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HOUSE BILL 1476

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State of Washington                      65th Legislature                      2017 Regular Session

By Representatives Peterson, Buys, Van Werven, and Short

Read first time 01/20/17. Referred to Committee on Environment.

1            AN ACT Relating to ensuring the ongoing viability of safe,  
2 reliable, on-site sewage systems in marine counties by identifying  
3 best management practices with accountability in on-site program  
4 management plans without creating or newly authorizing a fee or other  
5 program funding source; amending RCW 70.118A.030, 70.118A.070,  
6 70.118A.020, 70.118A.080, 70.118A.050, and 70.118A.060; and creating  
7 new sections.

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

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

13            (2) The legislature further finds that on-site sewage systems are  
14 an effective method of treating wastewater, but need appropriate  
15 operation and maintenance to adequately treat wastewater and operate  
16 in a safe manner. Unmanaged and failing systems may contribute to the  
17 pollution of Puget Sound and other regional waters and can  
18 potentially pose a threat to human health and the personal safety of  
19 families and the public relying on the systems for sewage treatment.

20            (3)(a) The legislature further finds that local health officers  
21 in the twelve counties bordering Puget Sound were asked to submit on-

1 site sewage system program plans to the state department of health in  
2 2007. These plans were focused on the identification of failing  
3 systems that threaten public health in defined areas, but did not  
4 address certain public safety risks that can result when system  
5 infrastructure was inadequately designed, approved, or maintained  
6 under previous local programs.

7 (b) In the ten years since local program plans were first  
8 developed to meet minimum state standards, there has not been a  
9 process in place to ensure that on-site program plans remain accurate  
10 and up-to-date. By establishing a process to ensure that local plans  
11 remain current, and by supplementing program focus on public health  
12 with attention to public safety outcomes, the local health officers  
13 who rely on the information contained in local plans will be better  
14 able to confirm that on-site systems are properly maintained and that  
15 failing or unsafe systems are identified and repaired.

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

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

22 (2) Local health officers must update on-site program management  
23 plans and submit the updated plans to the department for review and  
24 approval under RCW 70.118A.070 at least once every five years to  
25 implement:

26 (a) Local priorities and program requirements; and

27 (b) State standards identified in this chapter and any rules  
28 adopted by the board.

29 (3) The on-site program management plans of local health  
30 jurisdictions required under this section must include:

31 (a) A procedure for tracking the failure rates of the different  
32 on-site sewage disposal system technologies and designs being used in  
33 a county and the reporting of that information to the department on a  
34 predictable schedule;

35 (b) A description of steps to be taken by the local health  
36 jurisdiction during the next five years that will result in full  
37 implementation of the program, including the identification and  
38 inspection of previously unknown on-site systems, and the inspection  
39 of systems included in the jurisdiction's inventory of known on-site

1 systems. This description of improvement steps to achieve full  
2 program implementation within five years must include a plan to:

3 (i) Each year identify and inventory at least twenty percent of  
4 the estimated total of on-site system infrastructure in the  
5 jurisdiction that is not currently contained in the jurisdiction's  
6 inventory; and

7 (ii) Ensure the inspection of on-site systems as frequently as  
8 required under rules adopted by the board; and

9 (c) A financial assurance component that demonstrates that the  
10 local health jurisdiction has sufficient funding in the current and  
11 subsequent fiscal year budgets to meet estimated costs associated  
12 with implementing the program for the two-year period immediately  
13 following the filing date of the plan. The financial assurance  
14 component must include details regarding sources of funds used by a  
15 local health jurisdiction to implement the program, as well as a  
16 detailed summary of program expenditures by activity.

17 (4) A local health officer must submit a report to the department  
18 by November 1st of each even-numbered year that summarizes the  
19 progress made by the jurisdiction towards achieving the program  
20 implementation milestones described in subsection (3)(b) of this  
21 section.

22 **Sec. 3.** RCW 70.118A.070 and 2006 c 18 s 7 are each amended to  
23 read as follows:

24 (1)(a) The on-site program management plans of local health  
25 jurisdictions required under RCW 70.118A.030 must be submitted to the  
26 department ((by July 1, 2007,)) and be reviewed for approval to  
27 determine if they ((contain all necessary elements. The department  
28 shall provide in writing to the local board of health its review of  
29 the completeness of the plan)):

30 (i) Are adequate to protect public health and safety by  
31 preventing injury and death;

32 (ii) Include procedures for tracking failure rates and program  
33 implementation progress as required in RCW 70.118A.030; and

34 (iii) Fulfill the minimum on-site program management plan  
35 requirements and standards established by the board by rule.

36 (b) The board may adopt additional criteria by rule for approving  
37 plans. However, any additional criteria may not take effect until one  
38 year after it is adopted.

1 (2) In reviewing the on-site (~~strategy component of the~~)  
2 program management plan, the department shall ensure that all  
3 required elements, including designation of any marine recovery area  
4 and the preservation of public health and safety by preventing injury  
5 or death resulting from the improper operation and maintenance of  
6 systems, have been addressed.

7 (3) Within thirty days of receiving an on-site (~~strategy~~)  
8 program management plan, the department shall either approve the on-  
9 site (~~strategy~~) program management plan or provide in writing the  
10 reasons for not approving the (~~strategy~~) on-site program management  
11 plan and recommend changes. If the department does not approve the  
12 on-site (~~strategy~~) program management plan, the local health  
13 officer must amend and resubmit the on-site program management plan  
14 to the department for approval.

15 (4) Upon receipt of department approval or after thirty days  
16 without notification, whichever comes first, the local health officer  
17 shall implement the on-site (~~strategy~~) program management plan.

