

HOUSE BILL REPORT

2SHB 2098

As Passed House:

March 12, 1999

Title: An act relating to professional designers of on-site wastewater treatment systems.

Brief Description: Regulating designers of on-site wastewater treatment systems.

Sponsors: By House Committee on Agriculture & Ecology (Originally sponsored by Representatives G. Chandler and Linville).

Brief History:

Committee Activity:

Agriculture & Ecology: 2/25/99, 2/26/99 [DPS];

Appropriations: 3/4/99, 3/8/99 [DP2S(w/o sub AGECE)].

Floor Activity:

Passed House: 3/12/99, 96-0.

Brief Summary of Second Substitute Bill

- A license is required for persons who design on-site wastewater treatment systems. Inspectors of on-site wastewater treatment systems must be certified to have the same level of knowledge required for the designers of the on-site wastewater treatment systems.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives G. Chandler, Republican Co-Chair; Linville, Democratic Co-Chair; Cooper, Democratic Vice Chair; Koster, Republican Vice Chair; Anderson; B. Chandler; Delvin; Fortunato; Grant; Reardon; Schoesler; Stensen; Sump and Wood.

Staff: Bill Lynch (786-7092).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Agriculture & Ecology. Signed by 31 members: Representatives Huff, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Alexander, Republican Vice Chair; Doumit, Democratic Vice Chair; D. Schmidt, Republican Vice Chair; Barlean; Benson; Boldt; Carlson; Clements; Cody; Crouse; Gombosky; Grant; Kagi; Keiser; Kenney; Lambert; Linville; Lisk; Mastin; McIntire; McMorris; Mulliken; Parlette; Regala; Rockefeller; Ruderman; Sullivan; Tokuda and Wensman.

Staff: Mark Matteson (786-7145).

Background:

The Legislature enacted legislation during the 1997 legislative session that directed the Department of Health to convene a work group to make recommendations regarding, among other items, the development of a certification program for occupations related to on-site septic systems. In response to the recommendations contained in this work group's report to the Legislature, the Legislature adopted legislation during the 1998 legislative session directing the Department of Licensing and the Department of Health to convene an advisory committee for the purpose of developing legislation to establish licensing requirements for the designers of on-site septic systems, and a proposed certification program for inspectors of on-site septic systems that tests the same knowledge and competency required for licensed designers of on-site septic systems.

The advisory committee has delivered a report to the Legislature containing proposed legislation to license designers of on-site wastewater treatment systems and to certify inspectors of on-site wastewater treatment systems.

Summary of Bill:

Licensing of On-site Wastewater System Designers:

A licensing process is established in the Department of Licensing for the designers of on-site wastewater treatment systems. On or after July 1, 2000, any person who is authorized by a local health jurisdiction to design on-site wastewater treatment systems may obtain a practice permit by applying to the Board of Registration for Professional Engineers and Land Surveyors (board) with the appropriate fee. The practice permit allows the designer to provide design services within those local health jurisdictions where the permit holder had authorization to practice as of July 1, 2000. Local health jurisdictions may no longer administer local license programs for designers of on-site

wastewater treatment systems after July 1, 2000. The practice permit may be renewed annually. All practice permits expire on June 30, 2003.

On July 1, 2003, any person who designs on-site wastewater treatment systems must be licensed. The license allows a designer of these systems to perform design services in any county in the state. After July 1, 2003, it is a gross misdemeanor for anyone who is not otherwise exempted to perform design services for on-site wastewater treatment systems without a license, purport to be qualified to perform these design services without a license, attempt to use the license or seal of another person, attempt to use a revoked or suspended license, or attempt to use false or fraudulent credentials.

A license to design on-site wastewater treatment systems is obtained by passing a written examination administered by the board and by meeting other minimum requirements. The minimum requirements which must be met to obtain a license are: having a high school diploma or its equivalent; and having at least four years of experience, as approved by the board, that shows increasing responsibility for the design of wastewater treatment systems. The experience must include site soil assessment, hydraulics, topographic delineations, use of specialized treatment processes and devices, microbiology, and construction process. Two years of college level course work in those subjects, or completion of a two-year curriculum in on-site treatment systems, technology, and applications, as approved by the board, may be substituted for up to two years of the experience requirement.

Applicants for a license must provide at least two verifications of experience from licensed engineers, on-site wastewater treatment designers licensed under these provisions, or state or local regulatory officials in the on-site wastewater treatment field who have direct knowledge of the applicant's qualifications and work experience. Experience in on-site design, inspection, and/or construction activities may satisfy the necessary experience requirements. The experience may only be considered to the extent that it can be independently verified by the board.

