

HOUSE BILL REPORT

HB 1650

As Reported by House Committee On:
Environmental Health, Select

Title: An act relating to providing for an inspected inventory of on-site sewage disposal systems not located within a marine recovery area designated under RCW 70.118A.040.

Brief Description: Providing for an inspected inventory of on-site sewage disposal systems.

Sponsors: Representatives Fromhold, Hunt, B. Sullivan and Moeller.

Brief History:

Committee Activity:

Select Committee on Environmental Health: 2/7/07, 2/20/07 [DPS].

Brief Summary of Substitute Bill

- Requires cities and towns with a population of 31,000 residents or more, not located within a marine recovery area, to: (1) create and maintain an inventory of households and businesses that do not receive sanitary sewage services by January 1, 2009; and (2) institute a program to inspect all on-site sewage disposal systems within the city's or town's jurisdiction by January 1, 2012.
- Authorizes the local On-Site Sewer Inspection Reimbursement Account to reimburse cities and towns for some of the costs associated with the creation and maintenance of on-site sewage disposal system inventories.

HOUSE SELECT COMMITTEE ON ENVIRONMENTAL HEALTH

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Campbell, Chair; Hudgins, Vice Chair; Sump, Assistant Ranking Minority Member; Chase, Hunt, Morrell and Wood.

Minority Report: Do not pass. Signed by 2 members: Representatives Newhouse, Ranking Minority Member and Hailey.

Staff: Amy McCormick (786-7290).

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.

Background:

The State Board of Health (Board) provides a forum for the development of public health policy in Washington. The Board has adopted rules and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of wastes, including on-site sewage disposal systems (OSS). Permits are required for the installation, alteration, extension, or relocation of an OSS. Local boards of health issue OSS permits, enforce the standards, and may adopt more stringent local standards.

In October 2000, the Department of Health (DOH) convened the On-Site Wastewater Advisory Committee to advise the DOH on policy matters relating to the Wastewater Management Program. A rule development committee was formed in February 2002, to assist the DOH to initiate the OSS rule revision process, and final rules were adopted in July 2005, for OSSs. These rules required the local health jurisdictions to write plans for the development and management of all OSSs within their jurisdictions.

In March 2006, legislation passed relating to the management of OSSs in marine recovery areas. Marine recovery areas must be identified when existing OSSs are a significant factor contributing to concerns associated with: (1) the degradation of shellfish growing areas; (2) marine waters listed by the Department of Ecology for low-dissolved oxygen levels or fecal coliform; or (3) marine waters where nitrogen has been identified as a contaminant of concern. Local health jurisdictions must develop an on-site strategy to manage OSSs within marine recovery areas by July 1, 2007 to find failing OSSs. The on-site strategy must address how the jurisdiction will: (1) find failing systems and ensure that system owners make repairs by July 1, 2012; and (2) find unknown systems and ensure that they are inspected or repaired by July 1, 2012.

Summary of Substitute Bill:

A city or town, with a population of 31,000 residents or more, not located within a marine recovery area, must: (1) create and maintain an inventory of households and businesses that do not receive sanitary sewage services by January 1, 2009; and (2) institute a program to inspect all OSSs within the city's or town's jurisdiction by January 1, 2012. Cities and towns may design and implement the inspection and inventory programs directly or by contract with a local health jurisdiction.

Inventory

The inventory of households and businesses that do not receive sanitary sewage services may be designed in any manner that best satisfies the needs of the community as long as the following minimum criteria are met:

- the maximum practicable effort has been made to identify all households and businesses that do not receive sanitary sewage services;
- the inventory is updated no less than every five years; and
- the information in the inventory is summarized and reported to the DOH and contains, at a minimum, the number and general location of inventoried OSSs.

Inspection

The inspection program of OSSs may be designed in any manner that best satisfies the needs of the community as long as the following minimum criteria are met:

- Each owner of an OSS must have the system inspected not less than once every five years, and the initial inspection must be completed within two years of the completion of the inventory.
- Each inspection must determine whether the system is in a state of failure and whether the system complies with the board's standards and requirements.
- The information from inspections is summarized and reported to the DOH and contains, at a minimum, the functionality or failure rates of the inspected on-site sewage disposal systems.

