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**SUBSTITUTE HOUSE BILL 2420**

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**State of Washington**                      **65th Legislature**                      **2018 Regular Session**

**By** House Environment (originally sponsored by Representatives Hargrove and Sullivan)

READ FIRST TIME 02/02/18.

1            AN ACT Relating to state board of health rules regarding on-site  
2 sewage systems; amending RCW 70.05.074; adding a new section to  
3 chapter 43.20 RCW; and creating a new section.

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

5            NEW SECTION.        **Sec. 1.**        The legislature finds that properly  
6 functioning on-site sewage systems are an important component of the  
7 state's wastewater treatment infrastructure. In order to ensure that  
8 on-site sewage systems remain a wastewater treatment option that is  
9 economically accessible to a wide sector of the state's population,  
10 it is the intent of the legislature to ensure that only requirements  
11 that are reasonable, appropriately tailored, and necessary are  
12 imposed on the installation, operation, maintenance, or repair of on-  
13 site sewage systems.

14            NEW SECTION.        **Sec. 2.**        A new section is added to chapter 43.20  
15 RCW to read as follows:

16            (1) Rules adopted by the state board under RCW 43.20.050(3)  
17 regarding failures of on-site sewage systems must:

18            (a) Give first priority to allowing repair and second priority to  
19 allowing replacement of an existing conventional on-site sewage

1 system, consisting of a septic tank and drainfield, with a similar  
2 conventional system;

3 (b) Not impose or allow the imposition of more stringent  
4 performance requirements of equivalent on-site sewage systems on  
5 private entities than public entities; and

6 (c) Allow a system to be repaired using the least expensive  
7 alternative that meets standards and is likely to provide comparable  
8 or better long-term sewage treatment and effluent dispersal outcomes.

9 (2) Rules adopted by the state board under RCW 43.20.050(3)  
10 regarding inspections must:

11 (a) Require any inspection of an on-site sewage system carried  
12 out by a certified professional inspector or public agency to be  
13 coordinated with the owner of the on-site sewage system prior to  
14 accessing the on-site sewage system;

15 (b) Require any inspection of an on-site sewage system carried  
16 out by a certified professional inspector or responsible public  
17 agency to be authorized by the owner of the on-site sewage system  
18 prior to accessing the on-site sewage system;

19 (c) Allow, in cases where an inspection has not been authorized  
20 by a property owner, the local health jurisdiction to follow the  
21 procedures established for an administrative search warrant in RCW  
22 70.118.030; and

23 (d) Forbid local health jurisdictions from requiring private  
24 property owners to grant inspection or maintenance easements for on-  
25 site sewage systems as a condition of permit issuance for on-site  
26 sewage systems that are located on a single property and service a  
27 single dwelling unit.

28 (3)(a) Except as provided in (b) of this subsection, rules  
29 adopted by the state board under RCW 43.20.050(3) may not require or  
30 allow a local health officer to require, as the only compliance  
31 option, that any property owner obtain an inspection, monitoring, or  
32 maintenance contract or service agreement with any person in order  
33 for the property owner to receive a permit related to an on-site  
34 sewage system.

35 (b) Rules adopted by the state board must allow local health  
36 officers to require inspection, monitoring, or maintenance contracts  
37 or service agreements as a permit condition only in the following  
38 narrow instances, and only under specific circumstances where the  
39 local health officer has local, site-specific evidence to believe  
40 that water quality or shellfish growing areas are especially at risk:

1 (i) For on-site sewage systems located in any of the following  
2 areas:

3 (A) Shoreland areas, as that term is defined in chapter 90.58  
4 RCW;

5 (B) A marine recovery area or other special management area  
6 identified in a management plan required under chapter 70.118A RCW;

7 (C) Shellfish protection districts under chapter 90.72 RCW;

8 (D) Groundwater management areas that were primarily created in  
9 order to address areas where the contamination or the degradation of  
10 water quality was occurring due to land use, consistent with RCW  
11 90.44.400(2)(f); and

12 (E) Other areas designated by the local board of health, after a  
13 public hearing and an opportunity for public comment on a proposed  
14 designation, for the purpose of protecting public health and surface  
15 or groundwater where on-site sewage systems have been determined to  
16 be significant factors contributing to public health and water  
17 quality concerns;

18 (ii) For on-site sewage systems that feature technologies that  
19 may make the system especially complicated to operate or maintain or  
20 that may require special expertise to monitor, maintain, or inspect  
21 due to size and complexity, such as proprietary products; and

22 (iii) For instances in which an on-site sewage system is located  
23 on or serves multiple properties, serves three or more dwelling  
24 units, or serves another use that generates more than one thousand  
25 gallons of sewage per day.

26 **Sec. 3.** RCW 70.05.074 and 1997 c 447 s 2 are each amended to  
27 read as follows:

28 (1) The local health officer must respond to the applicant for an  
29 on-site sewage system permit within thirty days after receiving a  
30 fully completed application. The local health officer must respond  
31 that the application is either approved, denied, or pending.

32 (2) If the local health officer denies an application to install  
33 an on-site sewage system, the denial must be for cause and based upon  
34 public health and environmental protection concerns, including  
35 concerns regarding the ability to operate and maintain the system, or  
36 conflicts with other existing laws, regulations, or ordinances. A  
37 local health officer may not deny or condition a permit application  
38 related to an on-site sewage system located on a single property and  
39 servng a single dwelling unit upon the granting of an easement

1 allowing for the inspection or maintenance of the on-site sewage  
2 system. The local health officer must provide the applicant with a  
3 written justification for the denial, along with an explanation of  
4 the procedure for appeal.

5 (3) If the local health officer identifies the application as  
6 pending and subject to review beyond thirty days, the local health  
7 officer must provide the applicant with a written justification that  
8 the site-specific conditions or circumstances necessitate a longer  
9 time period for a decision on the application. The local health  
10 officer must include any specific information necessary to make a  
11 decision and the estimated time required for a decision to be made.

12 (4) A local health officer may not limit the number of  
13 alternative sewage systems within his or her jurisdiction without  
14 cause. Any such limitation must be based upon public health and  
15 environmental protection concerns, including concerns regarding the  
16 ability to operate and maintain the system, or conflicts with other  
17 existing laws, regulations, or ordinances. If such a limitation is  
18 established, the local health officer must justify the limitation in  
19 writing, with specific reasons, and must provide an explanation of  
20 the procedure for appealing the limitation.

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