

HOUSE BILL REPORT

HB 2066

As Reported by House Committee On:
Environmental Health, Select

Title: An act relating to clarifying regulatory authority for large on-site sewage systems.

Brief Description: Clarifying the regulatory authority for on-site sewage systems.

Sponsors: Representatives Hunt, Campbell, Upthegrove and Schual-Berke; by request of Department of Health.

Brief History:

Committee Activity:

Select Committee on Environmental Health: 2/22/07, 2/27/07 [DPS].

Brief Summary of Substitute Bill

- Requires the Department of Health to establish comprehensive regulation of large on-site sewage systems with design flows between 3,500 and 100,000 gallons per day.
- Directs the Department of Health to adopt rules for regulation of large on-site sewage systems, including siting, design, construction, and permitting of the systems, in order to protect human health and the environment.

HOUSE SELECT COMMITTEE ON ENVIRONMENTAL HEALTH

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Campbell, Chair; Hudgins, Vice Chair; Newhouse, Ranking Minority Member; Sump, Assistant Ranking Minority Member; Chase, Hailey, Hunt, Morrell and Wood.

Staff: Amy McCormick (786-7290).

Background:

On-site sewage systems (OSS) commonly treat wastewater for homes, commercial establishments, and other locations that are not connected to a public sewer system. Properly

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designed, operated, and maintained systems protect the environment and public health by preventing untreated wastewater from coming into contact with people or waters.

The OSSs are regulated and characterized by wastewater flow. Smaller systems that handle up to 3,500 gallons per day (gpd) are regulated by local health departments under State Board of Health rules. Legislation that was passed in 2006, relating to management of OSSs in marine recovery areas, focused on these smaller systems.

Large on-site sewage systems (LOSS) handle wastewater flow of 3,500 to 100,000 gpd. The Departments of Ecology (DOE) and Health (DOH) have regulatory jurisdiction over LOSS and divide responsibility over the management of LOSS that dispose of 3,500 to 14,500 gpd of wastewater. The DOH manages non-mechanical systems with design flows between 3,500 to 14,500 gpd of wastewater. The DOE manages mechanical systems with flows between 3,500 and 14,500 gpd of wastewater, as well as all systems with flows over 14,500 gpd of wastewater.

Summary of Substitute Bill:

The DOH is required to establish comprehensive regulation of LOSS. The LOSS is defined as an OSS with design flows of between 3,500 and 100,000 gpd of wastewater and may include mechanical treatment. In order to protect human health and the environment, the DOH must: establish and provide regulation of LOSS including design, construction, installation, operation, maintenance and repair; control and prevent pollution of the state's waters; issue permits for LOSS; and enforce LOSS requirements. The LOSS may not be used for treatment and disposal of industrial wastewater or combined sanitary sewer and storm water systems. A previously convened work group must include recommendations for the development of certification or licensing of large on-site system operators.

After July 1, 2009, an owner of a LOSS must obtain a permit from the DOH that must be renewed annually. The DOH must impose permit conditions or requirements for system improvements and compliance schedules prior to issuing a permit.

An owner of a LOSS previously permitted by the DOE must apply for an operating permit from the DOH 120 days prior to the expiration date of the DOE permit. All LOSS that are required to have an operator certified through the DOE must continue to meet the DOE requirements.

The DOH has authority for adjudicative proceedings for systems that dispose of between 3,500 and 14,500 gpd. For initial permitting of systems that dispose of between 14,500 and 100,000 gpd of wastewater, the Pollution Control Hearings Board has authority for adjudicative proceedings. The DOH must ensure adequate public notification and opportunity for review and comment.

The DOH must adopt rules for the comprehensive regulation of LOSS. The DOH must, in

consultation with the DOE, also require that LOSS comply with the Clean Water Act. Adopted rules must be consistent with the requirements of any comprehensive plans or development regulations under the Growth Management Act or any applicable plans or development regulations of local jurisdictions.

The State Board of Health is authorized to adopt rules regarding OSSs with design flows less than 3,500 gpd.

Operators of LOSS permitted by the DOH or OSSs permitted by local health jurisdictions are exempted from certain DOE requirements.

A person who violates laws or rules regulating OSSs administered by the DOH is subject to penalties of not more than \$10,000 per day for every violation. A local health officer who is responsible for administering and enforcing regulations regarding OSSs is authorized to issue civil penalties for violations.

Substitute Bill Compared to Original Bill:

The adjudicative proceeding authority of the DOH is changed to the Pollution Control Hearings Board for initial permitting for on-site septic systems disposing of 14,500 to 100,000 gallons per day. The adjudicative proceeding authority for on-site septic systems disposing of 3,500 to 14,500 gallons per day is specified as the DOH. The substitute adds requirements of public notification and opportunity for review and comment of an initial permit for a large on-site septic system.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is not the result of a turf war. This bill came out of the work of the Puget Sound Partnership, which made immediate action recommendations to continue to implement last year's work on septic systems, especially in the Puget Sound. It has been difficult and confusing to have two departments sharing authority over these large systems. This bill clarifies the regulatory authority between the departments, and the permitting of systems will provide for greater oversight capabilities. This bill would smoothly transition the permitting of systems currently under the Department of Ecology. This bill clarifies civil penalty authorities for the Department of Health and also for local health jurisdictions. This bill would improve environmental protections, by addressing water quality in Puget Sound and across the state. One concern is making sure that all authorities are transferred, especially in terms of appeals and public notice.

(Opposed) None.

Persons Testifying: (In support) Gregg Grunenfelder, Department of Health; Melodie Selby, Department of Ecology; Bruce Wishart, People for Puget Sound; and Jim Jesernig, Pacific Coast Shellfish Growers.

Persons Signed In To Testify But Not Testifying: None.