
HOUSE BILL 2527

State of Washington 64th Legislature 2016 Regular Session

By Representatives Peterson, Goodman, and Fitzgibbon

Read first time 01/14/16. Referred to Committee on Environment.

1 AN ACT Relating to ensuring the ongoing viability of safe on-site
2 sewage systems as a component of statewide sewage management through
3 the implementation of on-site program management plans; amending RCW
4 70.05.190, 70.118A.030, 70.118A.070, 70.118A.020, 70.118A.080,
5 70.118A.050, 70.118A.060, 90.71.350, and 90.71.340; adding a new
6 section to chapter 70.118A RCW; and creating a new section.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that there are
9 an estimated six hundred thousand on-site sewage systems in the Puget
10 Sound area alone. These systems are a critical part of the state's
11 wastewater treatment infrastructure.

12 (2) The legislature further finds that on-site sewage systems are
13 an effective method of treating wastewater, but need appropriate
14 operation and maintenance to adequately treat wastewater and operate
15 in a safe manner. Failing systems not only contribute to the
16 pollution of Puget Sound and other regional waters, but they can also
17 pose a threat to human health and the personal safety of families
18 relying on the systems for sewage treatment. Local health officers
19 rely on the information developed through accurate, up-to-date on-
20 site program management plans to ensure that on-site systems are

1 properly maintained and to ensure the identification and timely
2 repair of failing systems.

3 (3) The legislature further finds that the oversight, management,
4 and enforcement of operation and maintenance requirements for on-site
5 sewage systems is a challenging and expensive responsibility for
6 local health jurisdictions. State laws and rules requiring local
7 health jurisdictions to develop and implement on-site program
8 management plans that ensure all on-site sewage systems are
9 appropriately operated, maintained, and repaired are expensive
10 undertakings and, as such, the efforts of local health jurisdictions
11 to successfully comply with these state laws and rules, and to
12 forward the restoration and protection of Puget Sound, are greatly
13 benefited by legislative investment.

14 (4) The legislature further finds that homeowners ultimately bear
15 the cost of repairing and replacing on-site sewage systems when they
16 reach the end of their useful and safe life. This can be a great
17 expense to a homeowner and the cost can discourage proper system
18 management. An accessible, unified, self-sustaining low-interest loan
19 program to help owners address failing systems would benefit the
20 entire region, support homeowners that rely on on-site sewage
21 systems, ensure the personal safety of the families relying on on-
22 site sewage systems, and help ensure the continued use of on-site
23 sewage systems as a component of statewide sewage management.

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.118A
25 RCW to read as follows:

26 (1) The department and any interested counties, in partnership
27 with the department of ecology, may capitalize and administer a
28 sustainable unified low-interest loan program to assist homeowners
29 with the repair and replacement of on-site sewage systems and to
30 ensure the full implementation of a county's on-site program
31 management plan and the preservation of public safety in the
32 participating county.

33 (2) The department, interested counties, and the department of
34 ecology may utilize any appropriate funding source for the
35 implementation of the low-interest loan program and must mutually
36 develop the administration of the program in the manner that is
37 deemed the most efficient, which may include administrating the
38 program through the department of ecology's water quality financial
39 assistance program.

1 (3) For counties that are required to determine marine recovery
2 areas under RCW 70.118A.040, the low-interest loan program created
3 under this section may only be offered if the county develops, funds,
4 and fully implements an on-site program management plan under RCW
5 70.118A.030 that has received approval from the department under RCW
6 70.118A.070.

7 **Sec. 3.** RCW 70.05.190 and 2012 c 175 s 1 are each amended to
8 read as follows:

9 (1) ~~((A))~~ Except as provided in this section, the local board of
10 health in the twelve counties bordering Puget Sound may collect from
11 the property owner an annual charge or a rate for each on-site sewage
12 system located in the basin of the Puget Sound, as that term is
13 defined in RCW 90.71.010, for the purpose of implementing ((an)) the
14 on-site ((sewage)) program management plan ((may:

15 ~~(a) Impose and collect reasonable rates or charges in an amount~~
16 ~~sufficient to pay for the actual costs of administration and~~
17 ~~operation of the on-site sewage program management plan; and~~

18 ~~(b))~~ required under chapter 70.118A RCW and ensuring the
19 preservation of public health and safety as it relates to the
20 operation of on-site sewage systems.

