

By: Kitzman

H.B. No. 5549

Substitute the following for H.B. No. 5549:

By: Landgraf

C.S.H.B. No. 5549

A BILL TO BE ENTITLED

AN ACT

relating to the regulation and planning of on-site sewage disposal systems; authorizing and increasing an administrative penalty; increasing the amount of a fee.

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

SECTION 1. Section 366.001, Health and Safety Code, is amended to read as follows:

Sec. 366.001. POLICY AND PURPOSE. It is the public policy of this state and the purpose of this chapter to:

(1) eliminate and prevent health hazards by regulating and properly planning the location, design, construction, installation, operation, ~~and~~ maintenance, and pumping of on-site sewage disposal systems;

(2) authorize the commission or authorized agent to impose and collect a permit fee for:

(A) construction, installation, alteration, repair, or extension of on-site sewage disposal systems; and

(B) tests, designs, and inspections of those systems;

(3) authorize the commission or authorized agent to impose a penalty for a violation of this chapter or a rule adopted under this chapter;

(4) authorize the commission to license or register certain persons; and

(5) allow the individual owner of a disposal system used at the owner's primary residence to install and repair the system in accordance with this chapter.

SECTION 2. Sections 366.002(6) and (8), Health and Safety Code, are amended to read as follows:

(6) "Nuisance" means:

(A) sewage, human excreta, or other organic waste discharged or exposed in a manner that makes it a potential instrument or medium in the transmission of disease to or between persons; or

(B) an overflowing sewage treatment or holding ~~[septic]~~ tank or similar device, including surface discharge from or groundwater contamination by a component of an on-site sewage disposal system, or a blatant discharge from an on-site sewage disposal system.

(8) "Owner" means a person who owns the ~~[a building or other]~~ property served by an on-site sewage disposal system.

SECTION 3. Section 366.011, Health and Safety Code, is amended to read as follows:

Sec. 366.011. GENERAL SUPERVISION AND AUTHORITY. The commission or authorized agents:

(1) have general authority over the location, design, construction, installation, and proper functioning of on-site sewage disposal systems in their designated area of jurisdiction; and

(2) shall administer this chapter and the rules adopted under this chapter.

SECTION 4. Section 366.012(b), Health and Safety Code, is amended to read as follows:

(b) In rules adopted under this chapter, the commission shall include definitions and detailed descriptions of good management practices and procedures for the construction and operation of on-site sewage disposal systems that:

(1) justify variation in field size or in other standard requirements;

(2) promote the use of good management practices or procedures in the construction and operation of on-site sewage disposal systems;

(3) require the use of one or more specific management practices or procedures as a condition of approval of a standard on-site sewage disposal system if, in the opinion of the commission or authorized agent, site conditions or other problems require the use of additional management practices or procedures to ensure the proper operation of an on-site sewage disposal system; and

(4) make available general, operational information to the public.

SECTION 5. Section 366.013(e), Health and Safety Code, is amended to read as follows:

(e) This section does not apply to an aerobic [~~nonstandard~~] or proprietary on-site sewage treatment system unless the water softener drain line to the system bypasses the treatment system and flows into the pump tank or directly into the discharge method.

SECTION 6. Section 366.014, Health and Safety Code, is

1 amended to read as follows:

2 Sec. 366.014. DESIGNATED PERSON. Subject to the
3 requirements of Section 366.071(b), the commission or an authorized
4 agent shall ~~[may]~~ designate one or more persons ~~[a person]~~ to:

5 (1) review permit applications, site evaluations, or
6 planning materials; or

7 (2) inspect on-site sewage disposal systems.

8 SECTION 7. Section 366.031, Health and Safety Code, is
9 amended by adding Subsection (c) to read as follows:

10 (c) Notwithstanding the designation of an authorized agent
11 under this section, the commission shall maintain the authority and
12 responsibility for permitting on-site sewage disposal systems that
13 produce over 1,500 gallons per day unless the commission
14 specifically designates that authority and responsibility to the
15 authorized agent. The commission may designate to an authorized
16 agent the authority and responsibility to permit on-site sewage
17 disposal systems that produce over 1,500 gallons per day only if the
18 authorized agent satisfactorily demonstrates minimum designated
19 representative qualification standards and licensure, as
20 prescribed by the commission.

