

HOUSE BILL REPORT

ESB 5871

As Passed House:
April 15, 2015

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: Senators Angel, Lias, Roach, McCoy and Chase.

Brief History:

Committee Activity:

Local Government: 3/18/15, 3/19/15 [DP].

Floor Activity:

Passed House: 4/15/15, 98-0.

Brief Summary of Engrossed Bill

- Requires that qualifying counties, cities, and towns have an administrative appeals process to consider denials of permit applications to repair or replace failing on-site septic systems of single-family homes.
- Specifies that the jurisdictions required to have the appeals process are those with an ordinance or resolution requiring connection to a public sewer system upon the failure of an on-site septic system.
- Establishes requirements and considerations related to the appeals process.

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:

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—Sanitary Sewer Systems.

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.

Summary of Bill:

A county, city, code city, or town (local jurisdiction) with an ordinance or resolution requiring, upon the failure of an on-site septic system, connection to a public sewer system, must provide an administrative appeals process to consider denials of permit applications to repair or replace the septic system. The required appeals process applies only to requests to repair or replace existing, failing on-site septic systems that:

- were made for a single-family residence by the owner or owners;
- were denied solely because of a law, regulation, or ordinance requiring connection to a public sewer system; and
- absent the applicable law, regulation, or ordinance requiring connection to a public sewer system and upon which the denial was based, would be approved.

If the local jurisdiction has an existing administrative appeals process, it may use that process to consider appeals of denied applications. 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 property owner to connect to the public sewer system, and whether there are related:

- public health or environmental considerations;
- public sewer system performance or financing considerations; and

- financial assistance programs or latecomer agreements offered by the local jurisdiction or the state that may impact a decision of the property owner to repair or replace the on-site septic system.

If the local jurisdiction, following the appeals process, determines that the property owner must connect the residence to the public sewer system, the owner may, in complying with the determination and subject to approval of appropriate permits, select and hire contractors at his or her own expense to perform the necessary work to connect to the public sewer system. Unless required by law, no appeal is available from the local jurisdiction's determination.

Appropriation: None.

Fiscal Note: Available.

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 represents broad agreement among stakeholders and contains a new approach for homeowners that have been denied a permit to repair or replace a septic system. If a homeowner is required to connect to a public sewer system, the connection costs can range from \$37,000 to \$150,000. The bill requires jurisdictions to have an appeals process for denied permits to repair or replace failing, on-site septic systems. The bill also sets forth considerations that the local government must consider during the appeals process, allows homeowners, if required to do so, to hire contractors at their own expense to connect the sewer system, and specifies that permit requirements apply for connecting to a sewer system. This bill will help keep owners in their homes, as some people, when facing the significant costs of connecting to a sewer system, have elected to leave their home and turn in their keys to the bank.

The bill should be supported, and support for it is appreciated.

(Opposed) None.

Persons Testifying: Senator Angel, prime sponsor; Tim Johnson, Washington On-Site Sewage Association; Bryce Yadon, Futurewise; and Carl Schroeder, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.