21 (2) A local board of health may collect the charge or rate
22 imposed under this section in areas of a county located outside the
23 Puget Sound basin if a portion of the county is within the Puget
24 Sound basin.

25 (3) A local board of health may contract with the county
26 treasurer to collect the ((rates or charges imposed)) charge or rate
27 authorized under this section in accordance with RCW 84.56.035.

28 ~~((+2))~~ (4) A local board of health may not collect the charge or
29 rate authorized under this section from a person who is exempt from
30 paying property taxes under RCW 84.36.381.

31 (5) In executing the provisions in subsection (1) of this
32 section, a local board of health does not have the authority to
33 impose a lien on real property for failure to pay ((rates and charges
34 imposed)) the charge and rates authorized by this section.

35 ~~((3) Nothing in this section provides a local board of health~~
36 ~~with the ability to impose and collect rates and charges related to~~
37 ~~the implementation of an on-site sewage program management plan~~
38 ~~beyond those powers currently designated under RCW 70.05.060(7).))~~

1 (6) County legislative authorities may use multiple revenue
2 sources to finance activities and services that address overlapping
3 nonpoint pollution needs, such as water quality monitoring or
4 pollution identification and correction, and any overlapping public
5 safety needs as they relate to the operation of on-site sewage
6 systems.

7 **Sec. 4.** RCW 70.118A.030 and 2006 c 18 s 3 are each amended to
8 read as follows:

9 ~~((By July 1, 2007,))~~ (1) The local health officers of health
10 jurisdictions in the twelve counties bordering Puget Sound shall
11 develop a written on-site program management plan to provide guidance
12 to the local health jurisdiction.

13 (2)(a) Except as otherwise provided in (b) of this subsection,
14 local health officers must update on-site program management plans
15 and submit the updated plans to the department for review and
16 approval under RCW 70.118A.070 at least once every five years to
17 implement local priorities and program requirements and standards
18 identified in this chapter and any rules adopted by the board.

19 (b) The board may determine a schedule for the update and review
20 of on-site program management plans that differs from the five-year
21 schedule provided in (a) of this subsection.

22 **Sec. 5.** RCW 70.118A.070 and 2006 c 18 s 7 are each amended to
23 read as follows:

24 (1)(a) The on-site program management plans of local health
25 jurisdictions required under RCW 70.118A.030 must be submitted to the
26 department ~~((by July 1, 2007,))~~ and be reviewed for approval to
27 determine if they ~~((contain all necessary elements. The department~~
28 ~~shall provide in writing to the local board of health its review of~~
29 ~~the completeness of the plan))~~ are adequate to protect public safety
30 and fulfill the minimum on-site program management plan requirements
31 and standards established by the board by rule.

32 (b) The board may adopt additional criteria by rule for approving
33 on-site program management plans~~((-))~~; however, any additional
34 criteria may not take effect until one year after it is adopted.

35 (2) In reviewing the on-site ~~((strategy component of the))~~
36 program management plan, the department shall ensure that:

1 (a) All required elements, including designation of any marine
2 recovery area and the preservation of public safety in the operation
3 of systems, have been addressed; and

4 (b) The submitting local health jurisdiction has presented a
5 sufficient, reliable, and reasonable strategy to fund the
6 implementation of the on-site program management plan that is
7 considered in the overall context of a county's public health program
8 and does not diminish other local public health priorities.

9 (3) Within ~~((thirty))~~ sixty days of receiving an on-site
10 ~~((strategy))~~ program management plan, the department shall either
11 approve the on-site ~~((strategy))~~ program management plan or provide
12 in writing the reasons for not approving the ~~((strategy))~~ on-site
13 program management plan and recommend changes. If the department does
14 not approve the on-site ~~((strategy))~~ program management plan, the
15 local health officer must amend and resubmit the on-site program
16 management plan to the department for approval.