Reimbursement Account

The local On-Site Sewer Inspection Reimbursement Account (Account) is created in the custody of the State Treasurer. The DOH may use moneys in the Account to reimburse cities or towns for the costs associated with the creation and maintenance of OSS inventories. If the Account has available moneys, upon application, cities or towns may be reimbursed for not less than 75 percent of the reasonable and auditable costs incurred by satisfying the inventory requirements.

Reporting Requirements

By January 15, 2009, the DOH shall report to the Legislature a summary of the information provided by cities, towns, and counties regarding the inventory and inspection of OSSs. The report must include:

- the number and general location of inventoried OSSs;
- the functionality or failure rates of the state's OSSs;
- the number of jurisdictions in full compliance with inventory and inspection requirements;
- the actual reimbursement requests received from cities, towns and counties; and
- the anticipated future reimbursement requests.

The report must be updated no less than three times, and no later than January 15, 2011, January 15, 2013, and January 15, 2015.

Non-compliance

No permits may be issued for the installation of a new OSS within the boundaries of a city or town if that city or town is not in compliance with the inventory and inspection program requirements.

Waiver from Specific Requirements

A requirement to a local health officer's authority to grant a waiver from specific requirements adopted by the State Board of Health for OSSs is added to include a city's or town's compliance with the inventory and inspection requirements.

Administrative Search Warrants

A request for an administrative search warrant, if a person has refused a local jurisdiction access to property, must show, until December 21, 2013, that inspection, examination, test or sampling is part of a standard inspection program.

Substitute Bill Compared to Original Bill:

Only cities and towns with a population of 31,000 residents or greater, not in a marine recovery area, are required to create an inventory and inspection system of OSSs. Creation of the inventory and inspection system may be created by cities or by contract with a local health jurisdiction. An inspection system must be created by January 1, 2012, instead of January 1, 2009. Cities and local health jurisdictions must summarize data on the programs for the DOH. The local reimbursement Account does not expire in 2015. Permits by counties or local health jurisdictions for new installations of on-site septic systems within the city's boundaries are prohibited if a city is not in compliance. Issuing administrative search warrants as part of an inspection program will not be allowed after December 31, 2013. The section will be null and void if funding is not provided by June 30, 2007.

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. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) The state is incurring high costs for the cleanup of pollution, which is partly attributed to failing septic systems. Failing systems have a range of health and ecological impacts, and there is a need for broad education on owning and maintaining septic systems. Jurisdictions do not know where septic systems exist. This bill would take a basic step of identifying the systems and requiring inspections. Smaller communities should not be penalized and have time to set up inspection and inventory programs. It is important to understand the size of the problem of failing septic systems and to get the systems inspected. Septic tanks in marine recovery areas are already covered by legislation, and we should not conflict with that legislation.

(With concerns) Concepts or goals of the bill are good or supported, but there are problems or concerns with the bill. The impact of septic systems on the environment can be important. Homeowners should be aware of their septic systems and make sure they are properly maintained. Inventory and inspection of septic systems are an important assurance of maintenance. The fiscal impact of the bill could be high for agencies and local government. Fiscal impacts and short time frames for compliance are a concern. A local jurisdiction not in compliance would hold up permits for new installations of septic systems, which would punish someone trying to get a new permit who had nothing to do with the inventory and inspection process. Cities have never identified or inspected septic systems, as counties or local health

jurisdictions are usually relied upon. Covering only 75 percent of the costs will be difficult for local jurisdictions. The provision of funds out of the reimbursement Account is not linked with any responsibilities.

(Opposed) None.

Persons Testifying: (In support) Bruce Wishart, People for Puget Sound.

(With concerns) Melodie Selby, Department of Ecology; Maryanne Guishard, Department of Health; Jennifer Kunkel, Building Industry and Association of Washington; Dave Williams, Association of Washington Cities; and Art Starry, Thurston County Environmental Health Directors.

Persons Signed In To Testify But Not Testifying: John Thomas, Washington Onsite Sewage Association.