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**SUBSTITUTE HOUSE BILL 1650**

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**State of Washington                      60th Legislature                      2007 Regular Session**

**By** House Committee on Select Committee on Environmental Health  
(originally sponsored by Representatives Fromhold, Hunt, B. Sullivan  
and Moeller)

READ FIRST TIME 02/22/07.

1            AN ACT Relating to providing for an inspected inventory of on-site  
2 sewage disposal systems not located within a marine recovery area  
3 designated under RCW 70.118A.040; amending RCW 70.118.010, 70.118.020,  
4 70.05.072, and 70.118.030; adding new sections to chapter 70.118 RCW;  
5 creating a new section; and providing an expiration date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7            **Sec. 1.** RCW 70.118.010 and 1977 ex.s. c 133 s 1 are each amended  
8 to read as follows:

9            (1) The legislature finds that even in the 1970s there were over  
10 one million, two hundred thousand persons in the state ((are)) not  
11 being served by sanitary sewers and that they ((must)) had to rely on  
12 septic tank systems. Since that time, the number of state households  
13 and businesses not being served by sanitary sewers has only increased.  
14 Today, the number, location, and functionality of on-site sewage  
15 disposal systems in operation in Washington is unknown. Creating a  
16 locally designed inventory and inspection system for on-site sewage  
17 disposal systems, and encouraging expansion of sanitary sewage systems,  
18 are necessary first steps towards addressing the problems inherent with  
19 failing systems. When prioritizing inventories and inspections, areas

1 within incorporated cities should be addressed as early as possible  
2 because of the inherent proximity of sanitary sewage systems to  
3 existing on-site sewage disposal systems in use within a city.

4 (2) The failure of large numbers of such systems has resulted in  
5 significant health hazards, loss of property values, ~~((and))~~ water  
6 quality degradation, and the expenditure of public health moneys.  
7 ~~((The legislature further finds that))~~ Failure of such systems could be  
8 reduced by utilization of nonwater-carried sewage disposal systems, or  
9 other alternative methods of effluent disposal, as a correctional  
10 measure.

11 (3) Waste water volume diminution and disposal of most of the high  
12 bacterial waste through composting or other alternative methods of  
13 effluent disposal would result in restorative improvement or correction  
14 of existing substandard systems.

15 **Sec. 2.** RCW 70.118.020 and 1994 c 281 s 2 are each amended to read  
16 as follows:

17 ~~((As used in this chapter, the terms defined))~~ The definitions in  
18 this section ~~((shall have the meanings indicated))~~ apply throughout  
19 this chapter unless the context clearly ~~((indicates))~~ requires  
20 otherwise.

21 (1) "Nonwater-carried sewage disposal devices" means any device  
22 that stores and treats nonwater-carried human urine and feces.

23 (2) "Alternative methods of effluent disposal" means systems  
24 approved by the department of health, including at least, mound  
25 systems, alternating drain fields, anaerobic filters,  
26 evapotranspiration systems, and aerobic systems.

27 (3) "Failure" means: (a) Effluent has been discharged on the  
28 surface of the ground prior to approved treatment; or (b) effluent has  
29 percolated to the surface of the ground; or (c) effluent has  
30 contaminated or threatens to contaminate a ground water supply.

31 (4) "Additive" means any commercial product intended to affect the  
32 performance or aesthetics of an on-site sewage disposal system.

33 (5) "Department" means the department of health.

34 (6) "On-site sewage disposal system" means any system of piping,  
35 treatment devices, or other facilities that convey, store, treat, or  
36 dispose of sewage on the property where it originates or on nearby  
37 property under the control of the user where the system is not

1 connected to a public sewer system. For purposes of this chapter, an  
2 on-site sewage disposal system does not include indoor plumbing and  
3 associated fixtures.

4 (7) "Chemical additive" means those additives containing acids,  
5 bases, or other chemicals deemed unsafe by the department for use in an  
6 on-site sewage disposal system.

7 (8) "Additive manufacturer" means any person who manufactures,  
8 formulates, blends, packages, or repackages an additive product for  
9 sale, use, or distribution within the state.

10 (9) "Board" means the state board of health.

11 NEW SECTION. Sec. 3. A new section is added to chapter 70.118 RCW  
12 to read as follows:

13 (1) All cities and towns with a population of thirty-one thousand  
14 residents or greater, as forecasted by the office of financial  
15 management as of the effective date of this section, not located within  
16 a marine recovery area designated under RCW 70.118A.040, must, either  
17 directly or by contract with a local health jurisdiction, consistent  
18 with this section:

19 (a) Create and maintain an inventory of the households and  
20 businesses within the boundaries of the city or town that do not  
21 receive sanitary sewage services by January 1, 2009; and

22 (b) Institute a program for the inspection of all on-site sewage  
23 disposal systems within the city's or town's jurisdiction by January 1,  
24 2012.