17 (4) Upon receipt of department approval or after ~~((thirty))~~ sixty
18 days without notification, whichever comes first, the local health
19 officer shall implement the on-site ~~((strategy))~~ program management
20 plan.

21 (5) If the department denies approval of an on-site ~~((strategy))~~
22 program management plan, the local health officer may appeal the
23 denial to the board. The board must make a final determination
24 concerning the denial.

25 (6) The department must report any instances of a county
26 bordering the Puget Sound not having an active, approved on-site
27 program management plan, or not funding and implementing an approved
28 on-site program management plan, to the Puget Sound partnership for
29 consideration under RCW 90.71.350.

30 (7) The department shall assist local health jurisdictions in:

31 (a) Developing written on-site program management plans required
32 by RCW 70.118A.030;

33 (b) Identifying reasonable methods for finding unknown systems;
34 ~~((and))~~

35 (c) Developing or enhancing electronic data systems that will
36 enable each local health jurisdiction to actively manage all on-site
37 sewage ~~((disposal))~~ systems within their jurisdictions, with priority
38 given to those on-site sewage ~~((disposal))~~ systems that are located
39 in or which could affect designated marine recovery areas; and

1 (d) Developing best practices for ensuring the safe operation of
2 on-site sewage disposal systems, including the design and maintenance
3 of on-site sewage system risers and lids.

4 **Sec. 6.** RCW 70.118A.020 and 2006 c 18 s 2 are each amended to
5 read as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) "Board" means the state board of health.

9 (2) "Department" means the department of health.

10 (3)(a) "Failing" means a condition of an existing on-site sewage
11 disposal system or component that threatens the public health by:

12 (i) Inadequately treating sewage(~~(, or by)~~); or

13 (ii) Creating a potential for direct or indirect contact between
14 sewage and the public.

15 (b) Examples of a failing on-site sewage disposal system include:

16 (~~(a)~~) (i) Sewage on the surface of the ground;

17 (~~(b)~~) (ii) Sewage backing up into a structure caused by slow
18 soil absorption of septic tank effluent;

19 (~~(c)~~) (iii) Sewage leaking from a sewage tank or collection
20 system;

21 (~~(d)~~) (iv) Cesspools or seepage pits where evidence of
22 groundwater or surface water quality degradation exists;

23 (~~(e)~~) (v) Inadequately treated effluent contaminating
24 groundwater or surface water; (~~(e)~~) and

25 (~~(f)~~) (vi) Noncompliance with standards stipulated on the
26 permit.

27 (4) "Local health officer" or "local health jurisdiction" means
28 the local health officers and local health jurisdictions in the
29 following counties bordering Puget Sound: Clallam, Island, Kitsap,
30 Jefferson, Mason, San Juan, Seattle-King, Skagit, Snohomish, Tacoma-
31 Pierce, Thurston, and Whatcom.

32 (5) "Marine recovery area" means an area of definite boundaries
33 where the local health officer, or the department in consultation
34 with the health officer, determines that additional requirements for
35 existing on-site sewage disposal systems may be necessary to reduce
36 potential failing systems or minimize negative impacts of on-site
37 sewage disposal systems.

38 (6) "Marine recovery area on-site strategy" or "on-site strategy"
39 means a local health jurisdiction's on-site sewage disposal system

1 strategy required under RCW 70.118A.050. This strategy is a component
2 of the on-site program management plan required under RCW
3 70.118A.030.

4 (7) "On-site sewage disposal system" means an integrated system
5 of components, located on or nearby the property it serves, that
6 conveys, stores, treats, or provides subsurface soil treatment and
7 dispersal of sewage. It consists of a collection system, a treatment
8 component or treatment sequence, and a soil dispersal component. An
9 on-site sewage disposal system also refers to a holding tank sewage
10 system or other system that does not have a soil dispersal component.
11 For purposes of this chapter, the term "on-site sewage disposal
12 system" does not include any system regulated by a water quality
13 discharge permit issued under chapter 90.48 RCW.

