

House Bill 2080

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies public policy regarding waters of state and subsurface sewage disposal systems. Requires Environmental Quality Commission to adopt rules regarding gray water. Allows commission to appoint advisory committee. Allows permit to be issued for subsurface or alternative sewage disposal system that reuses or discharges gray water even if community or area-wide sewerage system is available.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to gray water; amending ORS 454.605, 454.607, 454.610, 454.615, 454.655 and 468B.015; and
3 declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 468B.015 is amended to read:

6 468B.015. Whereas pollution of the waters of the state constitutes a menace to public health and
7 welfare, creates public nuisances, is harmful to wildlife, fish and aquatic life and impairs domestic,
8 agricultural, industrial, recreational and other legitimate beneficial uses of water, and whereas the
9 problem of water pollution in this state is closely related to the problem of water pollution in ad-
10 joining states, it is hereby declared to be the public policy of the state:

11 (1) To conserve the waters of the state **through innovative approaches, including but not**
12 **limited to the appropriate reuse of water and wastes;**

13 (2) To protect, maintain and improve the quality of the waters of the state for public water
14 supplies, for the propagation of wildlife, fish and aquatic life and for domestic, agricultural, indus-
15 trial, municipal, recreational and other legitimate beneficial uses;

16 (3) To provide that no waste be discharged into any waters of this state without first receiving
17 the necessary treatment or other corrective action to protect the legitimate beneficial uses of such
18 waters;

19 (4) To provide for the prevention, abatement and control of new or existing water pollution; and

20 (5) To cooperate with other agencies of the state, agencies of other states and the federal gov-
21 ernment in carrying out these objectives.

22 **SECTION 2.** ORS 454.607 is amended to read:

23 454.607. It is the public policy of the State of Oregon to encourage:

24 (1) Improvements to, maintenance of and innovative technology for subsurface and alternative
25 sewage disposal systems and nonwater-carried sewage disposal facilities consistent with the pro-
26 tection of the public health and safety and the quality of the waters of this state; **and**

27 **(2) The appropriate reuse of gray water for beneficial uses.**

28 **SECTION 3.** ORS 454.605 is amended to read:

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 454.605. As used in ORS 454.605 to 454.755, unless the context requires otherwise:

2 (1) "Absorption facility" means a system of open-jointed or perforated piping, alternate distrib-
 3 ution units or other seepage systems for receiving the flow from septic tanks or other treatment
 4 units and designed to distribute effluent for oxidation and absorption by the soil within the zone of
 5 aeration.

6 (2) "Alternative sewage disposal system" means a system incorporating all of the following:

7 (a) Septic tank or other sewage treatment or storage unit; and

8 (b) Disposal facility or method consisting of other than an absorption facility but not including
 9 discharge to public waters of the State of Oregon.

10 (3) "Construction" includes installation, alteration or repair.

11 (4) "Contract agent" means a local unit of government that has entered into an agreement with
 12 the Department of Environmental Quality pursuant to ORS 454.725.

13 (5) "Effluent sewer" means that part of the system of drainage piping that conveys treated
 14 sewage from a septic tank or other treatment unit into an absorption facility.

15 (6) "Governmental unit" means the state or any county, municipality or other political subdivi-
 16 sion, or any agency thereof.

17 **(7)(a) "Gray water" means shower and bath waste water, kitchen waste water, laundry**
 18 **wastes and any other domestic sewage.**

19 **(b) "Gray water" does not mean toilet and garbage wastes.**

20 [(7)] (8) "Local unit of government" means any county or municipality.

21 [(8)] (9) "Nonwater-carried sewage disposal facility" includes, but is not limited to, pit privies,
 22 vault privies and chemical toilets.

23 [(9)] (10) "Public health hazard" means a condition whereby there are sufficient types and
 24 amounts of biological, chemical or physical, including radiological, agents relating to water or sew-
 25 age which are likely to cause human illness, disorders or disability. These include, but are not lim-
 26 ited to, pathogenic viruses, bacteria, parasites, toxic chemicals and radioactive isotopes.

