

HOUSE BILL REPORT

HB 2527

As Reported by House Committee On:

Environment
Appropriations

Title: An act relating to ensuring the ongoing viability of safe on-site sewage systems as a component of statewide sewage management through the implementation of on-site program management plans.

Brief Description: Ensuring the ongoing viability of safe on-site sewage systems as a component of statewide sewage management through the implementation of on-site program management plans.

Sponsors: Representatives Peterson, Goodman and Fitzgibbon.

Brief History:

Committee Activity:

Environment: 1/18/16, 1/28/16 [DPS];
Appropriations: 2/3/16, 2/8/16 [DPS(ENVI)].

Brief Summary of Substitute Bill

- Provides the authority for the Department of Health (DOH) to capitalize and administer a low-interest loan program to assist homeowners with the repair and replacement of on-site sewage systems.
- Requires the local health jurisdictions in the 12 counties bordering Puget Sound that were required to develop written on-site program management plans in 2007 to submit updated versions of those plans for approval by the DOH, with some exceptions, at least once every five years.
- Specifically requests that the DOH consider how a county will fund its on-site program management plan before giving approval.
- Creates a definition of an unsafe septic system.

HOUSE COMMITTEE ON ENVIRONMENT

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.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Fitzgibbon, Chair; Peterson, Vice Chair; Farrell, Fey, Goodman and McBride.

Minority Report: Do not pass. Signed by 5 members: Representatives Shea, Ranking Minority Member; Short, Assistant Ranking Minority Member; Dye, Pike and Taylor.

Staff: Jason Callahan (786-7117).

Background:

County On-Site Program Management Plans.

The local health officers of the 12 counties that border the Puget Sound were required in 2007 to submit management plans for their on-site sewage system programs. These plans were intended to provide guidance to local health jurisdictions. As part of the management plan, the local health officers were required to propose marine recovery areas where on-site systems were a significant contributing factor to concerns associated with shellfish growing, marine waters with low-dissolved oxygen or fecal coliform, and waters where nitrogen is a contaminant.

The 12 Puget Sound counties were required to have their plans approved by the Department of Health (DOH). The DOH had 30 days to approve the plans and determine if all necessary elements were satisfied, including the designation of marine recovery areas. Any denials of a plan was appealable to the State Board of Health.

County-Based Septic System Charges.

The local board of health for each of the 12 Puget Sound counties are expressly authorized to assess a local charge or rate in an amount sufficient to pay for the actual costs of administering and operating the on-site system plans approved by the DOH. No local charge is required; however, if assessed, the charge may be collected by the county treasurer in the same manner as property taxes.

Summary of Substitute Bill:

County On-Site Program Management Plans.

The local health jurisdictions in the 12 counties bordering the Puget Sound that were required to develop written on-site program management plans to the DOH in 2007 are required to submit updated versions of those plans for approval at least once every five years. The updates must reflect plans to implement local priorities, program requirements, and program standards. The plans must also include provisions for the tracking of the failure rates of various on-site system designs and technologies, and reporting that information to the DOH on a predictable schedule. The DOH may adopt updated schedules different from the five-

year standard schedule as it sees fit or if it determines that state funding is not available to assist the counties with the plan updates.

The DOH must review all submitted plans to determine if they are adequate to protect public safety and if they fulfill the minimum plan requirements. For the DOH to approve a plan, it must ensure that the plans preserve public safety in the operation of septic systems, and that the local health jurisdiction submitting the plan has presented a sufficient, reliable, and reasonable strategy for funding the plan's implementation. The review of the funding strategy must be considered in the context of the county's overall public health program and the funding strategy's likelihood to diminish other local public health priorities. The timeline for the DOH to review and approve submitted plans is increased from 30 days to 60 days.

Public Safety Element of On-Site Systems.

A new definition is created for the term "unsafe systems." This definition includes systems that threaten public safety by creating conditions that could lead to personal injury or death due to malfunctioning or missing components. Work towards identifying or correcting unsafe systems must be demonstrated in any contracts among the DOH and local health jurisdictions to assist in addressing recovery areas, and must be a focus in strategies. This includes a requirement that on-site system maintenance professionals report instances of unsafe systems within a marine recovery area to their local health office.

The DOH is required to assist local health jurisdictions in the development of best practices for ensuring the safe operation of on-site systems. This includes best practices in the design and maintenance of risers and lids.

County-Based Septic System Charges.

The discretion as to whether or not a local board of health within the Puget Sound basin assesses an annual charge for on-site systems is maintained; however, for those counties that do assess a charge, additional specification around the collection of that charge is provided.

Specific authority is provided for a county to collect a charge in areas of the county that are not part of the Puget Sound watershed. There is also a specific provision forbidding a county from collecting the charge from a person who is exempt from paying property taxes. Language is also included that expressly allows counties to use money from multiple sources, and not just the local charge, in addressing on-site system public safety needs.

On-Site System Loan Program.

The DOH and any interested counties may partner with the Department of Ecology (ECY) to capitalize and administer a low-interest loan program to assist homeowners with the repair and replacement of on-site systems. The partners to the program may use any appropriate funding for the program and mutually develop the program's administration in the most efficient manner. This may include administering the program through the ECY's Water Quality Assistance Program.

