

CERTIFICATION OF ENROLLMENT
THIRD SUBSTITUTE HOUSE BILL 1458

Chapter 18, Laws of 2006

59th Legislature
2006 Regular Session

ON-SITE SEWAGE DISPOSAL SYSTEMS--MARINE AREAS

EFFECTIVE DATE: 6/7/06

Passed by the House February 11, 2006
Yeas 70 Nays 26

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate February 28, 2006
Yeas 28 Nays 15

BRAD OWEN

President of the Senate

Approved March 9, 2006.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **THIRD SUBSTITUTE HOUSE BILL 1458** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

March 9, 2006 - 1:34 p.m.

**Secretary of State
State of Washington**

THIRD SUBSTITUTE HOUSE BILL 1458

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Hunt, Dickerson, McCoy, B. Sullivan, Williams, Haigh, Appleton, Linville, Chase, Dunshee, Simpson, Upthegrove, Moeller and McDermott)

READ FIRST TIME 02/07/06.

1 AN ACT Relating to managing on-site sewage disposal systems in
2 marine areas; adding a new section to chapter 90.48 RCW; adding a new
3 chapter to Title 70 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) Hood Canal and other marine waters in Puget Sound are at risk
7 of severe loss of marine life from low-dissolved oxygen. The increased
8 input of human-influenced nutrients, especially nitrogen, is a factor
9 causing this low-dissolved oxygen condition in some of Puget Sound's
10 waters, in addition to such natural factors as poor overall water
11 circulation and stratification that discourages mixing of surface-to-
12 deeper waters;

13 (2) A significant portion of the state's residents live in homes
14 served by on-site sewage disposal systems, and many new residences will
15 be served by these systems;

16 (3) Properly functioning on-site sewage disposal systems largely
17 protect water quality. However, improperly functioning on-site sewage
18 disposal systems in marine recovery areas may contaminate surface
19 water, causing public health problems;

1 (4) Local programs designed to identify and correct failing on-site
2 sewage disposal systems have proven effective in reducing and
3 eliminating public health hazards, improving water quality, and
4 reopening previously closed shellfish areas; and

5 (5) State water quality monitoring data and analysis can help to
6 focus these enhanced local programs on specific geographic areas that
7 are sources of pollutants degrading Puget Sound waters.

8 Therefore, it is the purpose of this chapter to authorize enhanced
9 local programs in marine recovery areas to inventory existing on-site
10 sewage disposal systems, to identify the location of all on-site sewage
11 disposal systems in marine recovery areas, to require inspection of on-
12 site sewage disposal systems and repairs to failing systems, to develop
13 electronic data systems capable of sharing information regarding on-
14 site sewage disposal systems, and to monitor these programs to ensure
15 that they are working to protect public health and Puget Sound water
16 quality.

17 NEW SECTION. **Sec. 2.** The definitions in this section apply
18 throughout this chapter unless the context clearly requires otherwise.

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

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

21 (3) "Failing" means a condition of an existing on-site sewage
22 disposal system or component that threatens the public health by
23 inadequately treating sewage, or by creating a potential for direct or
24 indirect contact between sewage and the public. Examples of a failing
25 on-site sewage disposal system include:

26 (a) Sewage on the surface of the ground;

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

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

30 (d) Cesspools or seepage pits where evidence of ground water or
31 surface water quality degradation exists;

32 (e) Inadequately treated effluent contaminating ground water or
33 surface water; or

34 (f) Noncompliance with standards stipulated on the permit.

35 (4) "Local health officer" or "local health jurisdiction" means the
36 local health officers and local health jurisdictions in the following

1 counties bordering Puget Sound: Clallam, Island, Kitsap, Jefferson,
2 Mason, San Juan, Seattle-King, Skagit, Snohomish, Tacoma-Pierce,
3 Thurston, and Whatcom.

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

10 (6) "Marine recovery area on-site strategy" or "on-site strategy"
11 means a local health jurisdiction's on-site sewage disposal system
12 strategy required under section 5 of this act. This strategy is a
13 component of the on-site program management plan required under section
14 3 of this act.

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

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

29 NEW SECTION. **Sec. 3.** By July 1, 2007, the local health officers
30 of health jurisdictions in the twelve counties bordering Puget Sound
31 shall develop a written on-site program management plan to provide
32 guidance to the local health jurisdiction.

33 NEW SECTION. **Sec. 4.** (1) In developing on-site program management
34 plans required under section 3 of this act, the local health officer
35 shall propose a marine recovery area for those land areas where

1 existing on-site sewage disposal systems are a significant factor
2 contributing to concerns associated with:

3 (a) Shellfish growing areas that have been threatened or downgraded
4 by the department under chapter 69.30 RCW;

5 (b) Marine waters that are listed by the department of ecology
6 under section 303(d) of the federal clean water act (33 U.S.C. Sec.
7 1251 et seq.) for low-dissolved oxygen or fecal coliform; or

8 (c) Marine waters where nitrogen has been identified as a
9 contaminant of concern by the local health officer.

10 (2) In determining the boundaries for a marine recovery area, the
11 local health officer shall assess and include those land areas where
12 existing on-site sewage disposal systems may affect water quality in
13 the marine recovery area.

14 (3) Determinations made by the local health officer under this
15 section, including identification of nitrogen as a contaminant of
16 concern, will be based on published guidance developed by the
17 department. The guidance must be designed to ensure the proper use of
18 available scientific and technical data. The health officer shall
19 document the basis for these determinations when plans are submitted to
20 the department.

