HOUSE BILL REPORT
SSB 6620

As Reported by House Committee On:
Environmental Health, Select

Title: An act relating to an exemption for manufacturers of biological remediation technologies for use in on-site sewage disposal systems.

Brief Description: Regarding biological remediation technologies for on-site sewage disposal systems.

Sponsors: Senate Committee on Water, Energy & Telecommunications (originally sponsored by Senators Pridemore, Oemig, Hatfield, Fraser, Rasmussen and Shin; by request of Lieutenant Governor).

Brief History:
Committee Activity:
Select Committee on Environmental Health: 2/25/08, 2/28/08 [DPA].

Brief Summary of Substitute Bill
(As Amended by House Committee)

- Authorizes use of biological remediation technology in failed drainfields of on-site sewage disposal systems.
- Authorizes use of biological remediation technology in preventing clogged infiltrative surfaces when an on-site sewage disposal systems is not in a state of failure.
- Requires manufacturers of biological remediation technologies to provide documentation to the local health jurisdiction that there has been verified performance of the technology.
- Requires the Board of Health to adopt rules regarding verification of biological remediation products performance as well as the certification, monitoring and use of such products.

HOUSE SELECT COMMITTEE ON ENVIRONMENTAL HEALTH

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.

Majority Report: Do pass as amended. Signed by 7 members: Representatives Campbell, Chair; Sump, Ranking Minority Member; Chase, Hunt, Morrell, Newhouse and Wood.

Minority Report: Do not pass. Signed by 1 member: Representative Hudgins, Vice Chair.

Staff: Ashley Pedersen (786-7303).

Background:

The Department of Health (DOH) protects public health by promoting the safe treatment and disposal of domestic and other non-industrial wastewater in areas of Washington not served by municipal sewage treatment works. Rules and standards have been adopted to prevent, control, and abate health hazards and nuisances related to the disposal of wastes, including on-site sewage disposal systems.

On-site septic systems or on-site sewage systems are the most common methods of wastewater treatment for homes, commercial establishments, and other places that are not connected to a public sewer system. An on-site sewage system consists of a network of pipes, a septic tank, and a drainfield, and provides subsurface soil treatment and dispersal of sewage.

The DOH regulates the location, design, installation, operation, maintenance, and monitoring of on-site sewage disposal systems. The DOH develops standards and guidance to assist local health officers in permitting different types of sewage treatment and distribution technologies, including public domain treatment technologies, proprietary treatment products, public domain distribution technologies, and proprietary distribution products. Manufacturers of proprietary treatment products must register their product with the DOH before the local health officer may permit their use.

The DOH does not currently recognize any testing protocol for use in the repair or recovery of failed drainfields of on-site sewage disposal systems. When an on-site sewage system fails, usually the primary reason is the infiltrative surface at the bottom of the bed or trench of the system is plugged or clogged. This can be caused by solids in wastewater or fine sand in the gravel, compacted surface during installation, masses of microorganisms collected at the surface, and waste products of microbiological metabolism.

Summary of Amended Bill:

<u>Biological Remediation Technology</u>

Biological remediation technology may be used in the recovery of failed drainfields of on-site sewage disposal systems. In addition, biological remediation technology may be used for the purpose of preventing clogged infiltrative surfaces when an on-site sewage disposal system is not in a state of failure.

Biological remediation is a process that uses microorganisms to return a contaminated environment, including a drainfield or soil dispersal component, to a state of non-failure. Biological remediation uses microorganisms to increase the infiltration rate through, and into,

the soil below the infiltrative surface of a clogged infiltrative surface on-site sewage disposal system.

Manufacturers Must Verify Product Performance

Manufacturers of biological remediation technologies must provide documentation verifying performance of the technology to the local health jurisdiction. Product performance must be verified through:

- product testing using the International Association of Plumbing and Mechanical Officials Guide criteria, or an equivalent standard; or
- third-party field testing, accredited by the American National Standards Institute, university testing data, or a DOH approved entity, showing remediation of a failed drainfield within 90 days.

In addition, manufacturers must show that:

- the biological component of the product meets certain statutory regarding additives;
- the technology is used solely for the purpose of remedying or fixing a clogged infiltrative surface in a failed on-site sewage disposal system; and
- the product performance is verified through product testing conducted by a testing facility conforming with the American National Standards Institute.