21 SECTION 8. Section 366.032(c), Health and Safety Code, is
22 amended to read as follows:

23 (c) An authorized agent must obtain commission approval of
24 any ~~[substantive]~~ amendments to the agent's order or resolution.

25 SECTION 9. Section 366.034, Health and Safety Code, is
26 amended by amending Subsection (b) and adding Subsection (c) to
27 read as follows:

1 (b) If the commission determines that an authorized agent
2 does not consistently enforce the commission's minimum
3 requirements for on-site sewage disposal systems, the commission
4 may ~~[shall]~~ hold a hearing and determine whether to continue the
5 designation as an authorized agent.

6 (c) The commission may assess an administrative penalty
7 against an authorized agent if the commission determines that the
8 authorized agent does not implement and enforce the commission's
9 minimum requirements for on-site sewage disposal systems.

10 SECTION 10. The heading to Section 366.0515, Health and
11 Safety Code, is amended to read as follows:

12 Sec. 366.0515. MAINTENANCE CONTRACT ~~[AND—PERFORMANCE~~
13 ~~BOND]~~.

14 SECTION 11. Section 366.0515, Health and Safety Code, is
15 amended by amending Subsections (a), (b), (d), (e), and (g) and
16 adding Subsection (h) to read as follows:

17 (a) Except as provided by Subsection (g), an authorized
18 agent or the commission may not condition a permit or the approval
19 of a permit for an on-site sewage disposal system using aerobic
20 treatment for a single-family residence on the system's owner
21 contracting for the maintenance of the system if the single-family
22 residence is owned by an individual and is the individual's primary
23 residence.

24 (b) Except as provided by Subsection (a), an authorized
25 agent by order or resolution or the commission by rule may condition
26 approval of a permit for an on-site sewage disposal system on the
27 system's owner contracting for the maintenance of the system. If a

1 maintenance contract is required, the owner of the on-site sewage
2 disposal system must submit to the permitting authority[+]

3 [~~(1)~~] a signed contract for the maintenance of the
4 on-site sewage disposal system[~~+~~ and

5 [~~(2)~~ if the on-site sewage disposal system is located
6 in a county with a population of more than 2.8 million, a
7 performance bond obtained from the person with whom the owner of the
8 on-site sewage disposal system has contracted for maintenance of
9 the system].

10 (d) If the owner of the on-site sewage disposal system
11 enters into a new maintenance contract or revises the original
12 maintenance contract, the owner must submit a copy of the new or
13 revised maintenance contract [~~and a new performance bond~~] to the
14 permitting authority not later than the 30th day after the date on
15 which the original contract terminates or is modified.

16 (e) The permitting authority may establish and collect a
17 reasonable fee to cover the cost of administering the [~~performance~~
18 ~~bond~~] program.

19 (g) The owner of a single-family residence shall maintain
20 the system directly or through a maintenance contract. If the
21 system is a surface disposal system and the owner maintains the
22 system directly, the system must be equipped with an electronic
23 monitoring and alarm system. If an authorized agent or the
24 commission determines that an owner of a single-family residence
25 located in a county with a population of at least 40,000 who
26 maintains the owner's system directly has violated this chapter or
27 a rule adopted or order or permit issued under this chapter, the

owner, not later than the 10th day after the date of receipt of notification of the violation, shall correct the violation or enter into a contract for the maintenance of the system. If before the third anniversary of the date of the determination the owner is determined to have committed another violation of this chapter or a rule adopted under this chapter, the owner, not later than the 10th day after the date of receipt of notification of the subsequent violation, shall enter into a contract for the maintenance of the system. An owner of a single-family residence located in a county with a population of at least 40,000 who maintains the owner's system directly and who violates this chapter or a rule adopted or order or permit issued under this chapter is also subject to an administrative penalty. The commission may recover the penalty in a proceeding conducted as provided by Subchapter C, Chapter 7, Water Code, or the authorized agent may recover the penalty in a proceeding conducted under an order or resolution of the agent. Notwithstanding Section 7.052, Water Code, the amount of the penalty may not exceed \$500 [~~\$100~~].

