

# HOUSE BILL REPORT

## SSB 5838

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### As Passed House-Amended:

April 14, 1997

**Title:** An act relating to sewage disposal.

**Brief Description:** Requiring health boards to respond to requests for on-site sewage permits in a timely manner.

**Sponsors:** Senate Committee on Agriculture & Environment (originally sponsored by Senators Swecker, Morton and Winsley).

### Brief History:

#### Committee Activity:

Agriculture & Ecology: 3/27/97, 4/3/97 [DPA];  
Appropriations: 4/5/97 [DPA(APP w/o AGECS)].

#### Floor Activity:

Passed House-Amended: 4/14/97, 89-8.

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### HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

**Majority Report:** Do pass as amended. Signed by 10 members: Representatives Chandler, Chairman; Parlette, Vice Chairman; Schoesler, Vice Chairman; Linville, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Cooper; Delvin; Koster; Mastin and Sump.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Regala.

**Staff:** Bill Lynch (786-7092).

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### HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass as amended by Committee on Appropriations and without amendment by Committee on Agriculture & Ecology. Signed by 31 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority

Member; Benson; Carlson; Chopp; Cody; Cooke; Crouse; Dyer; Grant; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McMorris; Parlette; Poulsen; Regala; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

**Staff:** Beth Redfield (786-7130).

**Background: On-Site System Permitting:** There are a variety of devices and systems used for the on-site treatment of sewage. Under state Department of Health (DOH) regulations, an on-site system other than a conventional gravity system or conventional pressure distribution system is regulated as an "alternative system." The regulation of alternative and conventional on-site systems is undertaken at both the state and local levels.

The state has adopted statewide minimum standards for the siting and operation of on-site systems. Local health agencies must administer programs consistent with these standards but may exceed the standards to address local circumstances.

For alternative systems, the Department of Health with the assistance of an advisory committee called the Technical Review Committee (TRC), approves specific proprietary systems or devices. The TRC is created by state rule and comprises representatives of various state and local health agencies, engineering and on-site system design and installation firms, product manufacturers, and others.

Once a device is state-approved, it is added to a list of approved devices that becomes available to engineers and designers who develop site-specific proposals for an on-site system. These proposals are reviewed and may be approved or rejected by the local health agency.

**Water-Sewer District Formation:** To form a new water-sewer district, 10 percent of the registered voters who voted in the last municipal general election residing in the area must petition the county legislative authority. If the county, after hearing, determines that the district will be conducive to the public health and welfare, formation of the district is submitted to the voters. There is no method for forming a water-sewer district in a development that does not yet have residents.

**Local Government Sewage Disposal:** Counties, cities, water-sewer districts, public utility districts, and port districts are all authorized to provide and manage systems of sewerage. The definition of what may be included within a system of sewerage differs between these units of local government. Water-sewer districts are specifically authorized to adjust rates and charges for low-income persons, but this express authority is not contained within the other local government laws.

Counties are authorized to establish aquifer protection districts and shellfish protection districts, which may include elements for monitoring on-site septic systems. It is unclear whether a county may administer these districts together as a single entity.

Failing septic systems are regarded as a significant contributor to water pollution in different areas of the state. It is suggested that clarifying the authority of certain local governments to operate on-site septic system monitoring and maintenance programs as part of their utility services will provide local governments with additional tools for addressing these water quality problems.

The amount of new technology evolving in the area of on-site septic systems has increased interest in having people involved in related occupations to be trained and certified.

**Summary of Bill: On-Site System Permitting:** A local health officer must respond to an applicant for an on-site sewage system permit within 30 days after receiving a completed application. The application may be approved, denied, or identified as pending. Any denial must be for cause and based upon public health and environmental protection concerns, including concerns regarding the ability to operate and maintain the system, or conflicts with other existing laws or regulations. The applicant must be provided with a written justification for the denial, along with an explanation of the appeal process.

If an application to install an on-site system is identified as pending, the local health officer must provide the applicant with written justification that site-specific conditions or circumstances require more time for a decision. The local health officer also must estimate the time required for a decision to be made.

The local health officer may not limit the number of alternative systems allowed within the jurisdiction without cause. Any limitation must be based on environmental protection concerns, including concerns about the ability to operate and maintain the system, or conflicts with other laws. The limitation must be justified in writing and an explanation of the appeal process must be included.

