

HOUSE BILL ANALYSIS

2SSB 5821

Brief Description: Regulating designers of on-site wastewater treatment systems.

Sponsors: Senators Eide and Morton

Hearing: March 29, 1999

Brief Summary of Bill

A license is required for persons who design on-site wastewater treatment systems. Inspectors of on-site wastewater treatment systems must be certified to have the same level of knowledge required for the designers of the on-site wastewater treatment systems.

BACKGROUND:

In 1997, the Legislature directed the Department of Health to create a work group that would develop recommendations to the Legislature regarding a certification program for occupations related to onsite septic systems. The Onsite Wastewater Certification Work Group returned recommendations relating to bonding levels and other standards for people employed in these occupations and risk analysis relating to the installation and maintenance of different types of septic systems in different parts of the state.

In 1998, the Legislature directed the Departments of Health and Licensing to convene an advisory committee to develop legislation to license designers of onsite septic systems and a certification program for inspectors of onsite septic systems.

An on-site septic (sewage) system is the most common method of sewage treatment and disposal for homes that are not on a public sewer line. A septic system consists of a tank and a drain field where the wastewater slowly seeps into the soil. Proper septic systems treat the sewage before it reaches ground and surface waters. Poorly designed or malfunctioning systems cause odor and water pollution. Failed septic systems represent a significant health hazard because domestic wastewater contains household hazardous substances, bacteria, viruses, and other microorganisms that are potentially harmful to

people.

Approximately 650,000 systems currently exist in the state. Most systems before 1980 were designed by employees of local health agencies. Today, most systems are designed by private individuals. A designer matches site characteristics (soil depth and texture, slope and topography, drainage patterns, etc.) with the appropriate on-site sewage technology. The designer then may act as the contractor during installation.

Many of these local health authorities, such as local boards of health, have adopted ordinances permitting construction and licensing designers of on-site sewage systems. Most require that the jurisdiction review plans created by on-site septic system designers prior to installation and inspect systems after construction. A 1997 survey indicated that 25 of the 33 local health jurisdictions had some form of designer program, and in three counties only licensed engineers are allowed to perform design work. Otherwise, qualifications for licenses and permitting standards differ from jurisdiction to jurisdiction.

If a designer performs faulty or inadequate work, a consumer's remedy is civil action in court or to lodge a complaint with the individual jurisdictional health authority. The local health authorities may be able to take action on a locally issued designer's license to prevent further harm. There is no central or statewide reporting or recording system for monitoring consumer complaints.

In 1989, Superior Court declared that local boards of health did not have the authority to license or permit non-engineers to design on-site sewage systems that have minimum a flow rate of 3,500 gallons per day. The court determined that this was engineering work which only the Board of Registration for Professional Engineers could regulate.

At least five other states license designers of on-site septic systems.

SUMMARY OF BILL:

A licensing program for designers of on-site wastewater treatment systems is established in the Department of Licensing under the jurisdiction of the Board of Professional Engineers and Land Surveyors. The statewide licensing program provides for uniform application of design practices, standards for designs, and individual qualifications. The department must create a committee to advise the board and the department on licensing requirements, examinations, and the administration of the program.

Until the licensing program is fully operational in 2003, the department may issue practice permits as an interim license. License applicants must pass a written examination and

meet education and experience requirements.

Employees of local health jurisdictions who inspect, review, or approve the design and construction of on-site systems must obtain a certificate of competency from the department.

As with other professional licensing programs, the program is structured to be self-sufficient on license and application fees. A work group is directed to study and recommend financial assurances of on-site wastewater practitioners including on-site system designers' responsibility for system failures that affect structure and property values.

REGULATORY BODIES

- The Department of Licensing.
- The Board of Professional Engineers & Land Surveyors.
- The On-site Wastewater Treatment System Advisory Committee.

DIRECTOR'S AUTHORITY

- Appoints members to the advisory committee.
- Establishes fees.
- Employs administrative & investigation staff.
- The director is immune from civil or criminal liability in performance of his/her duties, except intentional misconduct.

BOARD'S AUTHORITY

- Rule-making.
- Administer licensing exams.
- Issue licenses.
- Conduct investigation of complaints alleging violations.
- Conduct adjudicative proceedings.
- Issue investigative subpoenas.
- Take disciplinary action.
- Board members are immune from civil or criminal liability in performance of their duties, except intentional misconduct.

ADVISORY COMMITTEE

Consists of five members who;

- are conversant with on-site wastewater treatment systems,
- are eligible to be a licensee,
- have seven years continuous experience with on site wastewater treatment systems,
- appointed by the director to give geographic diversity to the board,
- serve maximum three year terms, except the initial appointees who will serve staggered terms,
- members may only serve two terms before taking at least one year off, and
- members may be removed for just cause.

Has the authority to make recommendations regarding;

- development and adoption of rules,
- development and content of examinations and standards of practice,
- review of complaints and investigations, and
- other duties deemed necessary by the director or the board.

UNPROFESSIONAL CONDUCT & DISCIPLINE

- Conduct and acts that are considered unprofessional conduct are specified.
- Any person may file a complaint alleging a violation.
- Practicing without a license is a misdemeanor after July 1, 2000.
- The board may discipline licensees & permit holders for violations of the chapter by;
 - reprimand,
 - suspension, revocation or denial of a license or practice permit, or
 - fines not to exceed \$1,000 for each violation.

PRACTICE PERMITS

- Issued to persons currently authorized by a local jurisdiction to design on-site wastewater treatment systems.
- Issued starting July 1, 2000.
- Allows a holder to practice on-site design services until July 1, 2003.
- Permits apply only in the local area that the designer was authorized to practice.

LICENSING

- Prior to July 1, 2003, all wastewater treatment system designers must have a license or a practice permit.
- After July 1, 2003 all wastewater treatment system designers must have a license.
- Licenses replace local jurisdiction licenses starting on July 1, 2000.
- Local jurisdictions, the Department of Health and the Department of Ecology retain the

authority to;

- administer local codes,
- issue permits for construction,
- evaluate soils and site conditions, and
- perform design work as authorized in the Board of Health rules.

Requirements for licensure are;

- pass an examination,
- have a high school diploma or GED, and
- have four years experience, or two years experience and two years of education.

Application for a license must;

- swear to meeting the education and work experience requirement,
- have two references verifying experience, and
- pay an application fee.

License Renewal

- Licenses are valid for one year, unless the director modifies the duration of licenses.
- If a license is not renewed within two years, it is canceled and the person must reapply.
- The board will set continuing professional education requirements.

Exemptions from Licensure

- Licensed professional engineers.
- Supervised employees of licensed engineers or licensed wastewater treatment system designers.
- Persons holding licenses issued by another state, if the other state's licensing requirements are similar to Washington's.

Certificate of Competency

- Issued to local jurisdiction inspectors who pass the licensing examination to allow them to carry out their duties without a license.
- Renewable on payment of a fee.
- Holders of certificates may not provide on-site wastewater treatment system services without a license.

DEDICATED OPERATING ACCOUNT

- All fees and fines are paid into a dedicated account.
- Funds appropriated must be for the purpose of the chapter.

PROGRAM EVALUATION

- By July 2005, the Departments of Licensing and Health will evaluate the program.
- By July 1999, a work group will study bonding, or other financial assurance requirements.
- Recommendations will be given to the Department of Licensing and the Governor.

RULES AUTHORITY: The bill does contain provisions addressing the rule making powers of an agency.

FISCAL NOTE: Available.

EFFECTIVE DATE: Ninety days after adjournment of a session in which bill is passed.