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**ENGROSSED HOUSE BILL 1476**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Representatives Peterson, Buys, Van Werven, and Short

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; amending RCW 70.118A.030, 70.118A.070, 70.118A.020, 70.118A.080, 70.118A.050, and 70.118A.060; and creating new sections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) The legislature finds that there are an estimated six hundred thousand on-site sewage systems in the Puget Sound area alone. These systems are a critical part of the state's wastewater treatment infrastructure.

(2) The legislature further finds that on-site sewage systems are an effective method of treating wastewater, but need appropriate operation and maintenance to adequately treat wastewater and operate in a safe manner. Unmanaged and failing systems may contribute to the pollution of Puget Sound and other regional waters and can potentially pose a threat to human health and the personal safety of families and the public relying on the systems for sewage treatment.

(3)(a) The legislature further finds that local health officers in the twelve counties bordering Puget Sound were asked to submit on-site sewage system program plans to the state department of health in 2007. These plans were focused on the identification of failing systems that threaten public health in defined areas, but did not address certain public safety risks that can result when system infrastructure was inadequately designed, approved, or maintained under previous local programs.

(b) In the ten years since local program plans were first developed to meet minimum state standards, there has not been a process in place to ensure that on-site program plans remain accurate and up-to-date. By establishing a process to ensure that local plans remain current, and by supplementing program focus on public health with attention to public safety outcomes, the local health officers who rely on the information contained in local plans will be better able to confirm that on-site systems are properly maintained and that failing or unsafe systems are identified and repaired.

**Sec.**  RCW 70.118A.030 and 2006 c 18 s 3 are each amended to read as follows:

((~~By July 1, 2007,~~)) (1) The local health officers of health jurisdictions in the twelve counties bordering Puget Sound shall develop a written on-site program management plan to provide guidance to the local health jurisdiction.

(2) Local health officers must update on-site program management plans and submit the updated plans to the department for review and approval under RCW 70.118A.070 at least once every five years to implement:

(a) Local priorities and program requirements; and

(b) State standards identified in this chapter and any rules adopted by the board.

(3) The on-site program management plans of local health jurisdictions required under this section must include:

(a) A procedure for tracking the failure rates of the different on-site sewage disposal system technologies and designs being used in a county and the reporting of that information to the department on a predictable schedule;

(b) A description of steps to be taken by the local health jurisdiction during the next five years that will result in full implementation of the program, including the identification and inspection of previously unknown on-site systems, and the inspection of systems included in the jurisdiction's inventory of known on-site systems. This description of improvement steps to achieve full program implementation within five years must include a plan to:

(i) Each year identify and inventory at least twenty percent of the estimated total of on-site system infrastructure in the jurisdiction that is not currently contained in the jurisdiction's inventory; and

(ii) Ensure the inspection of on-site systems as frequently as required under rules adopted by the board. Rules adopted by the board for the counties addressed by this section must require that an inspection of an on-site sewage disposal system that is carried out by a professional inspector or public agency must be coordinated with and authorized by the owner of the system prior to accessing the property for purposes of carrying out the inspection of the system; and

(c) A financial assurance component that demonstrates that the local health jurisdiction has sufficient funding in the current and subsequent fiscal year budgets to meet estimated costs associated with implementing the program for the two-year period immediately following the filing date of the plan. The financial assurance component must include details regarding sources of funds used by a local health jurisdiction to implement the program, as well as a detailed summary of program expenditures by activity.

(4) A local health officer must submit a report to the department by November 1st of each even-numbered year that summarizes the progress made by the jurisdiction towards achieving the program implementation milestones described in subsection (3)(b) of this section.

**Sec.**  RCW 70.118A.070 and 2006 c 18 s 7 are each amended to read as follows:

(1)(a) The on-site program management plans of local health jurisdictions required under RCW 70.118A.030 must be submitted to the department ((~~by July 1, 2007,~~)) and be reviewed for approval to determine if they ((~~contain all necessary elements. The department shall provide in writing to the local board of health its review of the completeness of the plan~~)):

(i) Are adequate to protect public health and safety by preventing injury and death;

(ii) Include procedures for tracking failure rates and program implementation progress as required in RCW 70.118A.030; and

(iii) Fulfill the minimum on-site program management plan requirements and standards established by the board by rule.