27 [(10)] (11) "Septic tank" means a watertight receptacle which receives the discharge of sewage
 28 from a sanitary drainage system and which is so designed and constructed as to separate solids from
 29 liquids, digest organic matter during a period of detention and allow the liquids to discharge to an-
 30 other treatment unit or into the soil outside of the tank through an absorption facility.

31 [(11)] (12) "Sewage" means domestic water-carried human and animal wastes, including kitchen,
 32 bath and laundry wastes from residences, buildings, industrial establishments or other places, to-
 33 gether with such ground water infiltration, surface waters or industrial waste as may be present.

34 [(12)] (13) "Sewage disposal service" means:

35 (a) The construction of subsurface sewage disposal systems, alternative sewage disposal systems
 36 or any part thereof.

37 (b) The pumping out or cleaning of subsurface sewage disposal systems, alternative sewage dis-
 38 posal systems or nonwater-carried sewage disposal facilities.

39 (c) The disposal of materials derived from the pumping out or cleaning of subsurface sewage
 40 disposal systems, alternative sewage disposal systems or nonwater-carried sewage disposal facilities.

41 (d) Grading, excavating and earth-moving work connected with the operations described in par-
 42 agraph (a) of this subsection.

43 [(13)] (14) "Subsurface sewage disposal system" means a cesspool or the combination of a septic
 44 tank or other treatment unit and effluent sewer and absorption facility.

45 [(14)] (15) "Zone of aeration" means the unsaturated zone that occurs below the ground surface

1 and the point at which the upper limit of the water table exists.

2 **SECTION 4.** ORS 454.610 is amended to read:

3 454.610. [(1) As used in this section “gray water” means any domestic sewage other than toilet and
4 garbage wastes, including shower and bath waste water, kitchen waste water and laundry wastes.]

5 (1) **The Environmental Quality Commission shall adopt rules exempting gray water reuse
6 and disposal systems from the permitting requirements of ORS 454.605 to 454.755 or estab-
7 lishing separate permitting requirements for gray water reuse and disposal systems, or both.
8 In adopting the rules, the commission shall consider the recommendations of an advisory
9 committee appointed by the Department of Environmental Quality pursuant to ORS 183.333.**

10 (2) [Nothing in ORS 454.605 to 454.755 except] **Subject to** ORS 454.645, [shall] **the rules adopted
11 by the commission under this section may not** prohibit the discharge of gray water if:

12 (a) Soil and site conditions for such gray water conform to the rules of the department [of *En-
13 vironmental Quality*] regarding standard subsurface sewage disposal systems or alternative sewage
14 disposal systems, except that such systems may use two-thirds the normal size surface area for a
15 drainfield and shall be preceded by a treatment facility such as, but not limited to, a septic tank;
16 or

17 (b) Such gray water is discharged into an existing subsurface sewage disposal system or alter-
18 native sewage disposal system [which] **that** is functioning satisfactorily, or a public sewage system
19 [which] **that** serves the dwelling from which such gray water is derived.

20 **SECTION 5.** ORS 454.615 is amended to read:

21 454.615. The Environmental Quality Commission shall [by *September 1, 1975,*] adopt [by rule
22 standards which] **rules that:**

23 (1) Prescribe minimum requirements for the design and construction of subsurface sewage dis-
24 posal systems, alternative sewage disposal systems and nonwater-carried sewage disposal facilities
25 or parts thereof including grading, excavating and earth-moving work connected therewith, and al-
26 low for use of alternative systems and component materials consistent with the minimum require-
27 ments. Requirements prescribed under this section may vary in different areas or regions of the
28 state.

29 (2) Prescribe minimum requirements for the operation and maintenance of subsurface sewage
30 disposal systems, alternative sewage disposal systems and nonwater-carried sewage disposal facili-
31 ties or parts thereof.

32 (3) Prescribe requirements for the pumping out or cleaning of subsurface sewage disposal sys-
33 tems, alternative sewage disposal systems and nonwater-carried sewage disposal facilities or parts
34 thereof, for the disposal of material derived from such pumping out or cleaning, for sewage pumping
35 equipment, for sewage tank trucks and for the identification of sewage tank trucks and workers.

