

1 **SHB 1937** - H AMD

2 By Representative Linville

3 Strike everything after the enacting clause and insert the
4 following:

5 "Sec. 1. RCW 90.46.005 and 1997 c 355 s 1 are each amended to
6 read as follows:

7 The legislature finds that by encouraging the use of reclaimed
8 water while assuring the health and safety of all Washington citizens
9 and the protection of its environment, the state of Washington will
10 continue to use water in the best interests of present and future
11 generations.

12 To facilitate the use of reclaimed water as soon as is
13 practicable, the legislature encourages the cooperative efforts of the
14 public and private sectors and the use of pilot projects to effectuate
15 the goals of this chapter. The legislature further directs the
16 department of health and the department of ecology to coordinate
17 efforts towards developing an efficient and streamlined process for
18 creating and implementing processes for the use of reclaimed water.

19 It is hereby declared that the people of the state of Washington
20 have a primary interest in the development of facilities to provide
21 reclaimed water to replace potable water in nonpotable applications, to
22 supplement existing surface and ground water supplies, and to assist in
23 meeting the future water requirements of the state.

24 The legislature further finds and declares that the utilization of
25 reclaimed water by local communities for domestic, agricultural,
26 industrial, recreational, and fish and wildlife habitat creation and
27 enhancement purposes, including wetland enhancement, will contribute to
28 the peace, health, safety, and welfare of the people of the state of
29 Washington. To the extent reclaimed water is appropriate for
30 beneficial uses, it should be so used to preserve potable water for
31 drinking purposes. Use of reclaimed water constitutes the development
32 of new basic water supplies needed for future generations.

33 The legislature further finds and declares that the use of
34 reclaimed water is not inconsistent with the policy of antidegradation
35 of state waters announced in other state statutes, including the water

1 pollution control act, chapter 90.48 RCW and the water resources act,
2 chapter 90.54 RCW.

3 The legislature finds that other states, including California,
4 Florida, and Arizona, have successfully used reclaimed water to
5 supplement existing water supplies without threatening existing
6 resources or public health.

7 It is the intent of the legislature that the department of ecology
8 and the department of health undertake the necessary steps to encourage
9 the development of water reclamation facilities so that reclaimed water
10 may be made available to help meet the growing water requirements of
11 the state.

12 The legislature further finds and declares that reclaimed water
13 facilities are water pollution control facilities as defined in chapter
14 70.146 RCW and are eligible for financial assistance as provided in
15 chapter 70.146 RCW. The legislature finds that funding demonstration
16 projects will ensure the future use of reclaimed water. The
17 demonstration projects in RCW 90.46.110 are varied in nature and will
18 provide the experience necessary to test different facets of the
19 standards and refine a variety of technologies so that water purveyors
20 can begin to use reclaimed water technology in a more cost-effective
21 manner. This is especially critical in smaller cities and communities
22 where the feasibility for such projects is great, but there are scarce
23 resources to develop the necessary facilities.

24 The legislature further finds that the agricultural processing
25 industry can play a critical and beneficial role in promoting the
26 efficient use of water by having the opportunity to develop and reuse
27 agricultural industrial process water from food processing.

28 **Sec. 2.** RCW 90.46.010 and 1997 c 444 s 5 are each amended to read
29 as follows:

30 (~~Unless the context clearly requires otherwise,~~) The definitions
31 in this section apply throughout this chapter unless the context
32 clearly requires otherwise.

33 (1) "Greywater" means wastewater having the consistency and
34 strength of residential domestic type wastewater. Greywater includes
35 wastewater from sinks, showers, and laundry fixtures, but does not
36 include toilet or urinal waters.

1 (2) "Land application" means application of treated effluent for
2 purposes of irrigation or landscape enhancement for residential,
3 business, and governmental purposes.

4 (3) "Person" means any state, individual, public or private
5 corporation, political subdivision, governmental subdivision,
6 governmental agency, municipality, copartnership, association, firm,
7 trust estate, or any other legal entity whatever.

8 (4) "Reclaimed water" means effluent derived in any part from
9 sewage from a wastewater treatment system that has been adequately and
10 reliably treated, so that as a result of that treatment, it is suitable
11 for a beneficial use or a controlled use that would not otherwise occur
12 and is no longer considered wastewater.

13 (5) "Sewage" means water-carried human wastes from residences,
14 buildings, industrial and commercial establishments, or other places,
15 together with such ground water infiltration, surface waters, or
16 industrial wastewater as may be present.

