

SENATE BILL REPORT

SB 5503

As Reported by Senate Committee On:
Environment, Energy & Technology, February 14, 2019

Title: An act relating to state board of health rules regarding on-site sewage systems.

Brief Description: Concerning state board of health rules regarding on-site sewage systems.

Sponsors: Senators Das, Fortunato and Takko.

Brief History:

Committee Activity: Environment, Energy & Technology: 2/13/19, 2/14/19 [DP].

Brief Summary of Bill

- Establishes requirements for State Board of Health rules regarding inspections and repair of on-site sewage systems.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: Do pass.

Signed by Senators Carlyle, Chair; Palumbo, Vice Chair; Ericksen, Ranking Member; Fortunato, Assistant Ranking Member, Environment; Sheldon, Assistant Ranking Member, Energy & Technology; Billig, Brown, Das, Hobbs, Lias, McCoy, Nguyen, Rivers, Short and Wellman.

Staff: Jan Odano (786-7486)

Background: On-site sewage systems (OSS) are underground waste water treatment structures common in areas without centralized sewer systems. The Department of Health (DOH) estimates there are approximately 950,000 OSS statewide.

The State Board of Health (SBOH) establishes rules for on-site sewage systems, while local health departments and DOH implement them. SBOH is responsible for adopting rules for designing, constructing, operating, and maintaining OSS systems with design flows of less than 3500 gallons per day.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

In addition, SBOH adopts rules for repairing existing failing systems adjacent to marine waters.

As required by rule, the owner of an OSS is responsible for operating, monitoring, and maintaining the system. Inspections are required at least once every three years for gravity OSS and annually for all other systems, unless otherwise required by the local health officer. In the event an OSS fails, the owner is required to repair or replace the system, or connect to a public sewer or large on-site sewage system. If repairing or replacing the OSS or connecting to another system is not a feasible option, then the owner must use a holding tank, obtain a discharge permit from the Department of Ecology when a local health officer has determined an OSS is not feasible and the only realistic method is discharging treated effluent, or abandon the property.

A local health jurisdiction (LHJ) may apply for an administrative search warrant when there is an administrative plan in place to address pollution of commercial or recreational shellfish harvesting areas and the request to access the property has been denied. The plan, along with reasonable evidence showing pollution from the septic system on the property to be inspected, must be submitted to the court as part of the justification for the warrant.

Summary of Bill: Failing On-Site Sewage Systems. SBOH rules must:

- give first priority to repairing and second priority to replacing an existing conventional OSS;
- not impose more stringent performance requirements of equivalent OSS on private entities than public entities; and
- allow repair of an OSS using the least expensive alternatives that meet standards, and is likely to provide comparable or better long-term sewage treatment and effluent dispersal outcomes.

Inspections of On-Site Sewage Systems. SBOH rules must:

- require coordination between the owner and certified professional inspector or public agency prior to accessing the OSS;
- require authorization by the OSS owner for inspection by a certified inspector or public agency unless the LHJ obtains an administrative search warrant following existing procedures; and
- forbid LHJs from conditioning OSS permits with requirements for inspections or maintenance easements of OSS located on a single property servicing a single dwelling.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: There is a very broad definition of what an OSS is. A permitting system is the way to avoid having elected officials and agency

personnel say our systems pollute Puget Sound and water wells. This will support owners with permitted systems. This will protect our privacy and property.

OTHER: The bill needs to clarify that cities may still require hook-up to sewers within a certain distance of the OSS.

Persons Testifying: PRO: Senator Mona Das, Prime Sponsor; David Tegeler, Citizens Optimizing OSS Management Washington; Cindy Alia, Citizens Alliance for Property Rights; Betsy Howe, Citizens Optimizing OSS Management Washington.

OTHER: Carl Schroeder, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: No one.