations related to on-site septic systems. The On-site Wastewater Certification Work Group returned recommendations relating to bonding levels and other standards for people employed in these occupations, and risk analysis relating to the installation and maintenance of different types of septic systems in different parts of the state.

In 1998, the Legislature directed the Departments of Health and Licensing to convene an advisory committee to develop legislation to license designers of on-site septic systems and a certification program for inspectors of on-site septic systems.

An on-site septic (sewage) system is the most common method of sewage treatment and disposal for homes that are not on a public sewer line. Poorly designed or malfunctioning septic systems cause odor and water pollution. Failed septic systems represent a health hazard because domestic wastewater contains household hazardous substances, bacteria, viruses, and other microorganisms that are potentially harmful to people.

Approximately 650,000 on-site septic systems currently exist in the state. Many local health authorities, such as local boards of health, have adopted ordinances licensing designers of these systems and requiring permits for construction. Most require that the local authority review plans created by on-site septic system designers prior to installation, and inspect systems after construction. A 1997 survey indicated that 25 of the 33 local health jurisdictions had some form of designer program, and in three counties only licensed engineers were allowed to perform design work. Otherwise, qualifications for licenses and permitting standards differ from jurisdiction to jurisdiction.

If a designer performs faulty or inadequate work, a consumer's remedy is civil action in court or to lodge a complaint with the individual jurisdictional health authority. There is no central or statewide reporting or recording system for monitoring consumer complaints.

In 1989, superior court declared that local boards of health did not have the authority to license or permit non-engineers to design on-site sewage systems that have minimum a flow rate of less than 3,500 gallons per day. The court determined that this was engineering work which only the Board of Registration for Professional Engineers could regulate.

At least five other states license designers of on-site septic systems.

Summary of Bill:

"On-site wastewater treatment systems" are limited to systems that have a flow rate of less than 3,500 gallons per day when not connected to a public sewer system.

LICENSING OF ON-SITE WASTEWATER SYSTEM DESIGNERS:

A licensing process is established in the Department of Licensing for the designers of on-site wastewater treatment systems. On or after July 1, 2000, the Board of Registration for Professional Engineers and Land Surveyors may issue practice permits to any person who is authorized by a local health jurisdiction to design on-site wastewater treatment systems. The practice permit allows the designer to provide design services within those local health jurisdictions where the permit holder had authorization to practice as of July 1, 2000.

A practice permit may be renewed annually, but all permits expire on June 30, 2003. After July 1, 2000, local health jurisdictions may no longer issue licenses for the design of on-site wastewater treatment systems. The board will begin issuing licenses in July 2001. By July 1, 2003, designers of on-site wastewater treatment systems must be licensed. After this date, it is a gross misdemeanor for anyone not otherwise exempt to perform design services without a valid license.

Requirements for Issuing a License

A license to design on-site wastewater treatment systems is obtained by passing a written examination, having a high school diploma or its equivalent, and having either at least four years of experience, or two years of relevant college level course work and two years of experience. Out-of-state experience in on-site design, inspection, and/or construction activities may satisfy the necessary experience requirements.

Out-of-state designers may be granted a license without examination if the board determines that the requirements for a license in the other state are equal to or greater than the conditions for issuing a license in this state.

License Renewal

Licenses must be renewed annually. A license not renewed for two years is canceled and the holder must reapply. To renew a license, the holder must pay a fee and satisfy continuing professional development or continuing education requirements set by the board. The board may require licensees to undergo peer review of work products and periodic reexamination.

Exemptions

Licenses are not required for licensed professional engineers who perform work in accordance with the standards set under the act; or a subordinate of a licensed professional engineer or a licensed designer if their work is supervised by the engineer or designer and the work does not include final design decisions.

Unprofessional Conduct

Activities which constitute unprofessional conduct are specified. Upon finding a violation, the board may reprimand or fine a practice permit or license holder; or suspend, revoke, deny, or refuse to renew a license or permit. The board may suspend a licensee or permit if the holder has been certified as failing to fulfill a child support obligation.

The work of licensed designers must comply with standards of practice adopted by the board.

Advisory Board

An advisory committee is created to advise the board and the department on licensing requirements, discipline, examinations, and the administration of the program. The committee consists of five members appointed by the director who are experienced in on-site wastewater treatment systems, and who are eligible for licensure. Each member must be a resident of the state and have at least seven years of continuous experience with these systems.

LOCAL HEALTH INSPECTORS CERTIFICATION OF COMPETENCY:

Employees of local health jurisdictions who inspect, review, or approve the design and construction of on-site systems must obtain a certificate of competency by passing the examination administered for licensing designers. A certificate of competency

does not allow the holder to provide on-site wastewater treatment design services. Certificates may be renewed by payment of a fee and satisfaction of continuing education or professional development requirements. The board may require certificate holders to undergo peer review of work products and periodic reexamination.

OPERATING ACCOUNT, PROGRAM EVALUATION, WORK GROUP:

All fees and fines collected by the board must be paid into the professional engineers' account. Moneys in the account may only be appropriated to carry out the licensing and certification requirements. The program is structured to be financially self-sufficient.

By July 2005, the Department of Licensing and the Department of Health must convene a review committee to evaluate the licensing and certification programs. The director of licensing must convene a work group to study and recommend financial assurances, such as bonding, for on-site wastewater practitioners and study liability for system failures that cause property damage. The work group must provide its recommendations to the director and the Governor by December 1, 1999.

Appropriation: None.

Fiscal Note: Requested on April 5, 1999.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Commerce & Labor) The bill is the product of cooperation between local health jurisdictions, the industry, engineers and consumers. It responds to the superior court ruling by delineating what is engineering practice and what may be performed by licensed designers. When septic systems fail, consumers may have a difficult time identifying who is accountable. Personal experiences show that each contractor involved may blame the other. Currently, there is no simple answer for consumers and no reasonable means for recourse. When a septic system fails, the potential exists for the consumer to lose their home. There are dozens and dozens of examples of systems failing and the consumer being left without recourse. The industry needs to be held to a higher level of quality and accountability. The bill insures accountability by creating a uniform structure for discipline and uniform standards of practice. It also protects water quality. Properly designed on-site systems protect shellfish habitats. Regulation will minimally increase the cost to homeowners, but if superior court requires that engineers perform design work then the costs will soar. The fiscal impact is related to phase-in of the program. After approximately two years, it is expected to be self-sufficient. Counties will incur some costs for obtaining certificates of competency for their employees.

(With concerns) Professional engineers should not be exempt from the examination requirement. Most university engineering curriculums do not contain classes on wastewater treatment. The exam for professional engineering licenses does not test this area. Most engineers in the field learn what they know from experience, not education.

(Appropriations) None.

Testimony Against: (Commerce & Labor) None.

(Appropriations) None.

Testified: (Commerce & Labor) Senator Eide, prime sponsor; Sharon Nelson; Carl Zimmer, Washington On-site Sewage Association; Bill White, Department of Health; George Twiss, Department of Licensing, Engineers Board; and Bruce Wulkan, Puget Sound Water Quality Action Team.

(With concerns) Bob Wright.

(Appropriations) None.