17 (6) "User" means any person who uses reclaimed water.

18 (7) "Wastewater" means water and wastes discharged from homes,
19 businesses, and industry to the sewer system.

20 (8) "Beneficial use" means the use of reclaimed water, that has
21 been transported from the point of production to the point of use
22 without an intervening discharge to the waters of the state, for a
23 beneficial purpose.

24 (9) "Direct recharge" means the controlled subsurface addition of
25 water directly to the ground water basin that results in the
26 replenishment of ground water.

27 (10) "Ground water recharge criteria" means the contaminant
28 criteria found in the drinking water quality standards adopted by the
29 state board of health pursuant to chapter 43.20 RCW and the department
30 of health pursuant to chapter 70.119A RCW.

31 (11) "Planned ground water recharge project" means any reclaimed
32 water project designed for the purpose of recharging ground water, via
33 direct recharge or surface percolation.

34 (12) "Reclamation criteria" means the criteria set forth in the
35 water reclamation and reuse interim standards and subsequent revisions
36 adopted by the department of ecology and the department of health.

1 (13) "Streamflow augmentation" means the discharge of reclaimed
2 water to rivers and streams of the state or other surface water bodies,
3 but not wetlands.

4 (14) "Surface percolation" means the controlled application of
5 water to the ground surface for the purpose of replenishing ground
6 water.

7 (15) "Wetland or wetlands" means areas that are inundated or
8 saturated by surface water or ground water at a frequency and duration
9 sufficient to support, and that under normal circumstances do support,
10 a prevalence of vegetation typically adapted to life in saturated soil
11 conditions. Wetlands generally include swamps, marshes, bogs, and
12 similar areas. Wetlands regulated under this chapter shall be
13 delineated in accordance with the manual adopted by the department of
14 ecology pursuant to RCW 90.58.380.

15 (16) "Constructed beneficial use wetlands" means those wetlands
16 intentionally constructed on nonwetland sites to produce or replace
17 natural wetland functions and values. Constructed beneficial use
18 wetlands are considered "waters of the state."

19 (17) "Constructed treatment wetlands" means those wetlands
20 intentionally constructed on nonwetland sites and managed for the
21 primary purpose of wastewater or storm water treatment. Constructed
22 treatment wetlands are considered part of the collection and treatment
23 system and are not considered "waters of the state."

24 (18) "Agricultural industrial process water" means water that has
25 been used for the purpose of agriculture processing and has been
26 adequately and reliably treated, so that as a result of that treatment,
27 it is suitable for other agricultural water use.

28 (19) "Agricultural processing" means the processing of crops or
29 milk to produce a product primarily for wholesale or retail sale for
30 human or animal consumption, including but not limited to potato,
31 fruit, vegetable, and grain processing.

32 (20) "Agricultural water use" means the use of water for
33 irrigation and other uses related to the production of agricultural
34 products. These uses include, but are not limited to, construction,
35 operation, and maintenance of agricultural facilities and livestock
36 operations at farms, ranches, dairies, and nurseries. Examples of
37 these uses include, but are not limited to, dust control, temperature
38 control, and fire control.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.46 RCW
2 to read as follows:

3 The permit to apply agricultural industrial process water to
4 agricultural water use shall be the permit issued under chapter 90.48
5 RCW to the owner of the agricultural processing plant who may then
6 distribute the water through methods including, but not limited to,
7 irrigation systems, subject to provisions in the permit governing the
8 location, rate, water quality, and purpose. In cases where the
9 department of ecology determines that a significant risk to public
10 health exists, in land application of the water, the department must
11 refer the application to the department of health for review and
12 consultation.

13 The owner of the agricultural processing plant who obtains a
14 permit under this section has the exclusive right to the use of any
15 agricultural industrial process water generated from the plant and to
16 the distribution of such water through facilities including irrigation
17 systems. Use and distribution of the water by the owner is exempt from
18 the permit requirements of RCW 90.03.250, 90.03.380, 90.44.060, and
19 90.44.100.

20 Nothing in this act shall be construed to affect any right to
21 reuse agricultural industrial discharge water in existence on or before
22 the effective date of this section.

23 **Sec. 4.** RCW 90.46.130 and 1997 c 444 s 4 are each amended to read
24 as follows:

25 (1) Except as provided in subsection (2) of this section,
26 facilities that reclaim water under this chapter shall not impair any
27 existing water right downstream from any freshwater discharge points of
28 such facilities unless compensation or mitigation for such impairment
29 is agreed to by the holder of the affected water right.

