

# SENATE BILL REPORT

## EHB 1476

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As of March 23, 2017

**Title:** An act relating to ensuring the ongoing viability of safe, reliable, on-site sewage systems in marine counties by identifying best management practices with accountability in on-site program management plans without creating or newly authorizing a fee or other program funding source.

**Brief Description:** Ensuring the ongoing viability of safe, reliable, on-site sewage systems in marine counties by identifying best management practices with accountability in on-site program management plans without creating or newly authorizing a fee or other program funding source.

**Sponsors:** Representatives Peterson, Buys, Van Werven and Short.

**Brief History:** Passed House: 3/08/17, 72-25.

**Committee Activity:** Local Government: 3/21/17.

### Brief Summary of Bill

- Requires the local health jurisdictions in the 12 counties bordering Puget Sound to submit updated on-site sewage program management plans for approval by the Department of Health at least once every five years.
- Adds new requirements to the plans that must be developed by those local health jurisdictions.

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### SENATE COMMITTEE ON LOCAL GOVERNMENT

**Staff:** Alex Fairfortune (786-7416)

**Background:** The state Board of Health (BOH) adopts rules addressing the design, construction, installation, operation, and maintenance of an on-site sewage system (OSS), while local health jurisdictions (LHJs) in each county administer and enforce those OSS regulations alongside any additional local requirements.

Owners of an OSS are generally responsible for maintaining the OSS. Once an OSS has been installed, the system must be inspected at least once every three years if the system has a septic tank and relies on a gravity-powered drain field, or at least once per year for other

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types of OSS, unless a county health officer requires more frequent inspections. In general, the owner bears the costs associated with repair and upkeep of the OSS.

Twelve counties in Washington are located within the Puget Sound basin. Within the basin, there are an estimated 600,000 OSS. Beginning in July 2007, LHJs in the 12 counties bordering the Puget Sound basin were required to develop an OSS management plan. Each LHJ was required to have its OSS management plan approved by the Department of Health (DOH), while the DOH was required to enter into contract with the LHJs for the implementation of the plans and the provision of state funding assistance.

When developing the management plans, the LHJ must propose marine recovery areas where OSS are a significant contributing factor to concerns associated with: shellfish growing, marine waters with low-dissolved oxygen or fecal coliform, and waters where nitrogen is a contaminant. These local management plans must include information on how the LHJ will, among other things:

- develop and maintain an inventory of all known OSS within the LHJ;
- identify areas where an OSS may pose an increased risk to public health;
- identify requirements for an OSS to address areas of increased risk; and
- help and encourage homeowners to inspect and maintain their OSS.

**Summary of Bill:** OSS Programs and Plans. The LHJs in the 12 counties bordering the Puget Sound basin must submit updated OSS management plans to the DOH for review and approval at least once every five years. These plans must implement local priorities and program requirements, state standards, and any rules adopted by the BOH. The LHJs must also submit a report to the DOH summarizing OSS program implementation progress by November 1st of even-numbered years.

The OSS program plans must include:

- a procedure for tracking the failure rates of different OSS technologies and designs, including reporting to the DOH on a predictable schedule;
- a description of steps to be taken by the LHJ to fully implement the county's OSS program, including inspection of known OSS consistent with the frequency required by BOH rule;
- a description of steps to identify and inspect previously-unknown OSS, including a plan to identify and inspect at least 20 percent of the un-inventoried OSS in a county each year; and
- a demonstration of the LHJ's funding to implement the program in the current and subsequent fiscal year budgets, including detailed listings of OSS program funding sources and program expenditures by activity.

OSS Public Safety Element. A new definition is created for the term "unsafe system." This definition includes a system that threatens public safety by creating conditions that could lead to injury or death due to malfunctioning or missing components. In reviewing LHJ OSS plans for approval, the DOH must ensure the plan is adequate to protect public health and safety by preventing injury and death.

The DOH must enter into contracts with LHJs to prevent injury or death resulting from improper operation and maintenance of OSS. Under each contract, the LHJ must show

progressive improvement in working with the owners of failing or unsafe systems to make repairs. OSS maintenance professionals must report instances of unsafe systems within marine recovery areas to the LHJ. Updated program management plans must include provisions for identifying and correcting unsafe systems.

The DOH is required to assist LHJs in the development of best practices for ensuring the safe operation of OSS. This includes best practices in the design and maintenance of risers and lids.

Board of Health Rules. The BOH may adopt additional criteria for state approval of LHJ OSS plans, but any adopted rules may not take effect until one year after adoption. The BOH is not required to adopt new or updated rules regarding septic inspection, septic design criteria, or LHJ OSS plans or programs. The BOH rules for the 12 marine counties bordering Puget Sound must require that professional OSS inspectors coordinate with and get approval from system owners prior to accessing a property to carry out an OSS inspections.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony:** PRO: Over the past three to four years there has been an increase in the effort of local governments to raise septic fees. In each case the groups proposing the fee were not able to show how they came up with the fee amount. This bill asks local jurisdictions to develop funding plans to show how they are using existing resources and how they plan to use resources in the future. It will also make sure counties have the information they need to make sure failing septic systems are recorded. This will help demystify misconceptions around septic and show they are not outdated, ineffective systems but an integral part of protecting groundwater and the Puget Sound.

CON: While the planning requirements and safety consideration elements of the bill are good, the primary concern is the requirement to update the plan with no assurance of funding. The process takes several years and includes stakeholder outreach, community workshops, hearings, briefings, and other components. One such update cost \$144,000. That was possible through an EPA grant, but EPA funding is in jeopardy and may not be able to support updates every five years.

**Persons Testifying:** PRO: Representative Strom Peterson, Prime Sponsor; Tim Johnson, Washington On-Site Sewage Association.

CON: Art Starry, Thurston Public Health, WA Assoc. Local Public Health Officials.

**Persons Signed In To Testify But Not Testifying:** No one.