

SENATE BILL REPORT

SSB 6620

As Passed Senate, February 15, 2008

Title: An act relating to an exemption for manufacturers of biological remediation technologies for use in on-site sewage disposal systems.

Brief Description: Regarding biological remediation technologies for on-site sewage disposal systems.

Sponsors: Senate Committee on Water, Energy & Telecommunications (originally sponsored by Senators Pridemore, Oemig, Hatfield, Fraser, Rasmussen and Shin; by request of Lieutenant Governor).

Brief History:

Committee Activity: Water, Energy & Telecommunications: 2/01/08, 2/06/08 [DPS-WM].

Ways & Means: 2/11/08, 2/12/08 [DPS(WET), w/oRec].

Passed Senate: 2/15/08, 48-0.

SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

Majority Report: That Substitute Senate Bill No. 6620 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Rockefeller, Chair; Murray, Vice Chair; Honeyford, Ranking Minority Member; Delvin, Fraser, Hatfield, Holmquist, Morton, Oemig, Pridemore and Regala.

Staff: Jan Odano (786-7486)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6620 as recommended by Committee on Water, Energy & Telecommunications be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Hatfield, Hewitt, Hobbs, Keiser, Kohl-Welles, Oemig, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Tom.

Minority Report: That it be referred without recommendation.

Signed by Senators Carrell, Honeyford and Parlette.

Staff: Elaine Deschamps (786-7441)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background: On-site septic systems or on-site sewage systems (OSS) are the most common methods of wastewater treatment for homes, commercial establishments, and other places that are not connected to a public sewer system. An on-site sewage system consists of a network of pipes, a septic tank, and a drainfield, and provides subsurface soil treatment and dispersal of sewage. Properly functioning on-site sewage systems protect public health and the environment by preventing untreated wastewater from coming into contact with people, ground, or surface water.

When an on-site sewage system fails, usually the primary reason is the infiltrative surface at the bottom of the bed or trench of the system is plugged or clogged. This can be caused by solids in wastewater or fine sand in the gravel, compacted surface during installation, masses of microorganisms collected at the surface, and waste products of microbiological metabolism.

This clogging, oftentimes called a biomat restricts the flow of effluent into the soil. Some amount of clogging improves the treatment of wastewater by preventing waste water from flowing too quickly out of the system. However, severe clogging can completely stop the flow of wastewater and may cause sewage to backup into a home or pool on the ground.

There are methods to resolve clogging of the biomat, which include reducing the amount wastewater and organic load, resting a drainfield, and cleaning the infiltrative surface to increase the flow of wastewater into the soil below. There are also proprietary technologies which include: biological – a combination biological augmentation and aeration to help digest and break down the excess biomat; physical – a process in which the plugged infiltrative surface is opened up by the injection of a large volume of compressed air and plastic beads; and chemical – a process in which the oxygen concentration is increased at the infiltrative surface by aeration or an oxygen releasing compound to accelerate the decomposition of an overgrown biomat.

Summary of Bill: The bill as referred to committee was not considered.

SUMMARY OF SUBSTITUTE BILL: A local health jurisdiction may permit biological remediation products for use in failing on-site sewage systems. The local health officer or a licensed on-site wastewater treatment system designer must assess the on-site sewage system to determine if biological remediation is appropriate to bring the system into a state of non-failure and not adversely impact the environment or public health.

The permit must include:

- inspection, monitoring, and maintenance stipulations;
- a plan with a timeframe for correcting and protecting any standing public health concern;
- a contract with the owner for inspection and monitoring by a certified inspector;
- a statement that if the system remains in a state of failure after three months of installation, the owner must repair the system as required by WAC;
- a signed document from the homeowner allowing the local health officer to enter the property to determine if the biological remediation product has remedied the failed system. The permit is void if the homeowner fails to allow access for inspection.

Manufacturers of biological remediation products must provide documentation of verified product performance to the local health jurisdiction where the device will be installed.

The on-site professional who installed the biological remediation device must reimburse the purchaser if the device fails to make significant improvements in the failed on-site sewage system within three months and the local health officer determines that a repair must be made to correct the failure.

By July 1, 2010, the State Board of Health (SBOH) must adopt rules for verification of performance and use of biological remediation. The rules must stipulate requirements for permitting, ongoing certification, and removal of products. In addition, the rules must require monitoring of on-site sewage systems using biological remediation products and annual inspections of systems with devices installed to return that system into a state of non-failure. The SBOH must report to the Legislature by July 1, 2009 on the progress of rulemaking and the successes and failures of biological remediation technology.

Biological remediation products may be used for preventing clogged infiltrative surfaces in on-site sewage systems not in a state of failure. A permit is not required to install a biological remediation device in a system not in a state of failure. Local health jurisdictions may require registration for purposes of tracking.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony (Water, Energy & Telecommunications): PRO: This seems to be a viable and affordable alternative to other options to repair failing on-site sewage systems. Many failing systems do not get repaired because of the cost; the cost to repair and the cost of landscaping. There is no process for approval of these new technologies, and the Department of Health does not have the resources to develop their rules to address this issue. This bill provides another way to allow use of these products. We shouldn't wait any longer when we have alternatives available. The local level is where, in many places, they look to state direction before issuing permits on new products.

OTHER: The use of bioremediation technologies in non-failing systems is not without risk to human health and the environment, and therefore should be included in the rulemaking process. The performance standards should also include the effectiveness of the removal of pathogens and nutrients. The Department of Health already has authority for setting fees; adding a separate fee needlessly raises I960 issues.

Persons Testifying (Water, Energy & Telecommunications): PRO: Brad Owen, Lt. Governor; Ezra Eickmeyer, Sludge Hammer and Infiltrator; John Eremic, Big Valley Design, LLC; Dan Wickham, Sludge Hammer Group.

OTHER: Art Starry, Washington State Association of Local Public Health Officials; Craig McLaughlin, State Board of Health; Melodie Selby, Department of Ecology; Maryanne Guichard, Department of Health; Bruce Wishart, People for Puget Sound.

Staff Summary of Public Testimony (Ways & Means): PRO: There are new technologies available to repair a failing septic system at a fraction of the cost. Because the Department of Health has not had the funding to pursue rule-making, these technologies have been in limbo for three years.

CON: These biological remediation technologies remain unproven and premature. We need a reliable and successful track record before implementation of these technologies. This bill allows systems to be modified without review by local public health jurisdictions.

Persons Testifying (Ways & Means): PRO: Ezra Eickmeyer, Infiltration Systems Net Septic/Sludgehammer.

CON: Jeff Killip, Washington State Association of Local Public Health Officials.