14 (8) "Unknown system" means an on-site sewage disposal system that
15 was installed without the knowledge or approval of the local health
16 jurisdiction, including those that were installed before such
17 approval was required.

18 (9) "Unsafe system" means a condition of an existing on-site
19 sewage disposal system that threatens public safety by creating a
20 condition where a person could be injured or killed because a
21 component or part of an on-site sewage disposal system is
22 malfunctioning or missing. Examples of an unsafe system include, but
23 are not limited to, missing or malfunctioning electrical junction box
24 covers, lids, or risers.

25 **Sec. 7.** RCW 70.118A.080 and 2006 c 18 s 8 are each amended to
26 read as follows:

27 (1) The department shall enter into a contract with each local
28 health jurisdiction subject to the requirements of this chapter to
29 implement plans developed under this chapter, ~~((and))~~ to develop or
30 enhance electronic data systems required by this chapter, and to
31 enhance the public safety as it relates to the operation of on-site
32 sewage disposal systems. The contract must include state funding
33 assistance to the local health jurisdiction from funds appropriated
34 to the department for this purpose.

35 (2) The contract must require, at a minimum, that within a marine
36 recovery area, the local health jurisdiction:

- 37 (a) Show progressive improvement in finding failing systems;
38 (b) Show progressive improvement in working with the owners of
39 on-site sewage disposal ((system-owners)) systems that qualify as

1 failing systems, unsafe systems, or both to make needed system
2 repairs;

3 (c) Is actively taking steps to find previously unknown systems
4 and ensuring that they are inspected as required and repaired if
5 necessary;

6 (d) Show progressive improvement in the percentage of on-site
7 sewage disposal systems that are included in an electronic data
8 system; and

9 (e) Of those on-site sewage disposal systems in the electronic
10 data system, show progressive improvement in the percentage that have
11 had required inspections.

12 (3) The contract must also include provisions for state
13 assistance in updating the plan. ~~((Beginning July 1, 2012,))~~ The
14 contract may adopt revised compliance dates, including those in RCW
15 70.118A.050, where the local health jurisdiction has demonstrated
16 substantial progress in updating the on-site strategy.

17 ~~((4) The department shall convene a work group for the purpose
18 of making recommendations to the appropriate committees of the
19 legislature for the development of certification or licensing of
20 maintenance specialists. The work group shall make its recommendation
21 with consideration given to the 1998 report to the legislature
22 entitled "On-Site Wastewater Certification Work Group" as it pertains
23 to maintenance specialists. The work group may give priority to
24 appropriate levels of certification or licensure of maintenance
25 specialists who work in the Puget Sound basin.))~~

26 **Sec. 8.** RCW 70.118A.050 and 2006 c 18 s 5 are each amended to
27 read as follows:

28 (1) The local health officer of a local health jurisdiction where
29 a marine recovery area has been proposed under RCW 70.118A.040 shall
30 develop and approve a marine recovery area on-site strategy that
31 includes designation of marine recovery areas to guide the local
32 health jurisdiction in developing and managing all existing on-site
33 sewage disposal systems within marine recovery areas within its
34 jurisdiction. The on-site strategy must be a component of the program
35 management plan required under RCW 70.118A.030. The department may
36 grant an extension of twelve months where a local health jurisdiction
37 has demonstrated substantial progress toward completing its on-site
38 strategy.

1 (2)(a) An on-site strategy for a marine recovery area must
2 specify how the local health jurisdiction will (~~by July 1, 2012, and~~
3 ~~thereafter,~~) find:

4 (~~(a)~~) (i) Existing failing systems and ensure that system
5 owners make necessary repairs; and

6 (~~(b)~~) (ii) Unknown systems and ensure that they are inspected
7 as required to ensure that they are functioning properly, and
8 repaired, if necessary.

