

FINAL BILL REPORT

ESHB 1503

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Synopsis as Enacted

Brief Description: Preventing unfunded mandates involving on-site sewage systems from affecting local governments and property owners.

Sponsors: House Committee on Environment (originally sponsored by Representatives Short, Taylor, Van Werven, Buys, Haler, Kraft and Hargrove).

House Committee on Environment Senate Committee on Local Government

Background:

Septic Systems Permitting.

The State Board of Health (BOH) adopts rules addressing the design, construction, installation, operation, and maintenance of on-site sewage systems (OSS), while local health jurisdictions (LHJs) in each county administer and enforce those OSS regulations alongside any additional local requirements.

Owners of an OSS are generally responsible for maintaining the OSS, including associated repair and upkeep costs. Once an OSS has been installed, the system must be inspected at least once every three years if the system has a septic tank and relies on a gravity-powered drain field, or at least once per year for other types of OSS, unless a LHJ requires more frequent inspections. Under BOH rules, LHJs may require OSS operation permits and may require owners to secure and renew contracts for periodic maintenance. When an OSS is repaired after a failure that threatens public health due to inadequate sewage treatment, the BOH's rules require a LHJ to track the future performance of the OSS through a repair permit that includes specified minimum OSS performance standards.

Twelve counties in Washington are located within the Puget Sound basin. Within the basin, there are an estimated 600,000 OSS. Beginning in July 2007, the LHJs in the 12 counties bordering the Puget Sound basin were required to develop an OSS management plan. Each LHJ was required to have its OSS management plan approved by the Department of Health (DOH). The OSS plans in the 12 counties within the Puget Sound basin are required to include certain components that are not required of OSS in other counties, including

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proposing marine recovery areas where OSS are a significant contributing factor to certain water quality and aquaculture concerns.

Growth Management Act Comprehensive Plans.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 29 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA.

The GMA directs jurisdictions that fully plan under the GMA to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans are implemented through locally adopted development regulations, both of which are subject to review and revision requirements prescribed in the GMA.

Each comprehensive plan adopted by a county or city must include seven mandatory elements consisting of a plan, scheme, or design. Two of the seven mandatory elements that must be included in comprehensive plans contain provisions addressing the protection of aspects of water quality: the land use element and the rural element. Specifically, the land use element must provide for the protection of the quality and quantity of groundwater used for public water supplies. The rural element must include measures that protect the rural character of an area by protecting surface and groundwater resources. A recent state Supreme Court decision found a Whatcom County rural element policy that allowed private homeowners in rural areas to inspect their own septic systems, rather than requiring professional inspections, did not comply with the county's obligations to protect water resources under the GMA.

Summary:

The GMA does not preclude counties from authorizing OSS self-inspections by homeowners, their tenants, or their family members upon their completion of county certification requirements. The authority of counties to authorize OSS self-inspections does not eliminate the requirement that counties protect water quality consistent with the obligations imposed by the land use and rural elements of the GMA.

Votes on Final Passage:

House	91	6
Senate	48	0

Effective: July 23, 2017