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**SUBSTITUTE HOUSE BILL 2527**

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**State of Washington                      64th Legislature                      2016 Regular Session**

**By** House Environment (originally sponsored by Representatives Peterson, Goodman, and Fitzgibbon)

READ FIRST TIME 02/01/16.

1            AN ACT Relating to ensuring the ongoing viability of safe on-site  
2 sewage systems as a component of statewide sewage management through  
3 the implementation of on-site program management plans; amending RCW  
4 70.05.190, 70.118A.030, 70.118A.070, 70.118A.020, 70.118A.080,  
5 70.118A.050, and 70.118A.060; adding a new section to chapter 70.118A  
6 RCW; and creating a new section.

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

8            NEW SECTION.    **Sec. 1.** (1) The legislature finds that there are  
9 an estimated six hundred thousand on-site sewage systems in the Puget  
10 Sound area alone. These systems are a critical part of the state's  
11 wastewater treatment infrastructure.

12            (2) The legislature further finds that on-site sewage systems are  
13 an effective method of treating wastewater, but need appropriate  
14 operation and maintenance to adequately treat wastewater and operate  
15 in a safe manner. Failing systems not only contribute to the  
16 pollution of Puget Sound and other regional waters, but they can also  
17 pose a threat to human health and the personal safety of families  
18 relying on the systems for sewage treatment. Local health officers  
19 rely on the information developed through accurate, up-to-date on-  
20 site program management plans to ensure that on-site systems are

1 properly maintained and to ensure the identification and timely  
2 repair of failing systems.

3 (3) The legislature further finds that the oversight, management,  
4 and enforcement of operation and maintenance requirements for on-site  
5 sewage systems is a challenging and expensive responsibility for  
6 local health jurisdictions. State laws and rules requiring local  
7 health jurisdictions to develop and implement on-site program  
8 management plans that ensure all on-site sewage systems are  
9 appropriately operated, maintained, and repaired are expensive  
10 undertakings and, as such, the efforts of local health jurisdictions  
11 to successfully comply with these state laws and rules, and to  
12 forward the restoration and protection of Puget Sound, are greatly  
13 benefited by legislative investment.

14 (4) The legislature further finds that homeowners ultimately bear  
15 the cost of repairing and replacing on-site sewage systems when they  
16 reach the end of their useful and safe life. This can be a great  
17 expense to a homeowner and the cost can discourage proper system  
18 management. An accessible, unified, self-sustaining low-interest loan  
19 program to help owners address failing systems would benefit the  
20 entire region, support homeowners that rely on on-site sewage  
21 systems, ensure the personal safety of the families relying on on-  
22 site sewage systems, and help ensure the continued use of on-site  
23 sewage systems as a component of statewide sewage management.

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.118A  
25 RCW to read as follows:

26 (1) The department and any interested counties, in partnership  
27 with the department of ecology, may capitalize and administer a  
28 sustainable unified low-interest loan program to assist homeowners  
29 with the repair and replacement of on-site sewage systems and to  
30 ensure the full implementation of a county's on-site program  
31 management plan and the preservation of public safety in the  
32 participating county.

33 (2) The department, interested counties, and the department of  
34 ecology may utilize any appropriate funding source for the  
35 implementation of the low-interest loan program and must mutually  
36 develop the administration of the program in the manner that is  
37 deemed the most efficient, which may include administrating the  
38 program through the department of ecology's water quality financial  
39 assistance program.

1       **Sec. 3.** RCW 70.05.190 and 2012 c 175 s 1 are each amended to  
2 read as follows:

3       (1) ~~((A))~~ Except as provided in this section, the local board of  
4 health in the twelve counties bordering Puget Sound may collect from  
5 the property owner an annual charge or a rate for each on-site sewage  
6 system located in the basin of the Puget Sound, as that term is  
7 defined in RCW 90.71.010, for the purpose of implementing ~~((an))~~ the  
8 on-site ~~((sewage))~~ program management plan ~~((may~~

9       ~~(a) Impose and collect reasonable rates or charges in an amount~~  
10 ~~sufficient to pay for the actual costs of administration and~~  
11 ~~operation of the on-site sewage program management plan; and~~

12       ~~(b))~~ required under chapter 70.118A RCW and ensuring the  
13 preservation of public health and safety as it relates to the  
14 operation of on-site sewage systems.

15       (2) A local board of health may collect the charge or rate  
16 imposed under this section in areas of a county located outside the  
17 Puget Sound basin if a portion of the county is within the Puget  
18 Sound basin.