9 **(b) Any on-site strategies submitted as a component of an updated**
10 **program management plan required under RCW 70.118A.030 must include**
11 **provisions for identifying and correcting unsafe systems**
12 **simultaneously with efforts to identify and correct failing systems.**

13 **Sec. 9.** RCW 70.118A.060 and 2006 c 18 s 6 are each amended to
14 read as follows:

15 (1) In a marine recovery area, each local health officer shall:

16 (~~(1)~~) (a) Require that on-site sewage disposal system
17 maintenance specialists, septic tank pumpers, or others performing
18 on-site sewage disposal system inspections submit reports or
19 inspection results to the local health jurisdiction regarding any
20 failing system or unsafe system; and

21 (~~(2)~~) (b) Develop and maintain an electronic data system of all
22 on-site sewage disposal systems within a marine recovery area to
23 enable the local health jurisdiction to actively manage on-site
24 sewage disposal systems.

25 (2) In assisting development of electronic data systems under
26 this section, the department shall work with local health
27 jurisdictions with marine recovery areas and the on-site sewage
28 disposal system industry to develop common forms and protocols to
29 facilitate sharing of data. A marine recovery area on-site sewage
30 disposal electronic data system must be compatible with all on-site
31 sewage disposal electronic data systems used throughout a local
32 health jurisdiction.

33 **Sec. 10.** RCW 90.71.350 and 2007 c 341 s 17 are each amended to
34 read as follows:

35 (1) The council is accountable for achieving the action agenda.
36 The legislature intends that all governmental entities within Puget
37 Sound will exercise their existing authorities to implement the
38 applicable provisions of the action agenda.

1 (2) The partnership shall involve the public and implementing
2 entities to develop standards and processes by which the partnership
3 will determine whether implementing entities are taking actions
4 consistent with the action agenda and achieving the outcomes
5 identified in the action agenda. Among these measures, the council
6 may hold management conferences with implementing entities to review
7 and assess performance in undertaking implementation strategies with
8 a particular focus on compliance with and enforcement of existing
9 laws. Where the council identifies an inconsistency with the action
10 agenda, the council shall offer support and assistance to the entity
11 with the objective of remedying the inconsistency. The results of the
12 conferences shall be included in the state of the Sound report
13 required under RCW 90.71.370.

14 (3)(a) In the event the council determines that an entity is in
15 substantial noncompliance with the action agenda, it shall provide
16 notice of this finding and supporting information to the entity. The
17 council or executive director shall thereafter meet and confer with
18 the entity to discuss the finding and, if appropriate, develop a
19 corrective action plan.

20 (b) If no agreement is reached, the council shall hold a public
21 meeting to present its findings and the proposed corrective action
22 plan. If the entity is a state agency, the meeting shall include
23 representatives of the governor's office and office of financial
24 management. If the entity is a local government, the meeting shall be
25 held in the jurisdiction and electoral representatives from the
26 jurisdictions shall be invited to attend.

27 (c) If, after (~~this~~) the process outlined in this section, the
28 council finds that substantial noncompliance continues, the council
29 shall issue written findings and document its conclusions. The
30 council may recommend to the governor that the entity be ineligible
31 for state financial assistance until the substantial noncompliance is
32 remedied.

33 (d) Any county located within Puget Sound that is not fulfilling
34 the minimum requirements of chapter 70.118A RCW, including compliance
35 with the on-site program management plan requirements of RCW
36 70.118A.030, must be found to be at least in partial substantial
37 noncompliance under this section for the portion or portions of the
38 action agenda most related to on-site sewage systems. The council has
39 the discretion to take any actions within its power to encourage
40 compliance with the requirements of RCW 70.118A.030.

1 (e) All instances of noncompliance shall be included in the state
2 of the Sound report required under RCW 90.71.370.

3 (4) The council shall provide a forum for addressing and
4 resolving problems, conflicts, or a substantial lack of progress in a
5 specific area that it has identified in the implementation of the
6 action agenda, or that citizens or implementing entities bring to the
7 council. The council may use conflict resolution mechanisms such as,
8 but not limited to, technical and financial assistance, facilitated
9 discussions, and mediation to resolve the conflict. Where the parties
10 and the council are unable to resolve the conflict, and the conflict
11 significantly impairs the implementation of the action agenda, the
12 council shall provide its analysis of the conflict and
13 recommendations resolution to the governor, the legislature, and to
14 those entities with jurisdictional authority to resolve the conflict.