21 (4) After July 1, 2007, the local health officer may designate
22 additional marine recovery areas meeting the criteria of this section,
23 according to new information. Where the department recommends the
24 designation of a marine recovery area or expansion of a designated
25 marine recovery area, the local health officer shall notify the
26 department of its decision concerning the recommendation within ninety
27 days of receipt of the recommendation.

28 NEW SECTION. **Sec. 5.** (1) The local health officer of a local
29 health jurisdiction where a marine recovery area has been proposed
30 under section 4 of this act shall develop and approve a marine recovery
31 area on-site strategy that includes designation of marine recovery
32 areas to guide the local health jurisdiction in developing and managing
33 all existing on-site sewage disposal systems within marine recovery
34 areas within its jurisdiction. The on-site strategy must be a
35 component of the program management plan required under section 3 of
36 this act. The department may grant an extension of twelve months where

1 a local health jurisdiction has demonstrated substantial progress
2 toward completing its on-site strategy.

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

6 (a) Existing failing systems and ensure that system owners make
7 necessary repairs; and

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

11 NEW SECTION. **Sec. 6.** In a marine recovery area, each local health
12 officer shall:

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

17 (2) Develop and maintain an electronic data system of all on-site
18 sewage disposal systems within a marine recovery area to enable the
19 local health jurisdiction to actively manage on-site sewage disposal
20 systems. In assisting development of electronic data systems, the
21 department shall work with local health jurisdictions with marine
22 recovery areas and the on-site sewage disposal system industry to
23 develop common forms and protocols to facilitate sharing of data. A
24 marine recovery area on-site sewage disposal electronic data system
25 must be compatible with all on-site sewage disposal electronic data
26 systems used throughout a local health jurisdiction.

27 NEW SECTION. **Sec. 7.** (1) The on-site program management plans of
28 local health jurisdictions required under section 3 of this act must be
29 submitted to the department by July 1, 2007, and be reviewed to
30 determine if they contain all necessary elements. The department shall
31 provide in writing to the local board of health its review of the
32 completeness of the plan. The board may adopt additional criteria by
33 rule for approving plans.

34 (2) In reviewing the on-site strategy component of the plan, the
35 department shall ensure that all required elements, including
36 designation of any marine recovery area, have been addressed.

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

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

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

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

14 (a) Developing written on-site program management plans required by
15 section 3 of this act;

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

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

22 NEW SECTION. **Sec. 8.** (1) The department shall enter into a
23 contract with each local health jurisdiction subject to the
24 requirements of this chapter to implement plans developed under this
25 chapter, and to develop or enhance electronic data systems required by
26 this chapter. The contract must include state funding assistance to
27 the local health jurisdiction from funds appropriated to the department
28 for this purpose.

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

31 (a) Show progressive improvement in finding failing systems;

32 (b) Show progressive improvement in working with on-site sewage
33 disposal system owners to make needed system repairs;

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

36 (d) Show progressive improvement in the percentage of on-site

1 sewage disposal systems that are included in an electronic data system;
2 and

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

6 (3) The contract must also include provisions for state assistance
7 in updating the plan. Beginning July 1, 2012, the contract may adopt
8 revised compliance dates, including those in section 5 of this act,
9 where the local health jurisdiction has demonstrated substantial
10 progress in updating the on-site strategy.

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

20 NEW SECTION. **Sec. 9.** The provisions of this chapter are
21 supplemental to all other authorities governing on-site sewage disposal
22 systems, including chapter 70.118 RCW and rules adopted under that
23 chapter.

24 NEW SECTION. **Sec. 10.** A new section is added to chapter 90.48 RCW
25 to read as follows:

26 The department shall offer financial and technical assistance to
27 local governments and tribal entities in Puget Sound counties to
28 establish or expand on-site sewage disposal system repair and
29 replacement through local loan and grant programs. The programs must
30 give priority to low-income and financially distressed homeowners.

31 NEW SECTION. **Sec. 11.** (1) The department of health shall report
32 to the appropriate committees of the senate and house of
33 representatives by December 31, 2008, on progress in designating marine
34 recovery areas and developing and implementing on-site strategies for
35 such marine recovery areas.

1 (2) The report shall include information on:

2 (a) The status of on-site strategies in each county covered by
3 sections 2 through 9 of this act;

4 (b) The status of on-site sewage disposal system location,
5 identification, and inclusion within electronic data systems in each
6 county, including estimates of remaining on-site sewage disposal
7 systems within marine recovery areas that have not been identified or
8 included within electronic data systems;

9 (c) Areas for which shoreline surveys have been completed by the
10 department;

11 (d) The progress of and capacity of local health jurisdictions to
12 identify on-site sewage disposal systems within marine recovery areas
13 and to ensure that failing systems are repaired and all systems are
14 operated and maintained in compliance with board of health standards;

15 (e) Regulatory, statutory, and financial barriers to implementing
16 the on-site strategy; and

17 (f) Recommendations that will assist local health jurisdictions to
18 successfully implement plans.

19 (3) Local health jurisdictions shall provide information and data
20 requested by the department of health in developing the report, and the
21 department shall append all reports or information that the local
22 health jurisdictions request to be included in the report.

23 NEW SECTION. **Sec. 12.** Sections 1 through 9 of this act constitute
24 a new chapter in Title 70 RCW.

Passed by the House February 11, 2006.

Passed by the Senate February 28, 2006.

Approved by the Governor March 9, 2006.

Filed in Office of Secretary of State March 9, 2006.