

SENATE BILL REPORT

ESHB 2420

As Reported by Senate Committee On:
Energy, Environment & Technology, February 22, 2018

Title: An act relating to state board of health rules regarding on-site sewage systems.

Brief Description: Concerning state board of health rules regarding on-site sewage systems.

Sponsors: House Committee on Environment (originally sponsored by Representatives Hargrove and Sullivan).

Brief History: Passed House: 2/12/18, 96-1.

Committee Activity: Energy, Environment & Technology: 2/21/18, 2/22/18 [DP].

Brief Summary of Bill

- Establishes requirements for State Board of Health (SBOH) rules regarding inspections and repair of on-site sewage systems (OSS).

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TECHNOLOGY

Majority Report: Do pass.

Signed by Senators Carlyle, Chair; Palumbo, Vice Chair; Ericksen, Ranking Member; Brown, Hawkins, Hobbs, McCoy, Ranker, Sheldon and Wellman.

Staff: Jan Odano (786-7486)

Background: On-site sewage systems are underground waste water treatment structures that are common in areas without centralized sewer systems. The Department of Health (DOH) estimates there are approximately 950,000 OSS statewide.

SBOH establishes rules for on-site sewage systems, while local health departments and DOH implement these rules. SBOH is responsible for adopting rules for design, construction, operation, and maintenance of OSS systems with design flows of less than 3500 gallons per day. In addition, SBOH adopts rules for repair of existing failing systems adjacent to marine waters.

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.

As required by rule, the owner of an OSS is responsible for operating, monitoring, and maintaining the system. Inspections are required at least once every three years for gravity OSS and annually for all other systems, unless otherwise required by the local health officer. In the event an OSS fails, the owner is required to repair or replace the system, or connect to a public sewer or large on-site sewage system. If repairing or replacing the OSS or connecting to another system is not a feasible option, then the owner must use a holding tank, obtain a discharge permit from the Department of Ecology when a local health officer has determined that an OSS is not feasible and the only realistic method is discharge of treated effluent, or abandon the property.

A local health jurisdiction (LHJ) may apply for an administrative search warrant when there is an administrative plan in place to address pollution of commercial or recreational shellfish harvesting areas and the request to access the property has been denied. The plan, along with reasonable evidence showing pollution from the septic system on the property to be inspected must be submitted to the court as part of the justification for the warrant.

Summary of Bill: Failing OSS. The SBOH rules must:

- give first priority to repairing and second priority to replacing an existing conventional OSS;
- not impose more stringent performance requirements of equivalent OSS on private entities than public entities; and
- allow repair of an OSS using the least expensive alternatives that meet standards and is likely to provide comparable or better long-term sewage treatment and effluent dispersal outcomes.

Inspections of OSS. The SBOH rules must:

- require coordination between the owner and certified professional inspector or public agency prior to accessing the OSS;
- require authorization by the OSS owner for inspection by a certified inspector or public agency unless the LHJ obtains an administrative search warrant following existing procedures; and
- forbid LHJs from conditioning OSS permits with requirements for inspections or maintenance easements of OSS located on a single property servicing a single dwelling.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: The State Board of Health recognizes that OSS are important and an integral part of sewage disposal. People did not want to have too much information about the OSS because of the concerns for expensive repairs and replacements. There is a focus on OSS when sewage plants have been responsible for degradation of marine waters. We need to focus on those systems that cause the problems.

Access to property should be coordinated with the property owner. There should be a preference for less costly repair.

Persons Testifying: PRO: Representative Mark Hargrove, Prime Sponsor; Betsy Howe, Citizens Opposed to On-Site Sewer Management Washington (COOM WA); Dave Tegeler, citizen; Jeanette McKague, Washington Realtors; Chad Magendanz, COOM WA; Cindy Alia, Citizens Alliance for Property Rights.

Persons Signed In To Testify But Not Testifying: No one.