



June 5, 2018

On the Senate Calendar
1441

OPPOSITION MEMO

A 10438 (Thiele) / S8253 (LaValle)

An ACT to exempt certain persons from professional engineering licensure requirements

On behalf of the New York State Society of Professional Engineers (NYSSPE) we are writing in OPPOSITION to the above referenced bill. NYSSPE is a professional trade association representing the interests of its members, and more generally the interests of all professional engineers (totaling more than 25,000 licensees in New York State) practicing in all disciplines (civil, structural, mechanical, electrical, geological, environmental, etc.) and practicing in all practice settings (private sector consulting, industry, government, and education) in furtherance of public health, safety and welfare.

Currently the Suffolk County Division of Health Services (SCDHS) requires that a septic system for single family homes be designed by a design professional. According to SCDHS protocols both a standard septic system and an Innovative/Alternative (IA) system, referred to as "nitrogen-reducing sewage disposal system" in the legislation must be designed by a "design professional".

For standard septic systems, the SCDHS presently accepts plans prepared by a professional engineer or a land surveyor. It is asserted by SCDHS that the county accepts plans from a land surveyor because in the County's view the design of these systems is prescriptive based on their standards and requires little or no engineering. In contrast, for an I/A system, the SCDHS requires plans to be prepared by a design professional (PE or RA). The agency also require that the engineers be certified by the manufacturers of the system they are specifying so they understand the process design and installation requirements of the systems. The I/A systems require engineering knowledge and expertise to select the system for the particular application (there are currently 4 systems approved by the County), select and design the effluent field, ensure the electrical system is adequate for addition of the system (pumps and/or aerators used in these systems), and configure the system based on any site restrictions or high groundwater (many of these systems are installed in areas with high groundwater). This bill will permit land surveyors, and other third parties not licensed as a professional engineer, to design I/A systems in addition to standard systems.

Notwithstanding the County's assertion the New York State Education Department disagrees with its conclusions regarding the scope of practice afforded land surveyors. The State Education Department has determined that design of septic systems generally entails professional engineering and that land surveyors, and others purported to be licensed by municipalities, are not authorized to offer to provide or provide engineering services of this nature. The State Education Department is the state agency charged with

oversight over the practice of both professional engineering and land surveying and its expertise must not be dismissed. The State Education Department is solely responsible for both professional engineering and land surveying licensure. While Suffolk County has a keen interest in this matter, the County does not currently have authority to determine the scope of practice of design professionals nor should it be authorized to do so in the future. The installation of septic systems requires the expertise of a professional engineer who is responsible for the overall design including, without limitation, the leaching field, separation to groundwater, retaining walls, buoyancy, and setbacks to water wells & surface water. NYSSPE unequivocally supports the State Education Department's views in this area and accordingly voices strong opposition to adoption of this proposal.

Finally, the sponsors of this measure assert that the costs for these systems will be reduced following its enactment. This claim is without merit. Upon adoption of this measure these systems will still have to be designed. Currently there is no suggestion that there exists a dearth of professional engineers competent to provide the design services needed for these systems.

Accordingly, it is urged that this bill be rejected.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark Kriss', is written over a light gray rectangular background.

Mark C. Kriss, Esq.
Legislative and
Legal Counsel
NYSSPE