Manufacturers and installers of biological remediation products are prohibited from making false statements, design, or graphic representation relative to a biological remediation product. The components of the products must be listed on the product label. Manufacturers and installers are liable under the Consumer Protection Act for violations of specified false and deceptive practices.

Permitting by Local Health Jurisdiction

When an on-site sewage disposal system is in a state of failure, a local health jurisdiction may issue a permit. When an on-site sewage disposal system is not in a state of failure, a permit is not required for the installation or use of biological remediation devices. However, a local health jurisdiction may require registration for tracking purposes and charge a reasonable fee. Each permit must include:

- inspection, monitoring, and maintenance requirements;
- a plan with a time frame for correcting any public health concern and protecting public health;
- operation and maintenance plans and schedules; and
- a contract for inspection and monitoring by a certified inspector or local health officer.

Each permit must include a signed document from the homeowner allowing the local health officer to enter the property to determine if a biological remediation product has remedied a failed drainfield.

Prior to issuing the permit, the local health officer or licensed on-site wastewater treatment system designer must perform an assessment. The assessment must take into account site characteristics and potential environmental and public health impacts.

When an on-site sewage disposal system is not in a state of failure, a permit is not required for the installation or use of biological remediation devices. However, a local health jurisdiction may require registration for tracking purposes and charge a reasonable fee. Additionally, the product purchasers must maintain an operation and maintenance contract with a licensed on-site professional.

Authorized Installers of Biological Remediation Products

The following individuals are authorized to install biological remediation products:

- licensed on-site wastewater treatment system designers;
- licensed professional engineers; and
- installers approved by the local health officer to install on-site sewage disposal systems or components.

In addition, when an on-site sewage disposal system is not in a state of failure, licensed on-site wastewater treatment system operation and maintenance professionals are authorized to install biological remediation products.

Reimbursement to Purchaser

If an on-site sewage disposal system with a biological remediation product does not remedy a clogged infiltrative surface within three months, the local health jurisdiction must require system repairs to meet on-site sewage disposal system requirements.

If the product fails to make significant improvements and certain conditions are found, the on-site professional who installed the biological remediation device must reimburse the purchaser for the direct cost of the product and installation. The purchaser must also be reimbursed if the product reenters a state of failure within one year of installation.

Board of Health Must Adopt Rules

By July 1, 2010, the Board of Health must adopt rules for verification of biological remediation products performance and for use of products in failing on-site sewage disposal systems. The rules must set requirements regarding permitting, certification, monitoring and using the products in failed systems, as well as in systems not in a state of failure. The rules must apply to the biological remediation services used on all on-site sewage disposal systems.

After July 1, 2010, products used for installation in on-site sewage disposal systems not in a state of failure must be on the state list of approved biological remediation products.

Amended Bill Compared to Substitute Bill:

The amended bill:

- provides that section 4 of the bill will expire on July 1, 2010;
- requires the DOH to consider, during its rule-making process, whether permit exemptions should be continued;
- requires that the rules developed by the DOH must apply to the biological remediation services used on all on-site sewage disposal systems;
- requires the installer of the biological remediation device to reimburse the purchaser for the cost of the product and installation if the on-site sewage disposal system reenters a state of failure within one year of installation and it is determined by the local health officer that a repair must be made to correct the failure;
- prohibits manufacturers and installers of biological remediation products from making certain claims and statements;
- requires manufacturers and installers to list the components of the products on the product label; and
- provides that manufacturers and installers are liable under the Consumer Protection Act for specified false and deceptive practices.

Appropriation: None.

Fiscal Note: Requested February 28, 2008. Similar fiscal note is available on HB 3014.

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

Staff Summary of Public Testimony:

(In support) Biological remediation technology is a proven technology with extensive documentation that will help minimize pollution in south Puget Sound and Hood Canal. There are already several manufacturers producing biological remediation technology and at least 12 states that have approved the technology. Biological remediation technology is a more affordable option for people, at a cost of about $3,500 to $5,000. Traditional septic system repairs typically cost about $12,000 to $30,000 or more. Further, the bill provides that if the technology does not work within three months, the purchaser will be made whole.

Use of this technology in Washington has been stalled by the DOH. The DOH does not have the resources to move the technology forward. The technology is a useful tool that should be allowed to be used in repair of Washington's failing and clogged on-site sewage disposal systems.

(Opposed) None.

Persons Testifying: Lt. Governor Brad Owen; and Ezra Eickmeyer, Sludgehammer, Infiltrator.

Persons Signed In To Testify But Not Testifying: None.