

# HOUSE BILL REPORT

## HB 2929

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### As Reported By House Committee On:

Agriculture & Ecology  
Appropriations

**Title:** An act relating to on-site sewage disposal systems.

**Brief Description:** Modifying requirements concerning on-site sewage disposal systems.

**Sponsors:** Representatives McDonald and Linville.

### Brief History:

#### Committee Activity:

Agriculture & Ecology: 2/4/00 [DPS];  
Appropriations: 2/7/00, 2/8/00 [DP2S(w/o sub AGECE)].

#### Brief Summary of Second Substitute Bill

- The Department of Health must develop a model that describes roles and responsibilities of different on-site sewage disposal system professionals and homeowners with regard to those systems.
- The department must also develop recommendations for establishing a state-wide system of risk assessment data for these on-site systems.

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### HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 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).

### Background:

In 1999, the Legislature enacted 2SSB 5821 to require the licensing of on-site wastewater designers and the certification of inspectors of these on-site systems. A section of this legislation required the director of the Department of Licensing to convene a work group to study the financial assurance of on-site wastewater system practitioners through bonding, insurance, risk pools, or similar methods. The group submitted its report and recommendations to the Legislature on December 1, 1999. Some of the recommendations included the development of a model program that describes the responsibilities of designers, installers, and homeowners with regards to on-site sewage disposal systems, and the development of a statewide system of risk assessment data for on-site sewage disposal systems.

Failing on-site sewage disposal systems have been identified as a major concern for pollution. There is no current requirement for portals to be installed in a drain field, sand filter, or mound when these are dug open for inspection, to ensure that subsequent monitoring and inspections are easier. The definition of a "failed" on-site sewage disposal system does not include a system that has become saturated, as exhibited by a pumped septic tank filling with backflow from the drain field, sand filter, or mound. Situations have occurred where an on-site sewage disposal professional has intentionally discharged effluent onto the ground or into the water, and the local board of health has not suspended the professional's license. It is unclear under current statute whether a report from an on-site sewage disposal system professional indicating that a system has failed, constitutes probable cause for an administrative search warrant if access to the property for an inspection of the system is denied.

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### **Summary of Substitute Bill:**

The Department of Health is required to develop a model program that describes the authorities, roles, and responsibilities of designers and installers of on-site sewage disposal systems, and of homeowners. The model program will be used in the future development of a cost-effective performance-based recovery system for consumers of on-site sewage disposal systems. The model must give consideration to long-term performance warranties provided to the owners of these on-site systems. Design criteria contained in the model should address peak flow limitations. The department must involve local health jurisdictions, owners of on-site sewage disposal systems, designers and installers of on-site sewage disposal systems, and builders in the development of the model program. The department must report its recommendations and model to the Office of Financial Management and the appropriate legislative committees by July 1, 2001.

The Department of Health is directed to develop recommendations for establishing a statewide system of risk assessment data for on-site sewage disposal systems, and how this information will be used by local health jurisdictions for siting, design, and

inspection protocols. The department must consult with local health jurisdictions in developing the recommendations. The recommendations must address how local governments will maintain and transmit information to the department related to on-site sewage disposal systems. Local boards of health are not required to collect information concerning why on-site sewage disposal systems failed prior to the development of the system.

Information that must be considered in developing recommendations for the statewide system of risk assessment data include: the number and types of on-site sewage disposal systems; the frequency of repair by geographic region; factors leading to repair by general category; and funding for the state and local governments to develop and maintain the data system. The recommendations must be submitted to the Office of Financial Management and the appropriate legislative committees by January 1, 2001.

If a local health officer requires a drain field, sand filter, or mound portion of an on-site sewage disposal system to be dug open and examined, the local health officer must require the installation of an inspection portal or portals to monitor the drain field, sand filter, or mound. An on-site sewage disposal system installed after the effective date of this legislation must contain an inspection portal or portals in any drain field sand filter, or mound; and must be equipped with appropriately sealed watertight risers in any septic tank openings requiring maintenance.

The statutory definition of a "failure" of an on-site sewage disposal system is amended to include a drain field, sand filter, or mound that has become saturated so that it is unable to absorb wastewater. Saturation may be exhibited by a tank filling from the backflow of a drain field, sand filter, or mound after the tank has been pumped. An on-site sewage disposal system that is temporarily inoperable due to the occurrence of a flood is not "saturated" within the meaning of the definition.

If a local health officer determines that an on-site sewage disposal system professional other than a designer has intentionally discharged effluent onto the ground, or into surface or ground water, or has installed a bypass to an on-site sewage disposal system that results in such a discharge, the local board of health must suspend the professional's license for a minimum of 30 days. If a local health officer determines that a designer has caused such a discharge, the local health officer must report it to the Board of Registration for Professional Engineers and Land Surveyors. The board must suspend the designer's license or practice permit pursuant to an adjudicative proceeding. The penalty does not apply when the discharge has been authorized by the local health officer as the only realistic method of final disposal of treated effluent.

If a local health officer receives a report that an on-site disposal system has failed from the pumper of an on-site sewage disposal system, a maintenance specialist, or

another on-site sewage disposal system professional, then the local health officer, environmental health director, or equivalent officer may apply for an administrative search warrant to inspect the system if the person occupying the property refuses access to the property. The report on the failed system constitutes one form of probable cause for the issuance of the warrant.

**Substitute Bill Compared to Original Bill:** Several technical amendments are made, including adding installers to the group of people that the Department of Health must involve in the development of a model program that desires the authorities, roles, and responsibilities of designers, installers, and homeowners.

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**Appropriation:** None.

**Fiscal Note:** Requested on January 31, 2000.

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

**Testimony For:** Developing a model to describe the roles and responsibilities of designers, installers, and homeowners will help ensure accountability when on-site sewage disposal systems fail. A number of systems recently failed in one area, and no one was held responsible. This will help address failing septic systems and provide greater protection to shellfish beds.

**Testimony Against:** None.

**Testified:** (In support) Representative Joyce McDonald, prime sponsor; Willy O'Neil, Associated General Contractors; Tom Rogers, NorthWest Cascade, Inc.; and Bruce Wulkan, Puget Sound Action Team.

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## 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 32 members: Representatives Huff, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Barlean, Republican Vice Chair; Doumit, Democratic Vice Chair; D. Schmidt, Republican Vice Chair; Alexander; Benson; Boldt; Clements; Cody; Crouse; Gombosky; Grant; Kagi; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McIntire; McMorris; Mulliken; Parlette; Regala; Rockefeller; Ruderman; Sullivan; Sump; Tokuda and Wensman.

**Staff:** Amy Hanson (786-7118).

**Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Agriculture & Ecology:** The second substitute bill removes the section that allowed a local health officer to apply for an administrative warrant if the officer received a report regarding an on-site sewage disposal failure from a sewage professional. Additionally, the bill is null and void unless funded in the budget.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Second Substitute Bill:** 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:** None.

**Testimony Against:** None.

**Testified:** None.