15 (5) When the council or an implementing entity identifies a
16 statute, rule, ordinance, or policy that conflicts with or is an
17 impediment to the implementation of the action agenda, or identifies
18 a deficiency in existing statutory authority to accomplish an element
19 of the action agenda, the council shall review the matter with the
20 implementing entities involved. The council shall evaluate the merits
21 of the conflict, impediment, or deficiency, and make recommendations
22 to the legislature, governor, agency, local government, or other
23 appropriate entity for addressing and resolving the conflict.

24 (6) The council may make recommendations to the governor and
25 appropriate committees of the senate and house of representatives for
26 local or state administrative or legislative actions to address
27 barriers it has identified to successfully implementing the action
28 agenda.

29 **Sec. 11.** RCW 90.71.340 and 2007 c 341 s 16 are each amended to
30 read as follows:

31 (1) The legislature intends that fiscal incentives and
32 disincentives be used as accountability measures designed to achieve
33 consistency with the action agenda by:

34 (a) Ensuring that projects and activities in conflict with the
35 action agenda are not funded;

36 (b) Aligning environmental investments with strategic priorities
37 of the action agenda; and

38 (c) Using state grant and loan programs to encourage consistency
39 with the action agenda.

1 (2) The council shall adopt measures to ensure that funds
2 appropriated for implementation of the action agenda and identified
3 by proviso or specifically referenced in the omnibus appropriations
4 act pursuant to RCW 43.88.030(1)(g) are expended in a manner that
5 will achieve the intended results. In developing such performance
6 measures, the council shall establish criteria for the expenditure of
7 the funds consistent with the responsibilities and timelines under
8 the action agenda, and require reporting and tracking of funds
9 expended. The council may adopt other measures, such as requiring
10 interagency agreements regarding the expenditure of provided or
11 specifically referenced Puget Sound funds.

12 (3) The partnership shall work with other state agencies
13 providing grant and loan funds or other financial assistance for
14 projects and activities that impact the health of the Puget Sound
15 ecosystem under chapters 43.155, 70.105D, 70.146, 77.85, 79.105,
16 79A.15, 89.08, and 90.50A RCW to, within the authorities of the
17 programs, develop consistent funding criteria that prohibits funding
18 projects and activities that are in conflict with the action agenda.

19 (4)(a) The partnership shall develop a process and criteria by
20 which entities that consistently achieve outstanding progress in
21 implementing the action agenda are designated as Puget Sound
22 partners.

23 (b) State agencies shall work with the partnership to revise
24 their grant, loan, or other financial assistance allocation criteria
25 to create a preference for entities designated as Puget Sound
26 partners for funds allocated to the Puget Sound basin, pursuant to
27 RCW 43.155.070, 70.105D.070, 70.146.070, 77.85.130, 79.105.150,
28 79A.15.040, 89.08.520, and 90.50A.040. This process shall be
29 developed on a timeline that takes into consideration state grant and
30 loan funding cycles.

31 (c)(i) In addition to any other process or criteria that may be
32 developed by the partnership for Puget Sound partner status, any
33 county that develops, funds, and fully implements an on-site program
34 management plan under RCW 70.118A.030 that has received approval from
35 the department of health under RCW 70.118A.070 must be considered a
36 Puget Sound partner regardless of its location in the state and be
37 given any statutory benefits, including those related to funded grant
38 programs, that the status of Puget Sound partner provides.

39 (ii) The status of Puget Sound partner attaches to a county upon
40 the approval of its on-site program management plan by the department

1 of health under RCW 70.118A.070 and remains as long as the county's
2 plan continues to be implemented according to the department of
3 health's approval. Nothing in this subsection (4)(c) requires the
4 partnership to take any affirmative action in order for the Puget
5 Sound partner designation to attach to a qualifying county or develop
6 any other standards or protocols related to Puget Sound partner
7 preferences.

8 (5) Any entity that receives state funds to implement actions
9 required in the action agenda shall report biennially to the council
10 on progress in completing the action and whether expected results
11 have been achieved within the time frames specified in the action
12 agenda.

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