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HOUSE BILL NO. 1080

Offered January 13, 2016

Prefiled January 13, 2016

A *BILL to amend and reenact § 32.1-163.6 of the Code of Virginia, relating to professional engineering of onsite treatment works.*

Patron—Hodges

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-163.6 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-163.6. Professional engineering of onsite treatment works.

A. Notwithstanding other provisions of this chapter, for purposes of permit approval, the Board, Commissioner, and Department of Health shall accept treatment works designs from individuals licensed as professional engineers pursuant to Chapter 4 (§ 54.1-400 et seq.) of Title 54.1. The designs shall (i) be compliant with standard engineering practice and performance requirements established by the Board and those horizontal setback requirements *for public and private drinking water sources, shellfish waters, natural lakes, impounded waters, streams, and karst-related surface features* necessary to protect the public health and the environment; (ii) reflect that degree of skill and care ordinarily exercised by licensed members of the engineering profession practicing at the time of performance; (iii) be appropriate for the particular soil characteristics of the site; and (iv) ensure that the treatment works will ~~meet or exceed~~ *comply with* the discharge, effluent, and surface and ground water quality standards for systems otherwise permitted pursuant to the regulations implementing this chapter, *except that effluent quality standards shall not exceed those established by the Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day.*

B. The Department may conduct such review of the work and field analysis as deemed necessary to protect the public health and integrity of the Commonwealth's environment.

C. Within 21 calendar days from the date of application for treatment works sized at 1,000 gallons per day or smaller, and within 60 calendar days from the date of application for treatment works sized at more than 1,000 gallons per day, the Department shall (i) issue the requested approval, or (ii) set forth in writing the specific reasons for denial.

D. The Department shall establish an engineering design review panel to review the Department's decision to disapprove ~~an onsite sewage system~~ *a treatment works design*. The Commissioner shall appoint four individuals licensed as professional engineers pursuant to Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 with expertise in ~~onsite sewage systems~~ *treatment works* to serve on the engineering design review panel with (i) one representing the Department of Health, (ii) one representing the Department of Environmental Quality, (iii) one representing the Virginia Society of Professional Engineers, and (iv) one representing the American Council of Engineering Companies of Virginia. If a state agency is unable to provide a representative in accordance with this subsection, the Commissioner shall appoint another individual licensed as a professional engineer pursuant to Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 with expertise in ~~onsite sewage systems~~ *treatment works*. The members of the design review panel shall appoint a member to serve as ~~Chairman~~ *chairman*. The design review panel shall be designated a subordinate, as defined in § 2.2-4001, and shall meet as necessary.

E. When the Department denies an application pursuant to subsection D, the owner may appeal that decision in accordance with § 32.1-164.1. Alternatively, the owner, or the professional engineer responsible for an onsite sewage system design with the owner's written consent, may request an informal fact-finding conference before the engineering design review panel established in subsection D. The request must (i) be in writing, (ii) be received by the Commissioner within 30 days of the professional engineer's receipt of the Department's denial, and (iii) cite the reason or reasons for the request. The informal fact-finding conference shall be held within 45 calendar days of the request. The proceedings of the engineering design review panel shall be governed by the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Within 30 days following its receipt of the engineering review panel's written recommendations, the ~~Department~~ *Commissioner* shall consider the recommendations of the engineering design review panel and approve the application or re-affirm its denial.

F. When the Department denies an application following review by the engineering design review panel, the owner may appeal that decision in accordance with § 32.1-164.1.

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59 G. This section shall not be construed to require an owner to seek review by the engineering design
60 review panel before appealing a permit denial pursuant to § 32.1-164.1.

61 H. This section shall not be construed to prohibit any locality from adopting or enforcing any
62 ordinance duly enacted pursuant to Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2.

63 I. All treatment works designs permitted pursuant to this section shall comply with operation,
64 maintenance, and monitoring requirements as set forth in regulations implementing this chapter.
65 *However, alternative onsite sewage systems sized at 1,000 gallons per day or less shall not be subject to*
66 *effluent or ground water sampling requirements unless a Notice of Violation has been issued for such*
67 *systems. In such cases, effluent and ground water sampling requirements shall be required only until*
68 *such time as the Notice of Violation is nullified.*

69 J. *Nothing in this section shall permit the Board, Commissioner, or Department to regulate, restrict,*
70 *define, or prohibit any ground modification or improvement techniques associated with standard*
71 *engineering practice for the purpose of meeting any performance requirements.*