

# SENATE BILL REPORT

## 3SHB 1458

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As Reported By Senate Committee On:  
Water, Energy & Environment, February 22, 2006  
Ways & Means, February 27, 2006

**Title:** An act relating to managing on-site sewage disposal systems in marine areas.

**Brief Description:** Concerning the management of on-site sewage disposal systems in marine areas.

**Sponsors:** House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Hunt, Dickerson, McCoy, B. Sullivan, Williams, Haigh, Appleton, Linville, Chase, Dunshee, Simpson, Upthegrove, Moeller and McDermott).

**Brief History:** Passed House: 2/11/06, 70-26.

**Committee Activity:** Water, Energy & Environment: 2/21/06, 2/22/06 [DP-WM, DNP].  
Ways & Means: 2/27/06 [DP, w/oRec].

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### SENATE COMMITTEE ON WATER, ENERGY & ENVIRONMENT

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Fraser, Pridemore and Regala.

**Minority Report:** Do not pass.

Signed by Senators Morton, Ranking Minority Member; Delvin, Honeyford and Mulliken.

**Staff:** Sam Thompson (786-7413)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Doumit, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Fairley, Kohl-Welles, Parlette, Pflug, Pridemore, Rasmussen, Regala, Roach, Rockefeller and Thibaudeau.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Schoesler.

**Staff:** Kirstan Arestad (786-7708)

**Background:** The State Board of Health (Board) has adopted standards for on-site sewage systems (OSS). Permits are required for installing, altering, extending, or relocating OSS. Local boards of health issue OSS permits, enforce standards, and may adopt more stringent local standards.

The Federal Clean Water Act (CWA) limits discharge of pollutants to navigable waters. The U.S. Environmental Protection Agency (EPA) has delegated CWA enforcement authority to the state Department of Ecology (DOE). DOE also implements state water quality standards. The CWA requires states to biennially prepare a list of specific water bodies or segments that do not meet state water quality standards.

Concerns have arisen regarding failing OSS near marine waters, particularly Puget Sound. Effluent from failing OSS contributes to low dissolved oxygen levels, shellfish bed closure, and failure to meet water quality standards.

**Summary of Bill:** By July 1, 2007, local health officers in 12 counties bordering Puget Sound must develop and approve on-site program management plans to guide development and management of OSS in marine recovery areas (MRA) within local health jurisdictions. The local health jurisdictions are: Clallam, Island, Kitsap, Jefferson, Mason, San Juan, Seattle-King, Skagit, Snohomish, Tacoma-Pierce, Thurston, and Whatcom.

In developing on-site program management plans, local health officers must propose MRA where OSS significantly contribute to: shellfish growing areas that have been threatened or downgraded; state waters listed by DOE under the CWA for low-dissolved oxygen levels or fecal coliform; or marine waters where nitrogen has been identified as a contaminant of concern. In determining MRA boundaries, local health officers must include areas where existing OSS may affect water quality. The Department of Health (DOH) will assist local health jurisdictions in developing on-site program management plans.

Local health officers must develop and approve on-site strategies to manage OSS within proposed MRA. Strategies must specify how jurisdictions will, by July 1, 2012, and thereafter, find failing OSS and ensure that owners make repairs, and find unknown OSS and ensure that they are inspected or repaired. DOH will assist local health jurisdictions in identifying reasonable methods for finding unknown systems, and may grant 12-month extensions where local health jurisdictions have demonstrated substantial progress.

Local health officers must require that OSS maintenance specialists and septic tank pumpers report any failing OSS. Working with DOH, local health officers must develop an electronic data system to actively manage OSS.

OSS management plans must be submitted to DOH by July 1, 2007. DOH must review all plans to ensure that required elements are addressed. Within 30 days of receiving an on-site strategy, DOH must either approve or provide in writing reasons for not approving the strategy. If DOH does not approve the strategy, the local health officer can amend and resubmit it or appeal the denial to the Board, which will make a final determination.

DOH will contract with each local health jurisdiction to implement plans and to develop or enhance data systems. Contracts must require evidence of progressive improvement in finding and repairing failing systems in MRA and meeting other requirements. Contracts will include provisions for state assistance in updating plans.

DOE must offer financial and technical assistance to local governments and tribal entities in Puget Sound counties to establish or expand OSS repair and replacement through loan and grant programs. The programs will give priority to low-income and financially distressed homeowners.

DOH must report to the Legislature by December 31, 2008, on progress in designating MRA and developing and implementing on-site strategies. DOH will convene a work group to make recommendations to the Legislature for certifying or licensing OSS maintenance specialists.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Testimony For (Water, Energy & Environment):** This bill is priority legislation for environmental groups. It differs from 2005 proposals because it does not apply to new development, is consistent with new state BOH regulations regarding OSS, and is fully funded in the Governor's proposed supplemental budget, which provides \$6.5 million for DOE assistance to local jurisdictions and grants and loans to repair failing OSS. The focus on old, failing OSS is appropriate. Failing OSS have led to closure of shellfish beds, a blow to the shellfish industry. This bill addresses shortcomings in the new BOH regulations because it requires jurisdictions to search for unknown and failing OSS. The Governor supports this bill as part of a long-term commitment to clean up Puget Sound. DOH will provide assistance and guidance to local jurisdictions through existing resources. This bill appropriately mandates state collaboration with local health officials. The grant and loan program should be modeled after the successful program in Pacific County.

**Testimony Against (Water, Energy & Environment):** This legislation is unnecessary; the new BOH OSS regulations, now being implemented, and existing state funding are sufficient to address concerns.

**Who Testified (Water, Energy & Environment):** PRO: Rep. Hunt, prime sponsor; Bruce Wishart, People for Puget Sound; Grant Nelson, Association of Washington Business; Bill Dewey, Pacific Shellfish Growers Association; Kathleen Drew, Governor's Office; Maryanne Guichard, Department of Health; Linda Condon, Class 27, Washington Agriculture & Forestry Education Foundation AgForestry Leadership Program.

CON: Vicki Kirkpatrick, Washington State Association of Counties.

**Testimony For (Ways & Means):** There exists a broad coalition in support. The bill is straightforward and applies to the twelve Puget Sound counties in areas only where there are known problems.

**Testimony Against (Ways & Means):** The requirement to find all unknown or un-permitted septic systems will result in significant costs for jurisdictions. Specific funding is not in the budget. In addition, not sure if all local health jurisdictions have authority to perform all of the requirements.

**Who Testified (Ways & Means):** PRO: Bruce Wishart, People for Puget Sound.

CON: Vicki Kirkpatrick, Washington State Association of Counties.