

INFORMATION SHEET

Senate Bill 1695

Shared Sewage Treatment Facilities.

BACKGROUND: When residences and/or businesses share a wastewater treatment system, the system is typically built by a developer and transferred to a homeowners association (HOA) or a public entity (e.g., municipality, public trust, rural sewer district or federally recognized tribe).

PROBLEM: Regardless of who owns and operates the system, it is not uncommon for shared sewage treatment systems to fall into disrepair because of lack of routine maintenance or overloading, which occurs when a system receives more wastewater than it can effectively treat. When a public entity is the owner/operator, DEQ has found that they usually have the sophistication and resources needed to bring the system back into working order. However, when a system is owned and operated by an HOA it usually ends up being neglected and eventually orphaned because HOAs:

- have trouble collecting adequate fees to operate the system
- lack control over how many residences are connected to the system (the developer may continue to tie new residences into a system that is already at capacity)
- lack eligibility for public funding (e.g., low interest loans and grants)
- almost always lack expertise in the day-to-day operations of the system
- are susceptible to becoming defunct, especially when there is a failing system no one wants to be responsible for fixing

WHAT THE BILL ACCOMPLISHED: This bill requires that only public entities can obtain permits to construct shared sewage treatment facilities. Thus, HOAs would no longer be allowed to own and operate these types of systems.

ADVANTAGES:

- Shared sewer systems owned by public entities are eligible for public funding (grants and loans)
- Unlike HOAs, public entities have access to the resources of the Municipal League and Oklahoma Rural Water Association both of which offer technical assistance to public entities.

The effect of the new legislation is that DEQ is **no longer allowed to issue authorizations or permits for wastewater system construction to Homeowner's Associations (HOA's)**. Both Chapter 641 and Chapter 656 currently allow DEQ to issue permits to HOA's but the legislation takes precedence over the rules. Both 252:641 and 252:656 will be revised at a future date to reflect the law change but, **effective immediately**, HOA's must no longer be considered an acceptable alternative.