25 (2) A city or town required to create and maintain an inventory  
26 under this section may design the inventory in any manner that best  
27 satisfies the needs of the community as long as the following minimum  
28 criteria are satisfied:

29 (a) The maximum practicable effort has been made to identify all  
30 households and businesses that do not receive sanitary sewage services;

31 (b) The inventory is updated no less than once every five years,  
32 unless other state authority requires inspections more frequently; and

33 (c) The information included in the inventory must be summarized  
34 and reported to the department. The report required by this subsection  
35 must contain, at a minimum, the number and general location of  
36 inventoried on-site sewage disposal systems.

1 (3)(a) A city or town required to institute a program for the  
2 inspection of all on-site sewage disposal systems under this section  
3 may design the inspection program in any manner that best satisfies the  
4 needs of the community as long as the requirements of this section are  
5 satisfied. Local decisions include whether the owners of the on-site  
6 sewage disposal systems will be allowed to select and contract directly  
7 with private inspectors, whether the local government will contract  
8 with private inspectors at the owners' expense and merely file a report  
9 with the local government, or whether the local governments will  
10 inspect systems directly using public employees.

11 (b) An on-site sewage disposal systems inspection program must  
12 satisfy the following minimum criteria:

13 (i) Each owner of an on-site sewage disposal system must have his  
14 or her system inspected not less than once every five years, with the  
15 initial inspection completed no later than two years after or two years  
16 before the completion of the inventory required under subsection (1) of  
17 this section;

18 (ii) Each inspection of an on-site sewage disposal system must  
19 determine whether the system is in a state of failure and whether the  
20 system is operating in a manner that satisfies, at a minimum,  
21 applicable standards and requirements adopted by the board under RCW  
22 43.20.050; and

23 (iii) The information gathered from the inspection program must be  
24 summarized and reported to the department. The report required by this  
25 subsection must contain information, at a minimum, regarding the  
26 functionality or failure rates of the inspected on-site sewage disposal  
27 systems.

28 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.118 RCW  
29 to read as follows:

30 (1) The local on-site sewer inspection reimbursement account is  
31 created in the custody of the state treasurer. All receipts from  
32 appropriations made to the account must be deposited in the account.  
33 Moneys in the account may be spent only after appropriation.  
34 Expenditures from the account may be used by the department only in a  
35 manner that is consistent with this section.

36 (2) The department may use moneys in the local on-site sewer

1 inspection reimbursement account to reimburse cities or towns for the  
2 costs associated with the creation and maintenance of on-site sewage  
3 disposal system inventories as required under section 3 of this act.

4 (3) Subject to the availability of amounts appropriated to the  
5 local on-site sewer inspection reimbursement account, the department  
6 shall reimburse, upon application, cities and towns not less than  
7 seventy-five percent of the costs incurred by the local jurisdiction in  
8 satisfying the on-site sewage disposal system inventory requirements of  
9 section 3 of this act. Actual reimbursement levels must be set by the  
10 department to maximize the number of jurisdictions that receive a  
11 reimbursement. If reimbursement applications are greater than  
12 available funding, then the department shall develop a policy for  
13 prioritization of reimbursements, including the establishment of  
14 waiting lists for future bienniums.

15 (4) The department shall only provide reimbursement for reasonable  
16 and auditable costs incurred by the applying local jurisdiction. Local  
17 jurisdictions may contact the department prior to incurring expenses  
18 for consultation as to what expenses are considered reasonable costs.

19 (5) The department may use up to five percent, as needed, of all  
20 appropriations to the local on-site sewer inspection reimbursement  
21 account to support implementation of this section and section 5 of this  
22 act.

23 (6) A lack of available funding under this section does not excuse  
24 a local jurisdiction from performing its duties as required under  
25 section 3 of this act.

26 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.118 RCW  
27 to read as follows:

28 (1) By January 15, 2009, the department shall submit to the  
29 appropriate committees of the legislature a report summarizing the  
30 information provided by cities and towns under section 3 of this act.

31 (2) The report required by this section must contain summarized  
32 information regarding, at a minimum:

33 (a) The number and general location of inventoried on-site sewage  
34 disposal systems;

35 (b) The functionality or failure rates of the state's on-site  
36 sewage disposal systems;

1 (c) The number of jurisdictions in full compliance with section 3  
2 of this act;

3 (d) The actual reimbursement requests received from local  
4 jurisdictions under section 4 of this act; and

5 (e) Anticipated future reimbursement requests received from local  
6 jurisdictions under section 4 of this act.

7 (3) The report required by this section must be updated no fewer  
8 than three times, with each update reported to the appropriate  
9 committees of the legislature by:

10 (a) January 15, 2011;

11 (b) January 15, 2013; and

12 (c) January 15, 2015.

