

# HOUSE BILL REPORT

## HB 2010

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### As Reported by House Committee On: Local Government

**Title:** An act relating to appeal procedures for single-family homeowners with failing septic systems required to connect to public sewer systems.

**Brief Description:** Creating appeal procedures for single-family homeowners with failing septic systems required to connect to public sewer systems.

**Sponsors:** Representatives Takko, Reykdal and Buys.

#### **Brief History:**

##### **Committee Activity:**

Local Government: 2/11/15 [DP].

#### **Brief Summary of Bill**

- Requires that qualifying counties, cities, and towns have an administrative appeals process for requests from owners of single-family residences to repair or replace a failing on-site septic system that were denied because of a requirement mandating connection to a public sewer system.
- Specifies that the jurisdictions required to have the appeals process are those that adopt or have adopted an ordinance or resolution requiring connection to a public sewer system upon the failure of an on-site septic system.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** Do pass. Signed by 9 members: Representatives Takko, Chair; Gregerson, Vice Chair; Taylor, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Fitzgibbon, McBride, McCaslin, Peterson and Pike.

**Staff:** Ethan Moreno (786-7386).

#### **Background:**

Counties and Cities–Sanitary Sewer Systems.

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*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.*

Counties and cities, including "code cities" operating under the Optional Municipal Code, have broad authority to construct, operate, maintain, and regulate sanitary sewer systems within all or part of their jurisdictions. Cities and towns are also authorized, subject to certain limits, to extend sewer services beyond their corporate limits.

#### Mandatory Connections to Public Sanitary Sewer Systems.

If adequate public sewer services are available within 200 feet of the residence or facility, the health officer, upon the failure of an existing on-site sewage system, may require connection to a public sewer system. If a conforming system can be designed and installed, the health officer may also permit the repair or replacement of the on-site sewage system.

The owner of a residence or other facility served by an on-site sewer system may also be required to connect to a public sewer system when:

- connection is deemed necessary to protect public health by the local health officer;
- an adequate public sewer becomes available within 200 feet of the residence or other facility as measured along the usual or most economically feasible route of access;
- and
- the sewer utility allows the sewer connection.

Additionally, a local board of health may require a new development to connect to a public sewer system to protect public health. Local boards of health must require new development or a development with a failing system to connect to a public sewer system if it is required by the comprehensive land use plan or development regulations of the county or city.

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#### **Summary of Bill:**

If a county, city, code city, or town (local jurisdiction) adopts or has adopted an ordinance or resolution requiring connection to a public sewer system upon the failure of an on-site septic system, the local jurisdiction must provide an administrative appeals process to consider denials of permit applications submitted by owners of single-family residences. The administrative appeals process must apply to requests to repair or replace an existing, failing on-site septic system that: (a) were denied solely because of a law, regulation, or ordinance requiring connection to a public sewer system; and (b) would be approved absent the applicable law, regulation, or ordinance.

If the local jurisdiction has an existing administrative appeals process, it may use that process to consider the appeals of denied requests to repair or replace existing, failing on-site septic systems. The legislative body of the local jurisdiction or an administrative hearings officer must preside over the administrative appeals process.

The administrative appeals process must consider specific factors, including whether it is cost-prohibitive to require the owner of a single-family residence with an existing, failing on-site septic system to connect to the public sewer system, and whether there are:

- public health or environmental considerations;

- public sewer system performance or financing considerations related to allowing the owner of a single-family residence with an existing, failing on-site septic system to repair or replace the on-site septic system; and
- financial assistance programs or latecomer agreements offered by the local jurisdiction or the state that may impact the owner of a single-family residence with an existing, failing on-site septic system to repair or replace the on-site septic system.

If the local jurisdiction, following any appeals process of the jurisdiction, determines that an owner of a single-family residence must connect to the public sewer system, the owner may, at his or her own expense, select and hire contractors to perform the necessary work to connect to the public sewer system. No appeal is available from the local jurisdiction's determination unless required by law.

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**Appropriation:** None.

**Fiscal Note:** Requested on February 9, 2015.

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

**Staff Summary of Public Testimony:**

(In support) This bill, as with House Bill 1102 (HB 1102), is trying to address outliers that have failing septic systems but face extreme costs for mandated connections to public sewer systems. In comparison to HB 1102, significant language changes have been made, and many of the parties who signed in as opposed to HB 1102 now support this bill.

Proponents of this bill worked with the environmental community and the Association of Washington Cities to develop the new language. The Washington On-Site Sewage Association (Association) has concerns about the 600,000 people with septic systems in the Puget Sound area that may have reservations about fixing a failing system if sewer connections are mandated. The Association also has concerns about the appeals process in the bill, but it supports the bill.

This bill will help in the limited situations in which homeowners with failing septic systems face insurmountable sewer connection costs. The bill allows jurisdictions to use their existing administrative appeals process for the septic system-related appeals, but not all jurisdictions have an appeals process.

(In support with concerns) Realtors have concerns about the balance the bill strikes between financial considerations for home owners and the local government, but this bill helps to solve problems and should move forward.

(Opposed) None.

**Persons Testifying:** (In support) Representative Takko, prime sponsor; Tim Johnson, Washington On-Site Sewage Association; and Carl Schroeder, Association of Washington Cities.

(In support with concerns) Jeanette McKague, Washington Realtors.

**Persons Signed In To Testify But Not Testifying:** None.