36 (4) Prescribe **optional** requirements for [*handling kitchen, bath and laundry wastes as opposed
37 to human and animal wastes which*] **disposal or reuse of gray water that** recognize the possibility
38 for separate treatment of different types of waste.

39 **SECTION 6.** ORS 454.655 is amended to read:

40 454.655. (1) Except as otherwise provided in ORS 454.675, without first obtaining a permit from
41 the Department of Environmental Quality, no person shall construct or install a subsurface sewage
42 disposal system, alternative sewage disposal system or part thereof. However, a person may under-
43 take emergency repairs limited to replacing minor broken components of the system without first
44 obtaining a permit.

45 (2) A permit required by subsection (1) of this section shall be issued only in the name of an

1 owner or contract purchaser in possession of the land. However, a permit issued to an owner or
 2 contract purchaser carries the condition that the owner or purchaser or regular employees or a
 3 person licensed under ORS 454.695 perform all labor in connection with the construction of the
 4 subsurface or alternative sewage disposal system.

5 (3) The applications for a permit required by this section must be accompanied by the permit
 6 fees prescribed in ORS 454.745.

7 (4) After receipt of an application and all requisite fees, subject to ORS 454.685, the department
 8 shall issue a permit if it finds that the proposed construction will be in accordance with the rules
 9 of the Environmental Quality Commission. **Except for a subsurface sewage disposal system, al-**
 10 **ternative sewage disposal system or part thereof that reuses or discharges only gray water,**
 11 a permit may not be issued if a community or area-wide sewerage system is available which will
 12 satisfactorily accommodate the proposed sewage discharge. The prohibition on the issuance of a
 13 permit in this subsection does not apply to a public agency as defined in ORS 454.430.

14 (5)(a) Unless weather conditions or distance and unavailability of transportation prevent the is-
 15 suance of a permit within 20 days of the receipt of the application and fees by the department, the
 16 department shall issue or deny the permit within 20 days after such date. If such conditions prevent
 17 issuance or denial within 20 days, the department shall notify the applicant in writing of the reason
 18 for the delay and shall issue or deny the permit within 60 days after such notification.

19 (b) If within 20 days of the date of the application the department fails to issue or deny the
 20 permit or to give notice of conditions preventing such issuance or denial, the permit shall be con-
 21 sidered to have been issued.

22 (c) If within 60 days of the date of the notification referred to in paragraph (a) of this subsection,
 23 the department fails to issue or deny the permit, the permit shall be considered to have been issued.

24 (6) Upon request of any person, the department may issue a report, described in ORS 454.755 (1),
 25 of evaluation of site suitability for installation of a subsurface or alternative sewage disposal system
 26 or nonwater-carried sewage disposal facility. The application for such report must be accompanied
 27 by the fees prescribed in ORS 454.755.

28 (7) With respect to an application for a permit for the construction and installation of a septic
 29 tank and necessary effluent sewer and absorption facility for a single family residence or for a farm
 30 related activity on a parcel of 10 acres or more described in the application by the owner or con-
 31 tract purchaser of the parcel, the Department of Environmental Quality:

32 (a) Within the period allowed by subsection (5)(a) of this section after receipt by it of the ap-
 33 plication, shall issue the permit or deliver to the applicant a notice of intent to deny the issuance
 34 of the permit;

35 (b) In any notice of intent to deny an application, shall specify the reasons for the intended de-
 36 nial based upon the rules of the Environmental Quality Commission for the construction and in-
 37 stallation of a septic tank and necessary effluent sewer and absorption facility or based upon the
 38 factors included in ORS 454.685 (2)(a) to (j);

39 (c) Upon request of the applicant, shall conduct a hearing in the manner provided in ORS
 40 454.635 (4) and (5) on the reasons specified in a notice of intent to deny the application with the
 41 burden of proof upon the department to justify the reasons specified; and

42 (d) In the case of issuance of a permit, may include as a condition of the permit that no other
 43 permit for a subsurface sewage disposal system or alternative sewage disposal system shall be issued
 44 for use on the described parcel while the approved septic tank, effluent sewer and absorption facility
 45 are in use on the described parcel.

1 **SECTION 7. This 2009 Act being necessary for the immediate preservation of the public**
2 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
3 **on its passage.**

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