18 (5) If the department denies approval of an on-site (~~strategy~~)  
19 program management plan, the local health officer may appeal the  
20 denial to the board. The board must make a final determination  
21 concerning the denial.

22 (6) The department shall assist local health jurisdictions in:

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

25 (b) Identifying reasonable methods for finding unknown systems;  
26 (~~and~~)

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

32 (d) Identifying best practices to be used by septic owners,  
33 operators, and installers for ensuring the safe operation and  
34 maintenance of on-site sewage disposal systems, including the design  
35 and maintenance of on-site sewage disposal system risers and lids.

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

38 The definitions in this section apply throughout this chapter  
39 unless the context clearly requires otherwise.

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

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

3 (3)(a) "Failing" means a condition of an existing on-site sewage  
4 disposal system or component that threatens the public health by:  
5 (i) Inadequately treating sewage(~~(τ)~~); or (~~(by)~~)  
6 (ii) Creating a potential for direct or indirect contact between  
7 sewage and the public.

8 (b) Examples of a failing on-site sewage disposal system include:  
9 (~~(a)~~) (i) Sewage on the surface of the ground;  
10 (~~(b)~~) (ii) Sewage backing up into a structure caused by slow  
11 soil absorption of septic tank effluent;  
12 (~~(c)~~) (iii) Sewage leaking from a sewage tank or collection  
13 system;  
14 (~~(d)~~) (iv) Cesspools or seepage pits where evidence of  
15 groundwater or surface water quality degradation exists;  
16 (~~(e)~~) (v) Inadequately treated effluent contaminating  
17 groundwater or surface water; (~~(e)~~) and  
18 (~~(f)~~) (vi) Noncompliance with standards stipulated on the  
19 permit.

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

25 (5) "Marine recovery area" means an area of definite boundaries  
26 where the local health officer, or the department in consultation  
27 with the health officer, determines that additional requirements for  
28 existing on-site sewage disposal systems may be necessary to reduce  
29 potential failing systems or minimize negative impacts of on-site  
30 sewage disposal systems.

31 (6) "Marine recovery area on-site strategy" or "on-site strategy"  
32 means a local health jurisdiction's on-site sewage disposal system  
33 strategy required under RCW 70.118A.050. This strategy is a component  
34 of the on-site program management plan required under RCW  
35 70.118A.030.

36 (7) "On-site sewage disposal system" or "on-site system" means an  
37 integrated system of components, located on or nearby the property it  
38 serves, that conveys, stores, treats, or provides subsurface soil  
39 treatment and dispersal of sewage. It consists of a collection  
40 system, a treatment component or treatment sequence, and a soil

1 dispersal component. An on-site sewage disposal system also refers to  
2 a holding tank sewage system or other system that does not have a  
3 soil dispersal component. For purposes of this chapter, the term "on-  
4 site sewage disposal system" does not include any system regulated by  
5 a water quality discharge permit issued under chapter 90.48 RCW.

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

10 (9) "Unsafe system" means a condition of an existing on-site  
11 sewage disposal system that threatens public safety by creating a  
12 condition where a person could be injured or killed because a  
13 component or part of an on-site sewage disposal system is  
14 malfunctioning or missing. Examples of an unsafe system include, but  
15 are not limited to, electrical junction box covers, lids, or risers  
16 that are missing, damaged, unsecured, or malfunctioning.

17 **Sec. 5.** RCW 70.118A.080 and 2006 c 18 s 8 are each amended to  
18 read as follows:

19 (1) The department shall enter into a contract with each local  
20 health jurisdiction subject to the requirements of this chapter to  
21 implement plans developed under this chapter, ~~((and))~~ to develop or  
22 enhance electronic data systems required by this chapter, and to  
23 enhance the public safety by preventing injury or death resulting  
24 from improper operation and maintenance of on-site sewage disposal  
25 systems. The contract must include state funding assistance to the  
26 local health jurisdiction from funds appropriated to the department  
27 for this purpose.

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

30 (a) Show progressive improvement in finding failing systems;

31 (b) Show progressive improvement in working with the owners of  
32 on-site sewage disposal ((system-owners)) systems that qualify as  
33 failing systems, unsafe systems, or both to make needed system  
34 repairs;

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

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

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

7 (3) The contract must also include provisions for state  
8 assistance in updating the plan. ~~((Beginning July 1, 2012,))~~ The  
9 contract may adopt revised compliance dates, including those in RCW  
10 70.118A.050, where the local health jurisdiction has demonstrated  
11 substantial progress in updating the on-site strategy.

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

21 **Sec. 6.** RCW 70.118A.050 and 2006 c 18 s 5 are each amended to  
22 read as follows:

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

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

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

1       (~~(b)~~) (ii) Unknown systems and ensure that they are inspected  
2 as required to ensure that they are functioning properly, and  
3 repaired, if necessary.

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

8       **Sec. 7.** RCW 70.118A.060 and 2006 c 18 s 6 are each amended to  
9 read as follows:

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

11       (~~(1)~~) (a) Require that on-site sewage disposal system  
12 maintenance specialists, septic tank pumpers, or others performing  
13 on-site sewage disposal system inspections submit reports or  
14 inspection results to the local health jurisdiction regarding any  
15 failing system or unsafe system; and

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

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

28       NEW SECTION. **Sec. 8.** Nothing in this act requires the adoption  
29 of new or updated rules by the state board of health regarding septic  
30 inspection or design criteria or standards or other rules addressing  
31 the septic plans or programs of local health jurisdictions.

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