19       (3) A local board of health may contract with the county  
20 treasurer to collect the ~~((rates or charges imposed))~~ charge or rate  
21 authorized under this section in accordance with RCW 84.56.035.

22       ~~((+2))~~ (4) A local board of health may not collect the charge or  
23 rate authorized under this section from a person who is exempt from  
24 paying property taxes under RCW 84.36.381.

25       (5) In executing the provisions in subsection (1) of this  
26 section, a local board of health does not have the authority to  
27 impose a lien on real property for failure to pay ~~((rates and charges~~  
28 ~~imposed))~~ the charge and rates authorized by this section.

29       ~~((3) Nothing in this section provides a local board of health~~  
30 ~~with the ability to impose and collect rates and charges related to~~  
31 ~~the implementation of an on-site sewage program management plan~~  
32 ~~beyond those powers currently designated under RCW 70.05.060(7).))~~

33       (6) County legislative authorities may use multiple revenue  
34 sources to finance activities and services that address overlapping  
35 nonpoint pollution needs, such as water quality monitoring or  
36 pollution identification and correction, and any overlapping public  
37 safety needs as they relate to the operation of on-site sewage  
38 systems.

1       **Sec. 4.** RCW 70.118A.030 and 2006 c 18 s 3 are each amended to  
2 read as follows:

3       ~~((By July 1, 2007,))~~ (1) The local health officers of health  
4 jurisdictions in the twelve counties bordering Puget Sound shall  
5 develop a written on-site program management plan to provide guidance  
6 to the local health jurisdiction.

7       (2)(a) Except as otherwise provided in (b) of this subsection,  
8 local health officers must update on-site program management plans  
9 and submit the updated plans to the department for review and  
10 approval under RCW 70.118A.070 at least once every five years to  
11 implement local priorities and program requirements and standards  
12 identified in this chapter and any rules adopted by the board.

13       (b) The department may determine a schedule for the update and  
14 review of on-site program management plans that differs from the  
15 five-year schedule provided in (a) of this subsection or excuse a  
16 local health officer from the requirement to complete an update if  
17 the department determines that state funding is not available to  
18 support a scheduled update.

19       **Sec. 5.** RCW 70.118A.070 and 2006 c 18 s 7 are each amended to  
20 read as follows:

21       (1)(a) The on-site program management plans of local health  
22 jurisdictions required under RCW 70.118A.030 must be submitted to the  
23 department ~~((by July 1, 2007,))~~ and be reviewed for approval to  
24 determine if they ~~((contain all necessary elements. The department~~  
25 shall provide in writing to the local board of health its review of  
26 the completeness of the plan)) are adequate to protect public health  
27 and safety, include procedures for tracking failure rates as required  
28 in subsection (3) of this section, and fulfill the minimum on-site  
29 program management plan requirements and standards established by the  
30 board by rule.

31       (b) The board may adopt additional criteria by rule for approving  
32 on-site program management plans~~((-))~~; however, any additional  
33 criteria may not take effect until one year after it is adopted.

34       (2) In reviewing the on-site ~~((strategy component of the))~~  
35 program management plan, the department shall ensure that:

36       (a) All required elements, including designation of any marine  
37 recovery area and the preservation of public health and safety in the  
38 operation of systems, have been addressed; and

1 (b) The submitting local health jurisdiction has presented a  
2 sufficient, reliable, and reasonable strategy to fund the  
3 implementation of the on-site program management plan that is  
4 considered in the overall context of a county's public health program  
5 and does not diminish other local public health priorities.

6 (3) The on-site program management plans of local health  
7 jurisdictions required under RCW 70.118A.030 must, in addition to the  
8 other requirements of this section, include a procedure for tracking  
9 the failure rates of the different on-site sewage disposal system  
10 technologies and designs being used in a county and the reporting of  
11 that information to the department on a predictable schedule.

12 (4) Within ~~((thirty))~~ sixty days of receiving an on-site  
13 ~~((strategy))~~ program management plan, the department shall either  
14 approve the on-site ~~((strategy))~~ program management plan or provide  
15 in writing the reasons for not approving the ~~((strategy))~~ on-site  
16 program management plan and recommend changes. If the department does  
17 not approve the on-site ~~((strategy))~~ program management plan, the  
18 local health officer must amend and resubmit the on-site program  
19 management plan to the department for approval.

20 ~~((+4))~~ (5) Upon receipt of department approval or after  
21 ~~((thirty))~~ sixty days without notification, whichever comes first,  
22 the local health officer shall implement the on-site ~~((strategy))~~  
23 program management plan.

