

HOUSE BILL REPORT

E2SHB 1458

As Reported by House Committee On:
Natural Resources, Ecology & Parks

Title: An act relating to managing on-site sewage disposal systems in marine areas.

Brief Description: Concerning the management of on-site sewage disposal systems in marine areas.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Hunt, Dickerson, McCoy, B. Sullivan, Williams, Haigh, Appleton, Linville, Chase, Dunshee, Simpson, Upthegrove, Moeller and McDermott).

Brief History:

Committee Activity:

Natural Resources, Ecology & Parks: 1/20/06, 1/26/06 [DP3S].

Brief Summary of Third Substitute Bill

- Requires local health officers in 12 Puget Sound counties to develop on-site sewage system (OSS) program management plans by July 1, 2007.
- Directs local health officers to propose marine recovery areas where existing OSSs are a significant factor contributing to downgraded shellfish areas, low dissolved oxygen, fecal coliform, or nitrogen concerns.
- Directs local health jurisdictions to develop on-site strategies in marine recovery areas to find existing failing and unknown OSSs and ensure system owners make repairs by July 1, 2012.
- Directs the Department of Health to enter into contracts with local health jurisdictions to ensure progress is made on the expectations in the plans.

HOUSE COMMITTEE ON NATURAL RESOURCES, ECOLOGY & PARKS

Majority Report: The third substitute bill be substituted therefor and the third substitute bill do pass. Signed by 8 members: Representatives B. Sullivan, Chair; Upthegrove, Vice Chair; Buck, Ranking Minority Member; Blake, Dickerson, Eickmeyer, Hunt and Kagi.

Minority Report: Do not pass. Signed by 3 members: Representatives Kretz, Assistant Ranking Minority Member; Chandler and Orcutt.

Staff: Jeff Olsen (786-7157).

Background:

The State Board of Health (Board) provides a forum for the development of public health policy in Washington. The Board has adopted rules and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of wastes, including on-site sewage systems (OSS). Permits are required for the installation, alteration, extension, or relocation of an OSS. Local boards of health issue OSS permits, enforce the standards, and may adopt more stringent local standards.

In October 2000, the Department of Health (DOH) convened the On-Site Wastewater Advisory Committee (Committee) to advise the DOH on policy matters relating to the Wastewater Management Program. The Committee developed 55 policy recommendations which were prioritized in three areas: operation and maintenance of OSS; rule development initiatives; and funding initiatives. A rule development committee was formed in February 2002 to assist the DOH initiate the OSS rule revision process, and a final rule was adopted in July 2005.

The DOH Commercial Shellfish Licensing and Certification Program issues licenses to commercial shellfish operations and certifies their harvest sites. The commercial harvest of shellfish must be from a growing area that is classified as approved or conditionally approved according to provisions of the National Shellfish Sanitation Program Model Ordinance. The DOH Growing Area Classification Program assesses shellfish growing areas and classifies them as either approved, conditionally approved, restricted, or prohibited.

The Federal Clean Water Act (CWA) sets a national goal to restore and maintain the chemical, physical, and biological integrity of the nation's waters and to eliminate pollutant discharges into navigable waters. The CWA sets effluent limitations for discharges of pollutants to navigable waters, and the Department of Ecology is delegated federal CWA authority by the United States Environmental Protection Agency (EPA) and also is the agency authorized by state law to implement state water quality programs. Section 303(d) of the Federal CWA requires states to prepare a list every two years of the specific water bodies or water body segments that do not meet the state water quality standards, also known as the 303(d) list.

Summary of Third Substitute Bill:

By July 1, 2007, local health officers in 12 counties bordering Puget Sound must develop and approve an OSS program management plan that will guide the development and management of OSS in marine recovery areas within the local health jurisdiction. The local health jurisdictions are: Clallam, Island, Kitsap, Jefferson, Mason, San Juan, Seattle-King, Skagit, Snohomish, Tacoma-Pierce, Thurston, and Whatcom.

