

SUBJECT: Maintenance requirements for on-site sewage disposal systems

COMMITTEE: Environmental Regulation — committee substitute recommended

VOTE: 7 ayes — Bonnen, Hancock, Lucio, Driver, T. King, Kuempel, West
0 nays

WITNESSES: For — None
Against — None
On — Colin Bishop, Jeff A. Snowden, Ron Schecki, Texas On-Site Wastewater Association

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, such as the county commissioners court. 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.

Health and Safety Code, subsec. 366.0515(h) requires the owner of an on-site sewage disposal system who elects to maintain his or her system directly to obtain on-site training of no more than six hours from either the installer of the system or the manufacturer via a maintenance company. An owner choosing to maintain his or her own system is subject to inspection and reporting requirements imposed by the commissioners court or TCEQ. If the residence is sold, the new owner must obtain similar training within 30 days of taking possession of the property or contract with a maintenance company for maintenance of the system.

Subsection (i) requires a commissioners court or TCEQ to periodically inspect an on-site sewage disposal system using aerobic treatment for a single-family residence that is maintained directly by the owner. This inspection must be done no more than once every five years.

Under subsection (j), a commissioners court or TCEQ may condition a permit on the owner's contracting with a maintenance company if:

- the system is a nuisance or fails inspection;
- the owner fails in his or her inspection or reporting requirements; or
- the owner is notified at least three times in a 12 month period that the system is malfunctioning.

Subsec. (n) requires a person providing training to the owner of an on-site sewage disposal system in maintenance of the system to be certified by the manufacturer of the system. Subsec. (o) specifies that a commissioners court or TCEQ is not allowed to dictate to a manufacturer the person who is authorized to maintain the systems or to provide training in maintenance of the systems.

In 2005, the 79th Legislature enacted HB 2510 by Bonnen, which repealed a section of law that allowed TCEQ to implement a program to register a person to service or maintain on-site sewage disposal systems for compensation.

DIGEST:

CSHB 2482 would require the owner of a single family residence located in a county with a population of less than 40,000 to maintain an on-site sewage disposal system directly or through a maintenance contract. In a county with a population of less than 40,000, TCEQ or a commissioners court could not make a permit for an on-site sewage disposal system using aerobic treatment for a single-family residence conditional on the system's owner contracting for the maintenance of the system.

The bill would repeal Health and Safety Code subsections 366.0515(h), (i), (j), (n), and (o). Among their provisions, these subsections require the owner of an on-site sewage disposal system who elected to maintain his or her system directly to obtain on-site training from either the manufacturer or installer of the system. These subsections also include provisions requiring a person providing training to the owner of an on-site sewage disposal system in maintenance of the system to be certified by the manufacturer of the system.

The bill would reinstate a provision repealed under HB 2510 by Bonnen, 79th Legislature, regular session, which would allow TCEQ to implement a program to register a person to service or maintain on-site sewage disposal systems for compensation.

The bill would take effect September 1, 2007.

**SUPPORTERS
SAY:**

By repealing the changes to laws governing maintenance of aerobic sewer systems made under HB 2510 by Bonnen, enacted last session, CSHB 2482 would reinforce the authority of counties and TCEQ to ensure the health and safety of on-site septic systems. The system for training an individual to maintain his or her own septic system has proved to be expensive and impractical, leading to only a few dozen individuals taking advantage of the course. CSHB 2482 would return to TCEQ the authority to manage a program to register individuals to maintain septic systems, allowing an experienced state agency to ensure that the programs are run in a thorough and fair manner.

One unintended consequence of HB 2510 was that it set up a conflict of interest for manufacturers of septic systems. Under current law, a manufacturer can deny to certify maintenance providers who did not give preferential treatment to working on systems built by that manufacturer. CSHB 2482 would eliminate this potential for abuse by returning the certification process to TCEQ, an independent and qualified governmental agency.

**OPPONENTS
SAY:**

This bill would undermine the reforms of HB 2510 by Bonnen, enacted last session. These provisions were adopted to improve and ensure the health and safety of on-site aerobic sewer systems and make it easier for individuals living in remote areas of the state to maintain their own systems. Although the transition to the new system of oversight and maintenance of on-site septic systems has been problematic, manufacturers have invested in creating an effective system for training owners of these systems. While flaws in the current system exist, the Legislature should allow the industry along with TCEQ to work these problems out over time.

NOTES:

The committee substitute differs substantially from the bill as filed. As filed, HB 2482 would have required a person to be certified by TCEQ to provide training to the owner of an on-site sewage disposal system in maintenance of that system.