24 ~~((+5))~~ (6) If the department denies approval of an on-site  
25 ~~((strategy))~~ program management plan, the local health officer may  
26 appeal the denial to the board. The board must make a final  
27 determination concerning the denial.

28 ~~((+6))~~ (7) The department shall assist local health  
29 jurisdictions in:

30 (a) Developing written on-site program management plans required  
31 by RCW 70.118A.030;

32 (b) Identifying reasonable methods for finding unknown systems;  
33 ~~((and))~~

34 (c) Developing or enhancing electronic data systems that will  
35 enable each local health jurisdiction to actively manage all on-site  
36 sewage ~~((disposal))~~ systems within their jurisdictions, with priority  
37 given to those on-site sewage ~~((disposal))~~ systems that are located  
38 in or which could affect designated marine recovery areas; and

1 (d) Developing best practices for ensuring the safe operation of  
2 on-site sewage disposal systems, including the design and maintenance  
3 of on-site sewage system risers and lids.

4 **Sec. 6.** RCW 70.118A.020 and 2006 c 18 s 2 are each amended to  
5 read as follows:

6 The definitions in this section apply throughout this chapter  
7 unless the context clearly requires otherwise.

8 (1) "Board" means the state board of health.

9 (2) "Department" means the department of health.

10 (3)(a) "Failing" means a condition of an existing on-site sewage  
11 disposal system or component that threatens the public health by:

12 (i) Inadequately treating sewage(~~(, or by)~~); or

13 (ii) Creating a potential for direct or indirect contact between  
14 sewage and the public.

15 (b) Examples of a failing on-site sewage disposal system include:

16 ~~((a))~~ (i) Sewage on the surface of the ground;

17 ~~((b))~~ (ii) Sewage backing up into a structure caused by slow  
18 soil absorption of septic tank effluent;

19 ~~((c))~~ (iii) Sewage leaking from a sewage tank or collection  
20 system;

21 ~~((d))~~ (iv) Cesspools or seepage pits where evidence of  
22 groundwater or surface water quality degradation exists;

23 ~~((e))~~ (v) Inadequately treated effluent contaminating  
24 groundwater or surface water; ~~((f))~~ and

25 ~~((g))~~ (vi) Noncompliance with standards stipulated on the  
26 permit.

27 (4) "Local health officer" or "local health jurisdiction" means  
28 the local health officers and local health jurisdictions in the  
29 following counties bordering Puget Sound: Clallam, Island, Kitsap,  
30 Jefferson, Mason, San Juan, Seattle-King, Skagit, Snohomish, Tacoma-  
31 Pierce, Thurston, and Whatcom.

32 (5) "Marine recovery area" means an area of definite boundaries  
33 where the local health officer, or the department in consultation  
34 with the health officer, determines that additional requirements for  
35 existing on-site sewage disposal systems may be necessary to reduce  
36 potential failing systems or minimize negative impacts of on-site  
37 sewage disposal systems.

38 (6) "Marine recovery area on-site strategy" or "on-site strategy"  
39 means a local health jurisdiction's on-site sewage disposal system

1 strategy required under RCW 70.118A.050. This strategy is a component  
2 of the on-site program management plan required under RCW  
3 70.118A.030.

4 (7) "On-site sewage disposal system" means an integrated system  
5 of components, located on or nearby the property it serves, that  
6 conveys, stores, treats, or provides subsurface soil treatment and  
7 dispersal of sewage. It consists of a collection system, a treatment  
8 component or treatment sequence, and a soil dispersal component. An  
9 on-site sewage disposal system also refers to a holding tank sewage  
10 system or other system that does not have a soil dispersal component.  
11 For purposes of this chapter, the term "on-site sewage disposal  
12 system" does not include any system regulated by a water quality  
13 discharge permit issued under chapter 90.48 RCW.

14 (8) "Unknown system" means an on-site sewage disposal system that  
15 was installed without the knowledge or approval of the local health  
16 jurisdiction, including those that were installed before such  
17 approval was required.

18 (9) "Unsafe system" means a condition of an existing on-site  
19 sewage disposal system that threatens public safety by creating a  
20 condition where a person could be injured or killed because a  
21 component or part of an on-site sewage disposal system is  
22 malfunctioning or missing. Examples of an unsafe system include, but  
23 are not limited to, missing or malfunctioning electrical junction box  
24 covers, lids, or risers.

