

SEWAGE TREATMENT SYSTEM REGULATION - BACKGROUND MEMORANDUM

Senate Bill No. 2241 (2019) directs the Legislative Management to study the regulation of sewage treatment system installation, maintenance, testing, and repair. The study must include consideration of a uniform set of rules; uniform occupational licensing requirements; testing and education requirements for occupations that install, maintain, test, and repair sewage treatment systems; the regulatory agency best able to regulate sewage treatment systems; options for maintaining local government control over sewage treatment system regulation; and issues relevant to these considerations.

BACKGROUND

Senate Bill No. 2241 was introduced to provide for a Legislative Management study to consider the best regulatory scheme for sewage treatment system installation, maintenance, testing, and repair. Testimony in support of the bill included the Department of Environmental Quality, administrators of local public health units, and several contractors. According to the testimony, the proper design, installation, maintenance, testing, and repair of onsite sewage systems is important for environmental health concerns and to protect the public. Historically, in North Dakota, local public health units have been the primary regulators of single residence onsite sewage treatment systems.

North Dakota's public health system has 28 independent local public health units working in partnership with the State Department of Health. The 28 local public health units are organized into single or multicounty health districts, city/county health departments, or city/county health districts. The majority of the multicounty jurisdictions are located in the western part of the state. The public health units may exercise their own powers, and the units have administrative authority to make decisions to meet local needs. However, the public health units are required to meet state standards and follow state laws and regulations.

As stated in the testimony, the oversight of single residence onsite sewage treatment systems by local public health units addresses local building codes, licensing of contractors, and regional soil conditions. However, some challenges of this local control include varying onsite sewage system design, installation, and licensing requirements from region to region, lack of oversight in areas in which the local public health unit is unable to establish a program, and a lack of needed training opportunities for installers.

Testimony on Senate Bill No. 2241 revealed there has been a recent push by some individuals in the industry toward creating a unified code for septic system design, installation, and maintenance for potential adoption across the state. Interested parties, including system contractors and local environmental health practitioners, drafted requirements for onsite sewage treatment systems, and a number of the public health units have adopted those uniform requirements. However, because not all of the public health units have adopted these requirements, the design, installation, and licensing requirements vary from region to region.

Supporters of statewide regulations testified issues remain regarding how to carry out the proposed statewide regulations in a uniform manner. These issues include providing statewide education for installers and regulators, providing an accessible database of licensed installers, ensuring competency of regulators, and designating a host state agency to administer the statewide components of the regulations.

NORTH DAKOTA ADMINISTRATIVE RULES

North Dakota Administrative Code Chapter 62-03.1-03, regarding private sewage disposal systems, outlines requirements for the installation of onsite sewage treatment systems. Although this chapter is housed in the administrative rules of the State Board of Plumbing, the State Board of Plumbing is not defined as an administrative authority under the rules; rather, the term "administrative authority" is defined as the State Department of Health, district health units, or county or city health departments that have expertise in onsite sewage treatment systems. The board does not license individuals to install onsite sewage treatment systems; instead, the public health units license those individuals. Although the administrative rules outline some of the requirements for the installation of onsite sewage treatment systems, most of the rules have not been updated since 2000, and many of the public health units have varying licensing and continuing education requirements.

PROPOSED STUDY APPROACH

The committee may wish to receive testimony from persons interested in sewage treatment systems, including the Department of Environmental Quality, local public health units, and the State Board of Plumbing, and other interested persons to gain perspective on considering uniform rules or occupational licensing requirements; the regulatory agency best able to regulate sewage treatment systems; options for maintaining local government control

over sewage treatment system regulation; and issues relevant to these considerations. This information may assist the committee in evaluating the best regulatory scheme for sewage treatment system installation, maintenance, testing, and repair.