

---

HOUSE BILL 1650

---

State of Washington                      60th Legislature                      2007 Regular Session

By Representatives Fromhold, Hunt, B. Sullivan and Moeller

Read first time 01/24/2007.                      Referred to Committee on Select  
Committee on Environmental Health.

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 and providing expiration dates.

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) By January 1, 2009, all cities and towns with a population of  
14 thirty-one thousand residents or greater, as forecasted by the office  
15 of financial management as of the effective date of this section, not  
16 located within a marine recovery area designated under RCW 70.118A.040,  
17 must, either directly or through a local health jurisdiction,  
18 consistent 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; 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.

24 (2) By January 1, 2011, all cities and towns with a population  
25 fewer than thirty-one thousand residents, as forecasted by the office  
26 of financial management as of the effective date of this section, not  
27 located within a marine recovery area designated under RCW 70.118A.040,  
28 must, either directly or through a local health jurisdiction,  
29 consistent with this section:

30 (a) Create and maintain an inventory of the households and  
31 businesses within the boundaries of the city or town that do not  
32 receive sanitary sewage services; and

33 (b) Institute a program for the inspection of all on-site sewage  
34 disposal systems within the city's or town's jurisdiction.

35 (3) By January 1, 2013, all counties must, consistent with this  
36 section, either directly or through a local health jurisdiction,

1 complete the following for the portion of the county not located within  
2 a marine recovery area designated under RCW 70.118A.040:

3 (a) Create and maintain an inventory of the households and  
4 businesses within the unincorporated areas of the county that do not  
5 receive sanitary sewage services; and

6 (b) Institute a program for the inspection of all on-site sewage  
7 disposal systems within the unincorporated areas of the county.

8 (4) A city, town, or county required to create and maintain an  
9 inventory under this section may design the inventory in any manner  
10 that best satisfies the needs of the community as long as the following  
11 minimum criteria are satisfied:

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

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

16 (c) The information included in the inventory is made available to  
17 the department.

18 (5)(a) A city, town, or county required to institute a program for  
19 the inspection of all on-site sewage disposal systems under this  
20 section may design the inspection program in any manner that best  
21 satisfies the needs of the community as long as the requirements of  
22 this section are satisfied. Local decisions include whether the owners  
23 of the on-site sewage disposal systems will be allowed to select and  
24 contract directly with private inspectors, whether the local government  
25 will contract with private inspectors at the owners' expense and merely  
26 file a report with the local government, or whether the local  
27 governments will inspect systems directly using public employees.

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

30 (i) Each owner of an on-site sewage disposal system must have his  
31 or her system inspected not less than once every five years, with the  
32 initial inspection completed no later than two years after or two years  
33 before the completion of the inventory required under subsection (1),  
34 (2), or (3) of this section;

35 (ii) Each inspection of an on-site sewage disposal system must  
36 determine whether the system is in a state of failure and whether the  
37 system is operating in a manner that satisfies, at a minimum,

1 applicable standards and requirements adopted by the board under RCW  
2 43.20.050; and

3 (iii) A written inspection report must be prepared and submitted by  
4 the local jurisdiction to the department no later than ninety days  
5 after the inspections required by this section.

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

8 (1) The local on-site sewer inspection reimbursement account is  
9 created in the custody of the state treasurer. All receipts from  
10 appropriations made to the account must be deposited in the account.  
11 Moneys in the account may be spent only after appropriation.  
12 Expenditures from the account may be used by the department only in a  
13 manner that is consistent with this section.

14 (2) The department may use moneys in the local on-site sewer  
15 inspection reimbursement account to reimburse cities, towns, and  
16 counties for the costs associated with the creation and maintenance of  
17 on-site sewage disposal system inventories as required under section 3  
18 of this act.

19 (3) Subject to the availability of amounts appropriated to the  
20 local on-site sewer inspection reimbursement account, the department  
21 shall reimburse, upon application, cities, towns, and counties not less  
22 than seventy-five percent of the costs incurred by the local  
23 jurisdiction in satisfying the on-site sewage disposal system inventory  
24 requirements of section 3 of this act. Actual reimbursement levels  
25 must be set by the department to maximize the number of jurisdictions  
26 that receive a reimbursement. If reimbursement applications are  
27 greater than available funding, then the department shall develop a  
28 policy for prioritization of reimbursements, including the  
29 establishment of waiting lists for future bienniums.

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (a) January 15, 2011;

27 (b) January 15, 2013; and

28 (c) January 15, 2015.

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

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

32 A city, town, or county, that is not in compliance with section 3  
33 of this act, including the jurisdiction's local health officer, must  
34 deny all applications for the installation of a new on-site sewage  
35 disposal system until the city, town, or county is in compliance with  
36 section 3 of this act.

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

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

6           ~~((1))~~ (a) The on-site sewage system for which a waiver is  
7 requested is for sewage flows under three thousand five hundred gallons  
8 per day;

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

11           ~~((3))~~ (c) The local health officer determines that the waiver is  
12 consistent with the standards in, and the intent of, the state board of  
13 health rules; ~~((and~~

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

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

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

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

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

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

34           (2)(a) The local health officer, environmental health director, or  
35 equivalent officer may apply for an administrative search warrant to a  
36 court official authorized to issue a criminal search warrant. The  
37 warrant may only be applied for after the local health officer or the

1 health officer's designee has requested inspection of the person's  
2 property under ~~((the))~~ a specific administrative plan required in this  
3 section, and the person has refused the health officer or the health  
4 officer's designee access to the person's property.

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

8 (c) The court official may issue the warrant upon probable cause.  
9 A request for a search warrant must show ~~((that))~~ that the  
10 inspection, examination, test, or sampling is in response to pollution  
11 in commercial or recreational shellfish harvesting areas ~~((or))~~,  
12 pollution in fresh water, or part of a standard inspection program as  
13 required by section 3 of this act.

14 (d) If the warrant is requested because of pollution in a shellfish  
15 harvesting area or fresh water, a specific administrative plan must be  
16 developed expressly in response to the pollution. The local health  
17 officer, environmental health director, or equivalent officer shall  
18 submit the plan to the court as part of the justification for the  
19 warrant, along with specific evidence showing that it is reasonable to  
20 believe pollution is coming from the septic system on the property to  
21 be accessed for inspection. The plan must include each of the  
22 following elements:

23 ~~((a))~~ (i) The overall goal of the inspection;

24 ~~((b))~~ (ii) The location and identification by address of the  
25 properties being authorized for inspection;

26 ~~((c))~~ (iii) Requirements for giving the person owning the  
27 property and the person occupying the property if it is someone other  
28 than the owner, notice of the plan, its provisions, and times of any  
29 inspections;

30 ~~((d))~~ (iv) The survey procedures to be used in the inspection;

31 ~~((e))~~ (v) The criteria that would be used to define an on-site  
32 sewage disposal system failure; and

33 ~~((f))~~ (vi) The follow-up actions that would be pursued once an  
34 on-site sewage disposal system failure has been identified and  
35 confirmed.

36 ~~((2))~~ (3) Discretionary judgment will be made in implementing  
37 corrections by specifying nonwater-carried sewage disposal devices or  
38 other alternative methods of treatment and effluent disposal as a



1 measure of ameliorating existing substandard conditions. Local  
2 regulations shall be consistent with the intent and purposes stated in  
3 this section.

--- END ---