Substitute Bill Compared to Original Bill:

The substitute bill: removes provisions of the underlying bill that awarded the status of Puget Sound Partner to counties in compliance with their on-site system planning requirements and held counties out of compliance in partial non-compliance with the Puget Sound Partnership's Action Agenda; removes the condition that a county must be in compliance with their on-site system planning requirements in order to participate in the low-interest loan program; and clarifies that public safety, as well as public health, is a component of a county's on-site system planning requirements.

The substitute bill requires county on-site program management plans to contain a mechanism for tracking the failure rates of various on-site system technologies and reporting that information to the DOH.

The substitute bill allows the DOH to excuse a local health officer from completing an update of an on-site program management plan if no state funding is available.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 28, 2016.

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

Staff Summary of Public Testimony:

(In support) Many county on-site system plans are reliant on state grant funds. This is an unstable source of funding and there is a gap between existing funding and the needed funding level. This bill enables counties to be creative in their funding by not mandating local fees be assessed. The bill would be stronger if it contained a fee; however, it takes important steps forward and allows a better understanding of funding needs to be developed.

Failing on-site systems affect public health, water quality, and the health of shellfish growing areas. There is a need for local plans to be reviewed on a regular basis to ensure adequacy and consistency. Human health and safety is also an immediate concern regarding on-site systems. Recently one child died from falling into an improperly maintained on-site system and another child had to be rescued after falling into one.

Providing a low-interest loan program to homeowners encourages homeowners to inspect their on-site systems without fear of costly mandated repairs.

(Opposed) The bill is well intended but needs to have proper checks and balances worked into it to prevent its terms from being abused by unscrupulous industry members who are looking to sell unnecessary goods and services under the guise of government regulation. There should be a best available science requirement to ensure that unnecessary work isn't being done. Local programs can fund unnecessary work that result in public money unnecessarily supporting private industry.

(Other) There are over 600,000 on-site systems in the Puget Sound region. This represents a decentralized wastewater treatment infrastructure that requires the same level of attention that is given to the centralized treatment infrastructure. Issues with on-site systems often arise during real estate transactions and homeowners are the ones who need help making improvements on the ground.

The bill takes a lot of important steps forward, but all necessary solutions are not addressed. Sustainable funding needs to be addressed at the local level for the plans to be effective in their support of public health and safety. The low-interest loan program for homeowners is helpful for encouraging and assisting proper maintenance. The emphasis on public safety can help prevent future deaths, and periodic updates to county plans helps build a standardized program. However, the bill lacks a clear path forward towards sustainable funding. A local funding package remains elusive. Local programs can work, but only when they are properly funded to a level that allows monitoring and enforcement. Grants are not an adequately stable funding source.

It can raise problems when two agencies with two different missions are assigned work on the same topic. The goals of the two agencies may be counter to one another and the results can suffer.

The Puget Sound Partnership (PSP) must rely on its partners to achieve the goals of the Action Agenda. The PSP supports its partners and seeks funding for them. The PSP is directed to be a non-regulatory program. It has decided to not use the Puget Sound partner program and the authority to find entities out of compliance with the Action Agenda because those actions are not helpful for restoring Puget Sound.

Persons Testifying: (In support) Representative Peterson, prime sponsor; Bill Dewey, Taylor Shellfish; and Bruce Wishart, Puget Soundkeeper.

(Opposed) Ken Morse, Informed Citizen Network.

(Other) Brad Banks, Washington State Association of Local Public Health Officials; Jerrod Davis, Washington State Department of Health; Michelle Davis, Washington State Board of Health; Jeanette McKague, Washington Realtors; and Jeff Parsons, Puget Sound Partnership.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Environment be substituted therefor and the substitute bill do pass. Signed by 24 members: Representatives Dunshee, Chair; Ormsby, Vice Chair; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Cody, Fitzgibbon, Haler, Hansen, Hudgins, S. Hunt, Jinkins, Kagi, Lytton, MacEwen, Magendanz, Pettigrew, Robinson, Sawyer, Senn, Springer, Stokesbary, Sullivan, Tharinger and Walkinshaw.

Minority Report: Do not pass. Signed by 7 members: Representatives Chandler, Ranking Minority Member; Buys, Dent, Harris, Schmick, Taylor and Van Werven.

Minority Report: Without recommendation. Signed by 2 members: Representatives Condotta and Manweller.

Staff: Linda Merelle (786-7092).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Environment:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The bill introduces a new aspect of public safety in the standards for off-site sewage systems. This approach was a result of a tragic accident where a little boy died after falling into a septic system. Under this bill, the counties have a lot of flexibility. They are able to charge fees on septic systems and some have found creative ways to put together funds to inspect systems. The five-year refresher of counties' plans allows this issue to stay alive in county government.

(Opposed) None.

(Other) There are an estimated 600,000 systems in the Puget Sound area, and they are the decentralized waste water infrastructure. They need care and attention to make sure they are working properly to protect public health, water health, and personal safety. The availability of low-interest loans for homeowners allows them to repair or replace systems that are breaking down or that are exposed to the public. The bill does not, however, have a clear path forward to ensure that counties have sustainable funding.

Persons Testifying: (In support) Representative Peterson, prime sponsor.

(Other) Jerrod Davis, Washington State Department of Health.

Persons Signed In To Testify But Not Testifying: None.