

SENATE BILL REPORT

ESB 5871

As Passed Senate, March 10, 2015

Title: An act relating to appeal procedures for single-family homeowners with failing septic systems required to connect to public sewer systems.

Brief Description: Creating appeal procedures for single-family homeowners with failing septic systems required to connect to public sewer systems.

Sponsors: Senators Angel, Lias, Roach, McCoy and Chase.

Brief History:

Committee Activity: Government Operations & Security: 2/12/15 [DP].

Passed Senate: 3/10/15, 49-0.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

Majority Report: Do pass.

Signed by Senators Roach, Chair; Benton, Vice Chair; Pearson, Vice Chair; Lias, Ranking Minority Member; McCoy.

Staff: Karen Epps (786-7424)

Background: The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, GMA establishes land use designation and environmental protection requirements for all Washington counties and cities, and a significantly wider array of planning duties for the 28 counties and the cities within them that fully plan under GMA.

GMA defines urban governmental services or urban services to include, in part, storm and sanitary sewer systems, domestic water systems, fire and police protection services, and other public utilities associated with urban areas and normally not associated with rural areas. Cities, towns, and code cities provide water and sewer services both within and outside their corporate limits. Counties may provide water and sewer services to unincorporated areas of the county. Additionally, water-sewer districts may provide water and sewer services to incorporated and unincorporated areas.

On-site septic systems or on-site sewage systems are the most common methods of wastewater treatment for homes, commercial establishments, and other places that are not

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connected to a public sanitary sewer system. An on-site sewage system consists of a network of pipes, a septic tank, and a drain field, and provides subsurface soil treatment and dispersal of sewage.

Summary of Engrossed Bill: A city, town, code city, or county (local jurisdiction) with an ordinance or resolution requiring connection to a public sewer system, upon the failure of an on-site septic system, must provide an administrative appeals process to consider denials of permit applications to repair or replace an existing and failing on-site septic system. The administrative appeals process must apply to requests to repair or replace an existing, failing on-site septic system that:

- were for a single-family residence by its owner or owners;
- were denied solely because of a law, regulation, or ordinance requiring connection to a public sewer system; and
- absent the applicable law, regulation, or ordinance requiring connection to a public sewer system upon which the denial was based, would be approved.

If the local jurisdiction has an existing administrative appeals process, the local jurisdiction may follow its existing process. The legislative body of the local jurisdiction or an administrative hearings officer must preside over the administrative appeals process.

The administrative appeals process must, at a minimum, consider whether:

- it is cost prohibitive to require the owner of a single-family residence with an existing and failing on-site septic system to connect to the public sewer system;
- there are public health or environmental considerations;
- there are public sewer system performance or financing considerations; and
- there are financial assistance programs or latecomer agreements offered by the city or town or by the state.

If the local jurisdiction, following any appeals process of the jurisdiction, determines that an owner of a single-family residence must connect to the public sewer system, the owner may, in complying with the determination and subject to approval of appropriate permits, select and hire contractors to perform the necessary work to connect to the public sewer system at the owner's expense. Unless otherwise required by law, a determination by a local jurisdiction that the owner of a single-family residence with a failing on-site septic system must connect a residence to a public sewer system is not subject to appeal.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: This bill is a new approach to addressing the problem of homeowners who have been denied a permit to repair or replace their failing on-site septic system and are being forced to connect to the public sewer system with costs that can range from \$37,000 to \$150,000. This bill addresses the wide ranging interests and

concerns that have been raised by the numerous stakeholders. It is the result of a collaboration effort between business and industry, local government, and environmental groups and will solve the citizen's issue. Allowing for a special appeals process for a homeowner will greatly reduce the number of homeowners adversely affected by the high cost of a public sewer connection mandate.

Persons Testifying: PRO: Senator Angel, prime sponsor; Tim Johnson, WA On-Site Sewage Assn.; Bryce Yadon, Futurewise; Carl Schroeder, Assn. of WA Cities; Ken Morse, Septic System Professional On-Site Designer.