(b) The board may adopt additional criteria by rule for approving plans. However, any additional criteria may not take effect until one year after it is adopted.

(2) In reviewing the on-site ((~~strategy component of the~~)) program management plan, the department shall ensure that all required elements, including designation of any marine recovery area and the preservation of public health and safety by preventing injury or death resulting from the improper operation and maintenance of systems, have been addressed.

(3) Within thirty days of receiving an on-site ((~~strategy~~)) program management plan, the department shall either approve the on-site ((~~strategy~~)) program management plan or provide in writing the reasons for not approving the ((~~strategy~~)) on-site program management plan and recommend changes. If the department does not approve the on-site ((~~strategy~~)) program management plan, the local health officer must amend and resubmit the on-site program management plan to the department for approval.

(4) Upon receipt of department approval or after thirty days without notification, whichever comes first, the local health officer shall implement the on-site ((~~strategy~~)) program management plan.

(5) If the department denies approval of an on-site ((~~strategy~~)) program management plan, the local health officer may appeal the denial to the board. The board must make a final determination concerning the denial.

(6) The department shall assist local health jurisdictions in:

(a) Developing written on-site program management plans required by RCW 70.118A.030;

(b) Identifying reasonable methods for finding unknown systems; ((~~and~~))

(c) Developing or enhancing electronic data systems that will enable each local health jurisdiction to actively manage all on-site sewage disposal systems within their jurisdictions, with priority given to those on-site sewage disposal systems that are located in or which could affect designated marine recovery areas; and

(d) Identifying best practices to be used by septic owners, operators, and installers for ensuring the safe operation and maintenance of on-site sewage disposal systems, including the design and maintenance of on-site sewage disposal system risers and lids.

**Sec.**  RCW 70.118A.020 and 2006 c 18 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the state board of health.

(2) "Department" means the department of health.

(3)(a) "Failing" means a condition of an existing on-site sewage disposal system or component that threatens the public health by:

(i) Inadequately treating sewage((~~,~~)); or ((~~by~~))

(ii) Creating a potential for direct or indirect contact between sewage and the public.

(b) Examples of a failing on-site sewage disposal system include:

((~~(a)~~)) (i) Sewage on the surface of the ground;

((~~(b)~~)) (ii) Sewage backing up into a structure caused by slow soil absorption of septic tank effluent;

((~~(c)~~)) (iii) Sewage leaking from a sewage tank or collection system;

((~~(d)~~)) (iv) Cesspools or seepage pits where evidence of groundwater or surface water quality degradation exists;

((~~(e)~~)) (v) Inadequately treated effluent contaminating groundwater or surface water; ((~~or~~)) and

((~~(f)~~)) (vi) Noncompliance with standards stipulated on the permit.

(4) "Local health officer" or "local health jurisdiction" means the local health officers and local health jurisdictions in the following counties bordering Puget Sound: Clallam, Island, Kitsap, Jefferson, Mason, San Juan, Seattle-King, Skagit, Snohomish, Tacoma-Pierce, Thurston, and Whatcom.

(5) "Marine recovery area" means an area of definite boundaries where the local health officer, or the department in consultation with the health officer, determines that additional requirements for existing on-site sewage disposal systems may be necessary to reduce potential failing systems or minimize negative impacts of on-site sewage disposal systems.

(6) "Marine recovery area on-site strategy" or "on-site strategy" means a local health jurisdiction's on-site sewage disposal system strategy required under RCW 70.118A.050. This strategy is a component of the on-site program management plan required under RCW 70.118A.030.

(7) "On-site sewage disposal system" or "on-site system" means an integrated system of components, located on or nearby the property it serves, that conveys, stores, treats, or provides subsurface soil treatment and dispersal of sewage. It consists of a collection system, a treatment component or treatment sequence, and a soil dispersal component. An on-site sewage disposal system also refers to a holding tank sewage system or other system that does not have a soil dispersal component. For purposes of this chapter, the term "on-site sewage disposal system" does not include any system regulated by a water quality discharge permit issued under chapter 90.48 RCW.

(8) "Unknown system" means an on-site sewage disposal system that was installed without the knowledge or approval of the local health jurisdiction, including those that were installed before such approval was required.

(9) "Unsafe system" means a condition of an existing on-site sewage disposal system that threatens public safety by creating a condition where a person could be injured or killed because a component or part of an on-site sewage disposal system is malfunctioning or missing. Examples of an unsafe system include, but are not limited to, electrical junction box covers, lids, or risers that are missing, damaged, unsecured, or malfunctioning.