Any person who holds a license from outside the state authorizing the person to provide design services for on-site wastewater treatment systems may be granted a license without examination if the requirements for the license the person holds is determined by the board to be equal to or greater than the conditions for issuing a license in this state.

The board must require licensees to satisfy continuing professional development or continuing education requirements. The board may require licensees to undergo peer review of work products and periodic reexamination.

Licenses are not required for a licensed professional engineer who performs the design work in accordance with this chapter; or an employee or subordinate of a licensed professional engineer or a licensed designer of on-site wastewater treatment systems, if

the work is performed under the direct supervision of the engineer or licensed designer and the work does not include final design decisions.

Activities which constitute unprofessional conduct are specified. Upon finding a violation, the board has the authority to reprimand an applicant, licensee, or practice permit holder, including imposing a fine not to exceed \$1,000 for each violation. The board may also suspend, revoke, or refuse to renew a license or practice permit, or deny an application for a practice permit or license. The board must comply with provisions under the Administrative Procedure Act pertaining to adjudicative proceedings when addressing violations.

An advisory committee is created consisting of five members appointed by the director who are experienced in the design, inspection, construction, and/or maintenance of on-site wastewater treatment systems, and who are eligible for licensure. Each member must be a resident of the state and have at least seven years of continuous experience with these systems immediately prior to appointment. The advisory committee makes recommendations to the board regarding rules to implement this legislation, developing the material content of the examinations, review of complaints and investigations pertaining to the practice of designing these systems, and other duties deemed necessary by the director or board.

Local Health Inspectors Certification of Competency:

Local boards of health must ensure that individuals who inspect on-site wastewater treatment systems, or who review such systems, are qualified in the technology and application of on-site sewage treatment principles. A certificate of competency issued by the Department of Licensing demonstrates that an individual is competent in the engineering aspects of on-site wastewater treatment system technology.

Local health jurisdiction employees who review, inspect, or approve the design and construction of on-site wastewater treatment systems must obtain a certificate of competency by passing a written examination administered for licensing designers. The local health director, or the director's designee, must request the board to allow the local health employee to take the exam.

The board must require holders of certificates of competency to satisfy continuing professional development or continuing education requirements. The board may require certificate holders to undergo peer review of work products and periodic reexamination.

Applications for a certificate of competency may not be accepted before July 1, 2000. The certificate is renewable upon payment of a fee.

A certificate of competency does not allow the employee to offer or provide on-site wastewater treatment design services. Local health jurisdictions are not limited in their current authority to perform on-site design services.

Operating Account, Program Evaluation, Work Group, and Definitions:

All fees and fines collected must be paid into the professional engineers' account. Moneys in the account may only be spent after appropriation and must be used to administer and carry out the licensing and certification requirements. The Director of Licensing must prepare a biennial budget request based upon the anticipated cost of administering the licensing and certification activities.

By July 1, 2005, the Department of Licensing and the Department of Health must convene a review committee to evaluate the licensing and certification programs.

By July 1, 1999, the Director of Licensing must convene a work group to study the financial assurance of on-site wastewater treatment system practitioners through bonding, insurance, risk pools, or similar methods. The work group must provide its recommendations to the director by December 1, 1999. The director must forward these recommendations to the Governor.

An "on-site wastewater treatment system" is defined as an integrated system of components that convey, store, treat, and/or provide subsurface soil treatment and disposal of wastewater effluent on the property where it originates or on and adjacent or other property. It includes piping, treatment devices, other accessories, and soil underlying the disposal component of the initial and reserve areas, for on-site wastewater treatment under 3500 gallons per day when not connected to a public sewer system.

Appropriation: None.

Fiscal Note: Available for first substitute bill.

Effective Date: Ninety days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Testimony For: (Agriculture & Ecology) (Original Bill) This is urgently needed. The old ways of doing business are inadequate. This is important consumer protection legislation. The continuing education requirement is good. Local public health officials support this legislation.

(Appropriations) None.

Testimony Against: (Agriculture & Ecology) (Original bill) There should not be an exemption from the exam for sanitarians or resident owners.

(Appropriations) None.

Testified: (Agriculture & Ecology) (In support) Carl Zimmer, Washington On Site Sewage Association; Paul Gruver, private designer; Sharon Nelson, general public representative on work group; George Twiss, Department of Licensing; Bill White, Department of Health; Bruce Wulkan, Puget Sound Action Team; Larry Fay, Jefferson County Health Department; and Dick Ducharme, Building Industry Association of Washington.

(Appropriations) No Testimony.