25 **Sec. 7.** RCW 70.118A.080 and 2006 c 18 s 8 are each amended to  
26 read as follows:

27 (1) The department shall enter into a contract with each local  
28 health jurisdiction subject to the requirements of this chapter to  
29 implement plans developed under this chapter, ~~((and))~~ to develop or  
30 enhance electronic data systems required by this chapter, and to  
31 enhance the public safety as it relates to the operation of on-site  
32 sewage disposal systems. The contract must include state funding  
33 assistance to the local health jurisdiction from funds appropriated  
34 to the department for this purpose.

35 (2) The contract must require, at a minimum, that within a marine  
36 recovery area, the local health jurisdiction:

- 37 (a) Show progressive improvement in finding failing systems;  
38 (b) Show progressive improvement in working with the owners of  
39 on-site sewage disposal ((system-owners)) systems that qualify as

1 failing systems, unsafe systems, or both to make needed system  
2 repairs;

3 (c) Is actively taking steps to find previously unknown systems  
4 and ensuring that they are inspected as required and repaired if  
5 necessary;

6 (d) Show progressive improvement in the percentage of on-site  
7 sewage disposal systems that are included in an electronic data  
8 system; and

9 (e) Of those on-site sewage disposal systems in the electronic  
10 data system, show progressive improvement in the percentage that have  
11 had required inspections.

12 (3) The contract must also include provisions for state  
13 assistance in updating the plan. ~~((Beginning July 1, 2012,))~~ The  
14 contract may adopt revised compliance dates, including those in RCW  
15 70.118A.050, where the local health jurisdiction has demonstrated  
16 substantial progress in updating the on-site strategy.

17 ~~((4) The department shall convene a work group for the purpose  
18 of making recommendations to the appropriate committees of the  
19 legislature for the development of certification or licensing of  
20 maintenance specialists. The work group shall make its recommendation  
21 with consideration given to the 1998 report to the legislature  
22 entitled "On-Site Wastewater Certification Work Group" as it pertains  
23 to maintenance specialists. The work group may give priority to  
24 appropriate levels of certification or licensure of maintenance  
25 specialists who work in the Puget Sound basin.))~~

26 **Sec. 8.** RCW 70.118A.050 and 2006 c 18 s 5 are each amended to  
27 read as follows:

28 (1) The local health officer of a local health jurisdiction where  
29 a marine recovery area has been proposed under RCW 70.118A.040 shall  
30 develop and approve a marine recovery area on-site strategy that  
31 includes designation of marine recovery areas to guide the local  
32 health jurisdiction in developing and managing all existing on-site  
33 sewage disposal systems within marine recovery areas within its  
34 jurisdiction. The on-site strategy must be a component of the program  
35 management plan required under RCW 70.118A.030. The department may  
36 grant an extension of twelve months where a local health jurisdiction  
37 has demonstrated substantial progress toward completing its on-site  
38 strategy.

1       (2)(a) An on-site strategy for a marine recovery area must  
2 specify how the local health jurisdiction will (~~by July 1, 2012, and~~  
3 ~~thereafter,~~) find:

4       (~~(a)~~) (i) Existing failing systems and ensure that system  
5 owners make necessary repairs; and

6       (~~(b)~~) (ii) Unknown systems and ensure that they are inspected  
7 as required to ensure that they are functioning properly, and  
8 repaired, if necessary.

9       **(b) Any on-site strategies submitted as a component of an updated**  
10 **program management plan required under RCW 70.118A.030 must include**  
11 **provisions for identifying and correcting unsafe systems**  
12 **simultaneously with efforts to identify and correct failing systems.**

13       **Sec. 9.** RCW 70.118A.060 and 2006 c 18 s 6 are each amended to  
14 read as follows:

15       (1) In a marine recovery area, each local health officer shall:

16       (~~(1)~~) (a) Require that on-site sewage disposal system  
17 maintenance specialists, septic tank pumpers, or others performing  
18 on-site sewage disposal system inspections submit reports or  
19 inspection results to the local health jurisdiction regarding any  
20 failing system or unsafe system; and

21       (~~(2)~~) (b) Develop and maintain an electronic data system of all  
22 on-site sewage disposal systems within a marine recovery area to  
23 enable the local health jurisdiction to actively manage on-site  
24 sewage disposal systems.

25       (2) In assisting development of electronic data systems under  
26 this section, the department shall work with local health  
27 jurisdictions with marine recovery areas and the on-site sewage  
28 disposal system industry to develop common forms and protocols to  
29 facilitate sharing of data. A marine recovery area on-site sewage  
30 disposal electronic data system must be compatible with all on-site  
31 sewage disposal electronic data systems used throughout a local  
32 health jurisdiction.

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