**Sec.**  RCW 70.118A.080 and 2006 c 18 s 8 are each amended to read as follows:

(1) The department shall enter into a contract with each local health jurisdiction subject to the requirements of this chapter to implement plans developed under this chapter, ((~~and~~)) to develop or enhance electronic data systems required by this chapter, and to enhance the public safety by preventing injury or death resulting from improper operation and maintenance of on-site sewage disposal systems. The contract must include state funding assistance to the local health jurisdiction from funds appropriated to the department for this purpose.

(2) The contract must require, at a minimum, that within a marine recovery area, the local health jurisdiction:

(a) Show progressive improvement in finding failing systems;

(b) Show progressive improvement in working with the owners of on-site sewage disposal ((~~system owners~~)) systems that qualify as failing systems, unsafe systems, or both to make needed system repairs;

(c) Is actively taking steps to find previously unknown systems and ensuring that they are inspected as required and repaired if necessary;

(d) Show progressive improvement in the percentage of on-site sewage disposal systems that are included in an electronic data system; and

(e) Of those on-site sewage disposal systems in the electronic data system, show progressive improvement in the percentage that have had required inspections.

(3) The contract must also include provisions for state assistance in updating the plan. ((~~Beginning July 1, 2012,~~)) The contract may adopt revised compliance dates, including those in RCW 70.118A.050, where the local health jurisdiction has demonstrated substantial progress in updating the on-site strategy.

((~~(4) The department shall convene a work group for the purpose of making recommendations to the appropriate committees of the legislature for the development of certification or licensing of maintenance specialists. The work group shall make its recommendation with consideration given to the 1998 report to the legislature entitled "On-Site Wastewater Certification Work Group" as it pertains to maintenance specialists. The work group may give priority to appropriate levels of certification or licensure of maintenance specialists who work in the Puget Sound basin.~~))

**Sec.**  RCW 70.118A.050 and 2006 c 18 s 5 are each amended to read as follows:

(1) The local health officer of a local health jurisdiction where a marine recovery area has been proposed under RCW 70.118A.040 shall develop and approve a marine recovery area on-site strategy that includes designation of marine recovery areas to guide the local health jurisdiction in developing and managing all existing on-site sewage disposal systems within marine recovery areas within its jurisdiction. The on-site strategy must be a component of the program management plan required under RCW 70.118A.030. The department may grant an extension of twelve months where a local health jurisdiction has demonstrated substantial progress toward completing its on-site strategy.

(2)(a) An on-site strategy for a marine recovery area must specify how the local health jurisdiction will ((~~by July 1, 2012, and thereafter,~~)) find:

((~~(a)~~)) (i) Existing failing systems and ensure that system owners make necessary repairs; and

((~~(b)~~)) (ii) Unknown systems and ensure that they are inspected as required to ensure that they are functioning properly, and repaired, if necessary.

(b) Any on-site strategies submitted as a component of an updated program management plan required under RCW 70.118A.030 must include provisions for identifying and correcting unsafe systems simultaneously with efforts to identify and correct failing systems.

**Sec.**  RCW 70.118A.060 and 2006 c 18 s 6 are each amended to read as follows:

(1) In a marine recovery area, each local health officer shall:

((~~(1)~~)) (a) Require that on-site sewage disposal system maintenance specialists, septic tank pumpers, or others performing on-site sewage disposal system inspections submit reports or inspection results to the local health jurisdiction regarding any failing system or unsafe system; and

((~~(2)~~)) (b) Develop and maintain an electronic data system of all on-site sewage disposal systems within a marine recovery area to enable the local health jurisdiction to actively manage on-site sewage disposal systems.

(2) In assisting development of electronic data systems under this section, the department shall work with local health jurisdictions with marine recovery areas and the on-site sewage disposal system industry to develop common forms and protocols to facilitate sharing of data. A marine recovery area on-site sewage disposal electronic data system must be compatible with all on-site sewage disposal electronic data systems used throughout a local health jurisdiction.

NEW SECTION. **Sec.**  Nothing in this act requires the adoption of new or updated rules by the state board of health regarding septic inspection or design criteria or standards or other rules addressing the septic plans or programs of local health jurisdictions.

**--- END ---**