13 (4) This section expires June 30, 2015.

14 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.118 RCW  
15 to read as follows:

16 No permits may be issued for the installation of a new on-site  
17 sewage disposal system within the boundaries of a city or town if that  
18 city or town is not in compliance with section 3 of this act.

19 **Sec. 7.** RCW 70.05.072 and 1995 c 263 s 1 are each amended to read  
20 as follows:

21 (1) The local health officer may grant a waiver from specific  
22 requirements adopted by the state board of health for on-site sewage  
23 systems if:

24 ~~((+1))~~ (a) The on-site sewage system for which a waiver is  
25 requested is for sewage flows under three thousand five hundred gallons  
26 per day;

27 ~~((+2))~~ (b) The waiver request is evaluated by the local health  
28 officer on an individual, site-by-site basis;

29 ~~((+3))~~ (c) The local health officer determines that the waiver is  
30 consistent with the standards in, and the intent of, the state board of  
31 health rules; ~~((and~~

32 ~~(+4))~~ (d) The jurisdiction in which the proposed on-site sewage  
33 system is located is in compliance with section 3 of this act; and

34 (e) The local health officer submits quarterly reports to the  
35 department regarding any waivers approved or denied.

1       (2) Based on review of the quarterly reports, if the department  
2 finds that the waivers previously granted have not been consistent with  
3 the standards in, and intent of, the state board of health rules, the  
4 department shall provide technical assistance to the local health  
5 officer to correct the inconsistency, and may notify the local and  
6 state boards of health of the department's concerns.

7       (3) If upon further review of the quarterly reports, the department  
8 finds that the inconsistency between the waivers granted and the state  
9 board of health standards has not been corrected, the department may  
10 suspend the authority of the local health officer to grant waivers  
11 under this section until such inconsistencies have been corrected.

12       **Sec. 8.** RCW 70.118.030 and 1998 c 152 s 1 are each amended to read  
13 as follows:

14       (1) Local boards of health shall identify failing septic tank  
15 drainfield systems in the normal manner and will use reasonable effort  
16 to determine new failures.

17       (2)(a) The local health officer, environmental health director, or  
18 equivalent officer may apply for an administrative search warrant to a  
19 court official authorized to issue a criminal search warrant. The  
20 warrant may only be applied for after the local health officer or the  
21 health officer's designee has requested inspection of the person's  
22 property under ~~((the))~~ a specific administrative plan required in this  
23 section, and the person has refused the health officer or the health  
24 officer's designee access to the person's property.

25       (b) Timely notice must be given to any affected person that a  
26 warrant is being requested and that the person may be present at any  
27 court proceeding to consider the requested search warrant.

28       (c) The court official may issue the warrant upon probable cause.  
29 A request for a search warrant must show ~~((that))~~ that the  
30 inspection, examination, test, or sampling is in response to pollution  
31 in commercial or recreational shellfish harvesting areas ~~((or))~~,  
32 pollution in fresh water, or, until December 31, 2013, part of a  
33 standard inspection program as required by section 3 of this act.

34       (d) If the warrant is requested because of pollution in a shellfish  
35 harvesting area or fresh water, a specific administrative plan must be  
36 developed expressly in response to the pollution. The local health  
37 officer, environmental health director, or equivalent officer shall

1 submit the plan to the court as part of the justification for the  
2 warrant, along with specific evidence showing that it is reasonable to  
3 believe pollution is coming from the septic system on the property to  
4 be accessed for inspection. The plan must include each of the  
5 following elements:

6 ((+a)) (i) The overall goal of the inspection;

7 ((+b)) (ii) The location and identification by address of the  
8 properties being authorized for inspection;

9 ((+c)) (iii) Requirements for giving the person owning the  
10 property and the person occupying the property if it is someone other  
11 than the owner, notice of the plan, its provisions, and times of any  
12 inspections;

13 ((+d)) (iv) The survey procedures to be used in the inspection;

14 ((+e)) (v) The criteria that would be used to define an on-site  
15 sewage disposal system failure; and

16 ((+f)) (vi) The follow-up actions that would be pursued once an  
17 on-site sewage disposal system failure has been identified and  
18 confirmed.

19 ((+2)) (3) Discretionary judgment will be made in implementing  
20 corrections by specifying nonwater-carried sewage disposal devices or  
21 other alternative methods of treatment and effluent disposal as a  
22 measure of ameliorating existing substandard conditions. Local  
23 regulations shall be consistent with the intent and purposes stated in  
24 this section.

25 NEW SECTION. **Sec. 9.** If specific funding for the purposes of this  
26 act, referencing this act by bill or chapter number, is not provided by  
27 June 30, 2007, in the omnibus appropriations act, this act is null and  
28 void.

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