

---

**SUBSTITUTE SENATE BILL 5286**

---

**State of Washington**

**62nd Legislature**

**2011 Regular Session**

**By** Senate Environment, Water & Energy (originally sponsored by Senator Nelson)

READ FIRST TIME 02/08/11.

1       AN ACT Relating to on-site wastewater treatment systems designer  
2       licensing; amending RCW 18.210.020, 18.210.030, 18.210.050, 18.210.080,  
3       18.210.100, 18.210.120, 18.210.140, 18.210.160, 18.210.170, 18.210.180,  
4       and 18.210.190; reenacting and amending RCW 18.210.010; and repealing  
5       RCW 18.210.090 and 18.210.210.

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

7       **Sec. 1.** RCW 18.210.010 and 2010 1st sp.s. c 7 s 76 are each  
8       reenacted and amended to read as follows:

9       The definitions in this section apply throughout this chapter  
10      unless the context clearly requires otherwise.

11      (1) "Board" means the board of registration for professional  
12      engineers and land surveyors as defined in chapter 18.43 RCW.

13      (2) "Certificate of competency" or "certificate" means a  
14      certificate issued to employees of local health jurisdictions  
15      indicating that the certificate holder has passed the licensing  
16      examination required under this chapter.

17      (3) "Designer((~~7~~))" or "licensee((~~7~~))" (~~((or "permit holder"))~~) means  
18      an individual authorized under this chapter to perform design services  
19      for on-site wastewater treatment systems.

1 (4) "Director" means the director of the Washington state  
2 department of licensing.

3 (5) "Engineer" means a professional engineer licensed under chapter  
4 18.43 RCW.

5 (6) "License" means a license to design on-site wastewater  
6 treatment systems under this chapter.

7 (7) "Local health jurisdiction" or "jurisdictional health  
8 department" means an administrative agency created under chapter 70.05,  
9 70.08, or 70.46 RCW, that administers the regulation and codes  
10 regarding on-site wastewater treatment systems.

11 (8) "On-site wastewater design" means the development of plans,  
12 details, specifications, instructions, or inspections by application of  
13 specialized knowledge in analysis of soils, on-site wastewater  
14 treatment systems, disposal methods, and technologies to create an  
15 integrated system of collection, transport, distribution, treatment,  
16 and disposal of on-site wastewater.

17 (9) "On-site wastewater treatment system" means an integrated  
18 system of components that: Convey, store, treat, and/or provide  
19 subsurface soil treatment and disposal of wastewater effluent on the  
20 property where it originates or on adjacent or other property and  
21 includes piping, treatment devices, other accessories, and soil  
22 underlying the disposal component of the initial and reserve areas, for  
23 on-site wastewater treatment under three thousand five hundred gallons  
24 per day when not connected to a public sewer system.

25 (10) "Practice of engineering" has the meaning set forth in RCW  
26 18.43.020(5).

27 ~~((11) "Practice permit" means an authorization to practice granted  
28 to an individual who designs on-site wastewater treatment systems and  
29 who has been authorized by a local health jurisdiction to practice on  
30 or before July 1, 2000.))~~

31 **Sec. 2.** RCW 18.210.020 and 2002 c 86 s 256 are each amended to  
32 read as follows:

33 In addition to the unprofessional conduct described in RCW  
34 18.235.130, the following conduct, acts, and conditions constitute  
35 unprofessional conduct:

36 (1) Practicing with a practice permit or license issued under this  
37 chapter that is expired, suspended, or revoked;

1 (2) Being willfully untruthful or deceptive in any document,  
2 report, statement, testimony, or plan that pertains to the design or  
3 construction of an on-site wastewater treatment system; (~~and~~)

4 (3) Submission of a design or as-built record to a local health  
5 jurisdiction, to the department of health, or to the department of  
6 ecology, that is knowingly based upon false, incorrect, misleading, or  
7 fabricated information; and

8 (4) Submission of any application for licensure or certification  
9 that contains false, fraudulent, or misleading information.

10 **Sec. 3.** RCW 18.210.030 and 2002 c 86 s 257 are each amended to  
11 read as follows:

12 The board shall immediately suspend the license (~~(or practice~~  
13 ~~permit))~~) of a person who has been certified pursuant to RCW 74.20A.320  
14 by the department of social and health services as a person who is not  
15 in compliance with a support order. If the person has continued to  
16 meet all other requirements for a license under this chapter during the  
17 suspension, reissuance of the license or certificate shall be automatic  
18 upon the department's receipt of a release issued by the department of  
19 social and health services stating that the licensee is in compliance  
20 with the child support order. The procedure in RCW 74.20A.320 is the  
21 exclusive administrative remedy for contesting the establishment of  
22 noncompliance with a child support order, and suspension of a license  
23 under this (~~(subsection—[section])~~) section, and satisfies the  
24 requirements of RCW 34.05.422.