The DOH must include one person familiar with the operation and maintenance of certified proprietary devices on the TRC. The DOH must review and update the technical guidelines and standards for alternative on-site systems every three years, with the first review to be completed by January 1, 1999.

**Water-Sewer District Formation:** An alternative method for forming a water-sewer district is established for developments that do not yet have any residents. At the written request of 60 percent of the owners of the area to be included in the proposed district, the county legislative authority may authorize the formation of a water-sewer district to serve a new development. The district must be in compliance with the

local comprehensive plan and any local plan for provision of water or sewerage facilities. The initial commissioners are appointed by the county legislative authority, and serve until 75 percent of the development is occupied. The water-sewer district may be subsequently transferred to a city or county or dissolved at the request of 60 percent of the owners of the area in the district.

Local Government Sewage Disposal: The definition of a system of sewerage is standardized between counties, cities, and water-sewer districts. Port districts may exercise all the powers relating to systems of sewerage authorized for cities. A system of sewerage includes the authority to conduct on-site inspection and maintenance services, point and nonpoint water pollution monitoring programs that are directly related to the sewerage facilities and programs operated by the local government, and public restroom facilities.

The units of local government authorized to provide systems of sewerage may provide assistance to aid low-income persons in connection with these services. Rates or charges for on-site inspection and maintenance services may not be imposed on the development, construction, or reconstruction of property.

A unit of local government authorized to provide a system of sewerage may not provide on-site sewage inspection, pumping services, or other maintenance or repair services using its employees unless the on-site system is connected by a publicly-owned collection system to the local government's sewerage system, and the on-site system represents the first step in the sewage disposal process. The authority of state or local health officers to carry out their responsibilities is unaffected.

Before adopting on-site inspection and maintenance utility services, or incorporating residences into an on-site inspection and maintenance or sewer utility, the local government must notify all residences in the proposed service area of the proposed service area, information on estimated rates or charges, and a public hearing.

After July 1, 1998, any requirements for pumping the septic tank of an on-site sewage system must be based, among other things, on actual measurement of accumulation of sludge and scum by a trained inspector, trained owner's agent, or trained owner. Training must occur in a program approved by the State Board of Health or by a local health officer.

The DOH is required to convene a workgroup to make recommendations to the Legislature for the development of a certification program for different occupations involved with on-site septic systems. The workgroup must study certification of persons who pump, install, design, perform maintenance, inspect, or regulate any of the above listed functions. The work group must make recommendations regarding appropriate bonding levels and other standards for the various occupations for which certification will be recommended. The workgroup must also examine the

development of a risk analysis pertaining to the installation and maintenance of different types of septic systems for different areas of the state. The workgroup must make its findings and recommendations available to the Senate Agriculture and Environment Committee and the House Agriculture and Ecology Committee by January 1, 1998.

The workgroup consists of representatives of local government, the various occupations being considered for certification, the DOH, engineers, residential construction, the Puget Sound Water Quality Action Team, and two members of the general public. Members are appointed by the Governor. The DOH representative acts as the chair of the workgroup. Staff support is provided by the DOH.

**Appropriation:** None.

**Fiscal Note:** Requested on March 24, 1997.

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

**Testimony For:** (Agriculture & Ecology) New alternative technology allows lots that wouldn't otherwise be developed to be developed. This will increase the amount of affordable housing. Trained operators are needed to maintain the new types of septic systems. This will remove some artificial barriers by local health officers. This will assist local governments in providing systems of sewerage and help reduce water pollution.

(Appropriations) The bill will facilitate the use of state approved on-site sewage systems, making them a part of the utility. The appropriation is needed to get training in place for approval of these systems.

**Testimony Against:** (Agriculture & Ecology) None.

(Appropriations) None.

**Testified:** (Agriculture & Ecology) Senator Dan Swecker, prime sponsor; Brian Minnich and Ed Stanton, Building Industry Association of Washington; Ron Enman, Northwest Cascade and Washington On-site Sewage Association; Duke Schaub, Association of General Contractors; Hugh Spitzer, Puget Sound Water Quality Association and Puget Sound Action Team; (in favor). Bill White, Department of Health, and Don Leaf, Washington State Association of Public Health (neutral).

(Appropriations) Dick Ducharme, Building Industry Association of Washington; and Paul Parker, Washington State Association of Counties.