In developing the OSS program management plan, the local health officers must propose marine recovery areas where OSSs are a significant factor contributing to concerns with: (a) shellfish growing areas that have been threatened or downgraded; (b) state waters are listed under the CWA for low oxygen levels or fecal coliform; or (c) marine waters where nitrogen has been identified as a contaminant of concern. In determining the area's boundaries, the health officer must include geographic areas where existing OSS may have an impact. Once a marine recovery area has been proposed, the local health officer must develop and approve an on-site strategy to manage OSS within the proposed area.

The onsite strategy must address how the jurisdiction will:

- find failing OSS and ensure system owners make repairs by July 1, 2012; and
- find unknown OSS and ensure they are inspected or repaired by July 1, 2012.

The DOH may grant a 12-month extension where a local health jurisdiction has demonstrated substantial progress.

In addition, local health officers must require that OSS maintenance specialists and septic tank pumpers report any failing OSS. Working with the DOH, local health officers must develop an electronic data system to actively manage OSS within their jurisdiction.

The OSS management plans must be submitted to the DOH by July 1, 2007. The DOH must review all plans to ensure the required elements and designation of marine recovery areas are addressed. Within 30 days of receiving an on-site strategy, the DOH must either approve the strategy or provide in writing the reasons for not approving the strategy. If the strategy is not approved, the local board of health can revise and resubmit the strategy or may appeal the denial to the Board. Final resolution rests with the Board.

The DOH will enter into a contract with each local health jurisdiction to implement its plans or enhance its data systems. The contract must require evidence of progressive improvement in the marine recovery areas and other performance expected under the plan.

The Department of Ecology must offer financial and technical assistance to local governments and tribal entities in Puget Sound counties to establish or expand on-site sewer system repair and replacement loan and grant programs. The programs shall give priority to low-income home owners and award grants based on financial need.

The DOH must report to the appropriate committees of the Legislature by December 31, 2008, on progress in designating marine recovery areas and developing and implementing on-site strategies. The DOH shall convene a work group for the purpose of making recommendations to the Legislature for the development of certification or licensing of OSS maintenance specialists.

Third Substitute Bill Compared to Engrossed Second Substitute Bill:

The third substitute removes the requirement for the State Board of Health to adopt rules to address environmental impacts associated with low-dissolved oxygen. The third substitute directs local health officers to propose marine recovery areas, not the Department of Health in

consultation with the local health officer. The third substitute extends the date local health officers must find failing and unknown systems and ensure homeowners make repairs from July 1, 2010 to July 1, 2012.

Appropriation: None.

Fiscal Note: Requested on 1/23/06.

Effective Date of Third Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: Puget Sound is a unique body of water that demands attention. Twenty-five percent of homes are served by OSS, and these systems are aging. The bill this year includes a study on the licensing of installers. Funding was provided in last year's budget to implement the bill, and the Governor's budget proposes \$6.5 million to assist homeowners. In areas of concern, the objective is to identify and repair failing systems. The bill is consistent with the new rule adopted by the Board of Health in July. The bill strengthens the rules adopted by the Board of Health. The concerns from last year's bill have been addressed.

Washington is the largest producer of shellfish, generating \$76 million per year. The shellfish industry is threatened by nonpoint pollution, and it is important that local health jurisdictions identify failing systems. Hood Canal is impacted by low levels of dissolved oxygen, and failing on-site septic systems are the number one problem. Birds are vulnerable to degraded habitat conditions.

Testimony Against: The Board of Health recently passed a new rule on onsite systems, and we should let the rule be implemented before making additional changes. The identification of failures is not an exact science, and this bill assumes if there is a problem then an OSS must be the problem. There are situations where low-dissolved oxygen is not associated with OSS.

Persons Testifying: (In support) Representative Hunt, prime sponsor; Bruce Wishart, People for Puget Sound; Robin Downey, Pacific Coast Shellfish Growers Association; Grant Nelson, Association of Washington Business; Bill Robinson, Nature Conservancy; Lalena Amiotte, Skokomish Indian Nation; Heath Packard, Audubon Society; Duke Schaub, Associated General Contractors of Washington; Kathleen Drew, Governor's Policy Office; Terry Hull, Puget Sound Action Team; Maryanne Guichard, Department of Health; and Melodie Selby, Department of Ecology.

(Opposed) Mike Shelton, Washington State Association of Counties and Island County Commissioner.

Persons Signed In To Testify But Not Testifying: None.