



***Tennessee Onsite Wastewater Association, Inc.***  
***P.O. Box 292983***  
***Nashville, Tennessee 37229-2983***

March 31, 2004

Senator Douglas Henry  
11 Legislative Plaza  
Nashville, TN 37243-0021

Re: Senate Bill 2947

Dear Senator Henry:

The Tennessee Onsite Wastewater Association (TOWA) was formed in 1997 to advance and promote the onsite wastewater industry in Tennessee. TOWA serves all members of the industry, including installers, manufacturers, field practitioners, suppliers, engineers, soil scientists, distributors, research professionals, educators, consultants and government regulatory personnel. It is important to stress that our organization only supports efforts to advance this industry so long as it ensures the protection of public health and the environment. Toward that end, TOWA conceptually supports the proposed Senate Bill 2947. However, there are a few specific points that we feel need to be brought to your attention. They include the following:

- As written, Section 68-221-415 specifies that agencies recognized as water and waste water authorities can participate in the advanced treatment system (ATS) pilot study. Tennessee has few water and waste water authorities and therefore, the pilot study will be limited in the number and variety of ANSI/NSF Standard 40 certified units that will be observed, and limits the locations (i.e., soil types) in which to observe system performance. The amendment clarifies that municipalities or public utilities can also participate in the two-year pilot study.

By increasing the number of agencies that can participate in this study, more ATS units will be installed. This will allow a more realistic evaluation of these units under Tennessee climatic and geologic conditions. It is fully expected that many of these treatment systems will produce high-quality effluent and therefore, will eventually be approved for general use in the State of Tennessee.

Tennessee has significant parcels of land that cannot be developed for residential and/or commercial establishments because the soil is not suitable for currently approved onsite wastewater treatment systems and no sanitary sewer service is available. Advanced treatment systems provide additional renovation of the waste water and therefore, the depth of soil needed for treatment is minimized. However, a minimal depth of soil (and hydraulic conductivity) must still be available to accept the effluent without ponding on the soil surface.

It is likely that this amendment will enhance the implementation of advanced treatment systems in the State of Tennessee.

- The current law is written such that advanced treatment systems may only be installed in counties that have an established water and wastewater authority. The proposed new language will also allow municipalities or public utilities to participate in the ATS study. However, in instances where these entities might overlap, there needs to be clarification as to who has jurisdictional rights. In other words, does this new language trump existing water and wastewater authorities? For example, Williamson County has a water and wastewater authority. Could any other public utility or municipality override their water and wastewater authority and come into the county to install one of these systems? Who makes the final decision? This may be a question best answered by the Tennessee Regulatory Authority.
- Section 4 of the proposed bill takes ownership of the system away from the property owner and gives it to either the “authority, municipality or public utility.” Although this may be common practice in other utility situations, this is very new to the onsite wastewater industry. These systems can potentially constitute a substantial portion of a homeowner’s property. Thus, historically, property owners own the systems and are responsible for them. If ownership of the systems is given to another party, there is the potential for problems if the two parties get into a dispute. The key aspect to the long-term success of these advanced treatment systems is that they be ***perpetually operated and maintained per the manufacturers’ recommendations and to a certain level or degree.*** This ideally should be done by qualified personnel. This does not require the “authority” to own the system; it simply ensures that the system stays up to par. This could be achieved in a variety of ways, such as through the use of renewable maintenance contracts or renewable operating permits enforced by the Tennessee Department of Environment and Conservation — Division of Groundwater Protection. Thus, the intent could still be achieved while allowing the property owner some flexibility.
- Finally, as a bit of editorial housecleaning, Section 1 is not worded properly. It references changes to language “....in the second sentence,...” This is incorrect. It should be the third sentence, not the second. Similarly, later in the statement “...in the third sentence.” needs to be edited to the “fourth sentence.” Finally, the inserted language should include the word “or” prior to the words “municipalities or public utilities.”

Thank you for the opportunity to comment on this proposed legislation. If we may be of further assistance please let us know.

Sincerely,

Louan Tillman  
President