

- SUBJECT:** Enforcing maintenance requirements for on-site sewage disposal systems
- COMMITTEE:** Environmental Regulation — committee substitute recommended
- VOTE:** 7 ayes — Bonnen, Howard, Driver, Homer, T. King, Kuempel, W. Smith  
0 nays
- WITNESSES:** For — Jeff Snowden, Texas Onsite Wastewater Association  
Against — None  
On — Tony Franco, Texas Commission on Environmental Quality
- BACKGROUND:** Under Health and Safety Code sec. 366.051, a person must have a permit and an approved plan in order to construct, repair, or operate an on-site sewage disposal system, also known as a septic system. A permit may be authorized either by the Texas Commission on Environmental Quality (TCEQ) or an authorized agent in a county. If a maintenance contract for a septic system is required by TCEQ or agent rule, the system's owner must submit to the permitting authority a signed contract for the maintenance of the system.
- Health and Safety Code sec. 366.071(a) requires a person who constructs, extends, or repairs a septic system for compensation to hold a license from TCEQ.
- DIGEST:** CSHB 2510 would grant to TCEQ additional licensing and enforcement responsibilities related to the service and maintenance of septic systems.
- If an authorized agent or TCEQ approved a permit for a septic system using aerobic treatment based on the owner contracting with another individual for maintenance of the system, the agent or the commission could require the maintenance company to:
- inspect the septic system at specified intervals;
  - submit a report on each inspection to the agent or commission; and
  - provide a copy of the report to the system's owner.

A maintenance company in violation of such a requirement would be subject to an administrative penalty. TCEQ could recover the penalty through an administrative proceeding. An authorized agent could recover the penalty under an order or resolution of that agent.

The penalty for a first violation would be \$200. The penalty for subsequent violations would be \$500. After three or more violations, TCEQ could revoke the license of a maintenance company or any person employed by the maintenance company. The bill also would make it a class C misdemeanor (maximum fine of \$500) if a person knowingly violated an order adopted by an agent under the bill.

CSHB 2510 would require those who service and maintain septic systems for compensation to hold a TCEQ license. This provision would take effect March 1, 2006. TCEQ would have to be prepared to accept applications for licenses and registrations by December 1, 2005.

The bill would repeal a provision of the Health and Safety Code allowing TCEQ to register persons who service septic tank systems for compensation.

The bill would take effect September 1, 2005, and would apply only to a violation committed on or after the bill's effective date.

**SUPPORTERS  
SAY:**

CSHB 2510 would address a shortfall in state law that allows unscrupulous contractors to take advantage of homeowners with septic tanks. Currently, a septic system owner must enter into an agreement with a maintenance professional to have the owner's system maintained once every four months, generally paying that person up front. If the maintenance professional fails to render service, the homeowner is out of compliance with state and local law and could face fines. CSHB 2510 would strengthen enforcement of state law and ensure that those who receive payment under septic tank maintenance agreements actually provided the services for which they were paid.

Faulty septic tanks are a serious public health concern, and aerobic systems require regular maintenance to ensure they are working properly. Any steps the state could take to ensure that the 5 million septic systems throughout the state were properly maintained would serve the interests of public health and welfare.

CSHB 2510 would provide much needed enforcement mechanisms against maintenance professionals who fail to abide by their contractual duties. A series of fines would be imposed for repeat infractions, potentially leading to the revocation of the license of a chronic violator. It is essential that maintenance professionals be permitted like installers or other participants, because these individuals perform services that are key to maintaining the efficacy of systems throughout the state. The provisions in this bill would provide needed homeowner protection mechanisms without creating another layer of government bureaucracy or generating unnecessary costs.

**OPPONENTS  
SAY:**

A more effective way to ensure the safety of septic systems would be the creation of an oversight board to advise TCEQ regarding the administration of its on-site sewage disposal system program. An advisory board made up of stakeholders and industry professionals would help the commission stay on top of issues in the field and ensure that the reforms of this bill were successful.

**NOTES:**

As filed, HB 2510 would have created an advisory council made up of installers, site evaluators, and inspectors to advise TCEQ in its rulemaking process.

According to the Legislative Budget Board, CSHB 2510 would have no significant fiscal impact to the state. TCEQ estimates that it would add three FTEs and incur some costs as a result of the bill, which it likely would cover by increasing fees related to licensing, registrations, and enforcement.