25 **Sec. 4.** RCW 18.210.050 and 2010 1st sp.s. c 7 s 77 are each  
26 amended to read as follows:

27 The director may:

28 (1) Employ administrative, clerical, and investigative staff as  
29 necessary to administer and enforce this chapter;

30 (2) Establish fees for applications, examinations, and renewals in  
31 accordance with chapter 43.24 RCW;

32 (3) Issue (~~(practice permits and)~~) licenses to applicants who meet  
33 the requirements of this chapter; and

34 (4) Exercise rule-making authority to implement this section.

1       **Sec. 5.** RCW 18.210.080 and 1999 c 263 s 9 are each amended to read  
2 as follows:

3       The director, members of the board, and individuals acting on  
4 behalf of the director or the board are immune to liability in any  
5 civil action or criminal case based on any acts performed in the course  
6 of their duties under this chapter, except for acts displaying  
7 intentional or willful misconduct.

8       **Sec. 6.** RCW 18.210.100 and 1999 c 263 s 11 are each amended to  
9 read as follows:

10       All applicants for licensure under this chapter, except as provided  
11 in RCW 18.210.180, must pass a written examination administered by the  
12 board and must also meet the following minimum requirements:

13       (1) A high school diploma or equivalent; and

14       (2) A minimum of four years of experience, as approved by the  
15 board, showing increased responsibility for the design of on-site  
16 wastewater treatment systems. The experience ~~((must))~~ should  
17 ~~include((, but is not limited to,))~~ site soil assessment, hydraulics,  
18 topographic delineations, use of specialized treatment processes and  
19 devices, microbiology, and construction practices. Completion of ~~((two~~  
20 ~~years of))~~ satisfactory college level course work ~~((in subjects dealing~~  
21 ~~with, but not limited to, soils, hydraulics, topographic delineations,~~  
22 ~~construction practices, and/or microbiology or completion of a two-year~~  
23 ~~curriculum in on-site treatment systems, technology, and applications,~~  
24 ~~as approved by the board,))~~ or successful participation in a board-  
25 approved internship or mentoring program may be substituted for up to  
26 two years of the experience requirement.

27       **Sec. 7.** RCW 18.210.120 and 1999 c 263 s 13 are each amended to  
28 read as follows:

29       (1) Application for licensure must be on forms prescribed by the  
30 board and furnished by the director. The application must contain  
31 statements, made under oath, demonstrating the applicant's education  
32 and work experience.

33       (2) Applicants shall provide not less than two verifications of  
34 experience ~~((from))~~. Verifications of experience may be provided by  
35 licensed professional engineers, licensed on-site wastewater treatment  
36 system designers ~~((licensed under this chapter)),~~ or state/local

1 regulatory officials in the on-site wastewater treatment field who have  
2 direct knowledge of the applicant's qualifications to practice in  
3 accordance with this chapter and who can verify the applicant's work  
4 experience.

5 (3) The director, as provided in RCW 43.24.086, shall determine an  
6 application fee for licensure as an on-site wastewater treatment system  
7 designer. A nonrefundable application fee must accompany the  
8 application. The director shall ensure that the application fee  
9 includes the cost of the examination and the cost issuance of a license  
10 and certificate. A candidate who fails an examination may apply for  
11 reexamination. The director shall determine the fee for reexamination.

12 **Sec. 8.** RCW 18.210.140 and 1999 c 263 s 15 are each amended to  
13 read as follows:

14 (1) (~~Practice permits and~~) Licenses and certificates issued under  
15 this chapter are valid for (~~one year~~) a period of time as determined  
16 by the director and may be renewed under the conditions described in  
17 this chapter. An expired (~~practice permit or~~) license or certificate  
18 is invalid and must be renewed (~~before lawful practice can resume~~).  
19 Any (~~permit holder or~~) licensee or certificate holder who fails to  
20 pay the renewal fee within ninety days following the date of expiration  
21 shall be assessed a penalty fee as determined by the director and must  
22 pay the penalty fee and the base renewal fee before the (~~practice~~  
23 ~~permit or~~) license or certificate may be (~~returned to a valid~~  
24 ~~status~~) renewed.