30 (2) Agricultural water use of agricultural industrial process
31 water under this chapter shall not impair existing water rights within
32 the water source that is the source of supply for the agricultural
33 processing plant and, if the water source is surface water, the
34 existing water rights are downstream from the agricultural processing
35 plant's discharge points existing on the effective date of this act.

1 **Sec. 5.** RCW 90.14.140 and 1998 c 258 s 1 are each amended to read
2 as follows:

3 (1) For the purposes of RCW 90.14.130 through 90.14.180,
4 "sufficient cause" shall be defined as the nonuse of all or a portion
5 of the water by the owner of a water right for a period of five or more
6 consecutive years where such nonuse occurs as a result of:

7 (a) Drought, or other unavailability of water;

8 (b) Active service in the armed forces of the United States during
9 military crisis;

10 (c) Nonvoluntary service in the armed forces of the United States;

11 (d) The operation of legal proceedings;

12 (e) Federal or state agency leases of or options to purchase lands
13 or water rights which preclude or reduce the use of the right by the
14 owner of the water right;

15 (f) Federal laws imposing land or water use restrictions either
16 directly or through the voluntary enrollment of a landowner in a
17 federal program implementing those laws, or acreage limitations, or
18 production quotas.

19 (2) Notwithstanding any other provisions of RCW 90.14.130 through
20 90.14.180, there shall be no relinquishment of any water right:

21 (a) If such right is claimed for power development purposes under
22 chapter 90.16 RCW and annual license fees are paid in accordance with
23 chapter 90.16 RCW;

24 (b) If such right is used for a standby or reserve water supply to
25 be used in time of drought or other low flow period so long as
26 withdrawal or diversion facilities are maintained in good operating
27 condition for the use of such reserve or standby water supply;

28 (c) If such right is claimed for a determined future development
29 to take place either within fifteen years of July 1, 1967, or the most
30 recent beneficial use of the water right, whichever date is later;

31 (d) If such right is claimed for municipal water supply purposes
32 under chapter 90.03 RCW;

33 (e) If such waters are not subject to appropriation under the
34 applicable provisions of RCW 90.40.030; ((or))

35 (f) If such right or portion of the right is leased to another
36 person for use on land other than the land to which the right is
37 appurtenant as long as the lessee makes beneficial use of the right in
38 accordance with this chapter and a transfer or change of the right has

1 been approved by the department in accordance with RCW 90.03.380,
2 90.03.383, 90.03.390, or 90.44.100; or

3 (g) If such a right or portion of the right is authorized for a
4 purpose that is satisfied by the use of agricultural industrial process
5 water as authorized under section 3 of this act.

6 **Sec. 6.** RCW 90.03.252 and 1997 c 444 s 2 are each amended to read
7 as follows:

8 The permit requirements of RCW 90.03.250 do not apply to the use
9 of reclaimed water by the owner of a wastewater treatment facility
10 under the provisions of RCW 90.46.120 and do not apply to the use of
11 agricultural industrial process water as provided under section 3 of
12 this act.

13 **Sec. 7.** RCW 90.44.062 and 1997 c 444 s 3 are each amended to read
14 as follows:

15 The permit requirements of RCW 90.44.060 do not apply to the use
16 of reclaimed water by the owner of a wastewater treatment facility
17 under the provisions of RCW 90.46.120 and do not apply to the use of
18 agricultural industrial process water as provided under section 3 of
19 this act."

20 Correct the title.

EFFECT: The striking amendment changes provisions of the substitute version of the bill by: (1) replacing references to "agricultural industrial *reclaimed* water" with the term "agricultural industrial *process* water"; (2) Amends reclaimed water impairment provisions to specify agricultural water use of agricultural industrial process water may not impair existing water rights: (a) within the water source that supplies the agricultural processing plant; and (b) downstream from the plant's discharge point if the water source is surface water; and (3) removing provisions in new section relating to impairment through agricultural industrial water use.

The striking amendment retains the following provisions in the substitute version: (1) legislative findings regarding the role of the agricultural processing industry in promoting efficient water use; (2) definitions of agricultural industrial process water (called agricultural industrial reclaimed water in substitute), agricultural processing, and agricultural water use; (3) non-application of relinquishment provisions; and (4) exemption from ground and surface water permit statutes other than reclaimed permit requirements.