(h) A maintenance contract under this section for a surface spray disposal system must provide for the disinfection of the system. In performing the disinfection, the maintenance provider on each routine maintenance visit or more frequently if required by the permitting authority shall, as applicable:

(1) inspect the disinfection device for proper operation;

(2) inspect and maintain the disinfection device for proper operational bleach or tablet level; and

1 (3) if ultraviolet light is used for disinfection,
2 clean the bulb sleeve and check the expiration date for each bulb to
3 ensure that the bulb does not expire before the next scheduled
4 routine maintenance visit.

5 SECTION 12. Section 366.052(a), Health and Safety Code, is
6 amended to read as follows:

7 (a) Sections 366.051, 366.053, [~~366.054~~] and 366.057 do
8 not apply to an on-site sewage disposal system of a single residence
9 if:

10 (1) the single residence is:

11 (A) located in a county with a population of less
12 than 40,000; and

13 (B) owned by an individual and is the
14 individual's primary residence; and

15 (2) the system [~~that~~] is located on a land tract that
16 is 10 acres or larger in which the field line or sewage disposal
17 line is not closer than 100 feet of the property line.

18 SECTION 13. Section 366.055(c), Health and Safety Code, is
19 amended to read as follows:

20 (c) A holder of a permit issued under this chapter or the
21 holder's designee shall notify the commission, the authorized
22 agent, or a designated representative not later than the fifth
23 working day before the proposed date of the operation of an
24 installation that the installation is ready for inspection.

25 SECTION 14. Section 366.057(b), Health and Safety Code, is
26 amended to read as follows:

27 (b) A permit and approved plan to construct, alter, repair,

1 extend, or operate an on-site sewage disposal system must be issued
2 in the name of the person who owns the property ~~[system]~~ and must
3 identify the specific property location or address for the specific
4 construction, alteration, extension, repair, or operation proposed
5 by the person.

6 SECTION 15. Section 366.058, Health and Safety Code, is
7 amended by adding Subsection (d) to read as follows:

8 (d) The permit fee shall be paid to the authorized agent or
9 the commission, whichever performs the permitting function.

10 SECTION 16. Sections 366.071(a), (c), and (d), Health and
11 Safety Code, are amended to read as follows:

12 (a) A person who constructs, installs, alters, extends,
13 services, maintains, pumps, ~~[or]~~ repairs, or accesses an on-site
14 sewage disposal system or any part of an on-site sewage disposal
15 system ~~[for compensation]~~ must hold a license or registration
16 issued by the commission under Chapter 37, Water Code.

17 (c) A person who conducts preconstruction site evaluations,
18 including visiting a site and performing a soil analysis, a site
19 survey, or other activities necessary to determine the suitability
20 of a site for an on-site sewage disposal system must hold a license
21 issued by the commission under Chapter 37, Water Code, unless the
22 person is licensed by the Texas Board of Professional Engineers and
23 Land Surveyors as an engineer or licensed by the Texas Board of
24 Professional Geoscientists as a geologist.

25 (d) The commission may implement a program under Chapter 37,
26 Water Code, to register persons who service, ~~[or]~~ maintain, or pump
27 on-site sewage disposal systems ~~[for compensation]~~.

SECTION 17. Section 367.010(a), Health and Safety Code, is amended to read as follows:

(a) The commission and each county, municipality, public health department, and river authority shall collect a \$30 [~~\$10~~] fee for each on-site wastewater treatment permit application processed.

SECTION 18. Section 5.701(q), Water Code, is amended to read as follows:

(q) Notwithstanding any other law, fees collected for deposit to the water resource management account under the following statutes may be appropriated and used to protect water resources in this state, including assessment of water quality, reasonably related to the activities of any of the persons required to pay a fee under:

(1) Subsections (b) and (c), to the extent those fees are collected in connection with water use or water quality permits;

(2) Subsections (h)-(l);

(3) Section 11.138(g);

(4) Section 11.145;

(5) Section 26.0135(h);

(6) Sections 26.0291, 26.044, and 26.0461; or

(7) Sections 341.041, 366.058, [~~366.059~~] 371.024, 371.026, and 371.062, Health and Safety Code.

SECTION 19. The following provisions of the Health and Safety Code are repealed:

(1) Section 366.0515(c); and

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1 (2) Sections 366.035, 366.036, 366.0513, 366.054, and
2 366.059.

3 SECTION 20. This Act takes effect September 1, 2025.