25 (2) Any license (~~or practice permit~~) issued under this chapter  
26 that is not renewed within two years of its date of expiration must be  
27 canceled. Following cancellation, a person seeking to renew must  
28 reapply as a new applicant under this chapter.

29 (3) (~~The director, in conformance with RCW 43.24.140, may modify~~  
30 ~~the duration of the license.~~) The director, as provided in RCW  
31 43.24.086, shall determine the fee for applications and for renewals of  
32 (~~practice permits and~~) licenses and certificates issued under this  
33 chapter. For determining renewal fees, the pool of licensees and  
34 certificate holders under this chapter must be combined with the  
35 licensees established in chapter 18.43 RCW.

1       **Sec. 9.** RCW 18.210.160 and 2002 c 86 s 259 are each amended to  
2 read as follows:

3       On or after July 1, 2003, it is a gross misdemeanor for any person,  
4 not otherwise exempt from the requirements of this chapter, to: (1)  
5 Perform on-site wastewater treatment systems design services without a  
6 license; (2) purport to be qualified to perform those services without  
7 having been issued a (~~standard~~) license under this chapter; (3)  
8 attempt to use the license or seal of another; (4) attempt to use a  
9 revoked or suspended license; or (5) attempt to use false or fraudulent  
10 credentials. In addition, action may be taken under RCW 18.235.150.

11       **Sec. 10.** RCW 18.210.170 and 1999 c 263 s 18 are each amended to  
12 read as follows:

13       The board shall require licensees (~~and holders of certificates of~~  
14 ~~competency~~) under this chapter to (~~obtain~~) maintain continuing  
15 professional development (~~or continuing education~~). The board may  
16 (~~also~~) require these licensees (~~and certificate holders~~) to  
17 demonstrate maintenance of knowledge and skills as a condition of  
18 license (~~or certificate~~) renewal, including peer review of work  
19 products and periodic reexamination.

20       **Sec. 11.** RCW 18.210.180 and 1999 c 263 s 19 are each amended to  
21 read as follows:

22       Any person holding a license issued by a jurisdiction outside the  
23 state of Washington authorizing that person to perform design services  
24 for (~~the construction~~) site soil assessment, hydraulics, topographic  
25 delineations, use of specialized treatment processes and devices,  
26 microbiology, and construction practices of on-site wastewater  
27 treatment systems may be granted a license without examination under  
28 this chapter, if:

29       (1) The education, experience, and/or examination forming the basis  
30 of the license is determined by the board to be equal to or greater  
31 than the conditions for the issuance of a license under this chapter;  
32 and

33       (2) The individual has paid the applicable fee and has submitted  
34 the necessary application form.

1       **Sec. 12.** RCW 18.210.190 and 1999 c 263 s 20 are each amended to  
2 read as follows:

3       (1) Employees of local health jurisdictions who review, inspect, or  
4 approve the design and construction of on-site wastewater treatment  
5 systems shall obtain a certificate of competency by obtaining a passing  
6 score on the written examination administered for licensure under this  
7 chapter. Eligibility to apply for the certificate of competency is  
8 based upon a written request from the local health director or designee  
9 and payment of a fee established by the director. (~~Applications for~~  
10 ~~a certificate of competency may not be accepted until on or after July~~  
11 ~~1, 2000.~~) The certificate of competency is renewable upon payment of  
12 a fee established by the director. Certificate holders are also  
13 subject to the requirements of RCW 18.210.140(1).

14       (2) Issuance of the certificate of competency does not authorize  
15 the certificate holder to offer or provide on-site wastewater treatment  
16 system design services. However, nothing in this chapter limits or  
17 affects the ability of local health jurisdictions to perform on-site  
18 design services under their authority in chapter 70.05 RCW.

19       (3) Local health jurisdictions and the state department of health  
20 retain authority to:

21       (a) Administer state and local regulations and codes for approval  
22 or disapproval of designs for on-site wastewater treatment systems;

23       (b) Issue permits for construction;

24       (c) Evaluate soils and site conditions for compliance with code  
25 requirements; and

26       (d) Perform on-site wastewater treatment design work as authorized  
27 in state and local board of health rules.

28       NEW SECTION.   **Sec. 13.** The following acts or parts of acts are  
29 each repealed:

30       (1) RCW 18.210.090 (Practice permits--License) and 1999 c 263 s 10;  
31 and

32       (2) RCW 18.210.210 (Chapter evaluation--Financial assurance) and  
33 1999 c 263 s 23.

--- END ---