
SENATE BILL 6390

State of Washington

65th Legislature

2018 Regular Session

By Senators Wellman and Honeyford

1 AN ACT Relating to integration of reclaimed water, water system
2 planning, and groundwater source protection; amending RCW 90.46.220;
3 and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature reaffirms its findings
6 that reclaimed water represents an important new water supply source
7 for meeting the state's objectives in protecting and preserving
8 potable supplies for drinking water purposes and meeting the future
9 water requirements of the state. The legislature further finds that
10 reclaimed water development should occur by integrating the
11 development, sale, distribution, and use of reclaimed water with the
12 objectives of regional and local watershed and water system plans. It
13 is therefore the intent of the legislature to:

14 (1) Advance state, regional, and local water supply objectives,
15 including those objectives stated in local watershed, water system,
16 and growth management plans, through integration of reclaimed water
17 to help achieve those objectives;

18 (2) Avoid or minimize duplicative or inefficient infrastructure
19 and adverse impacts on public water systems affected by the
20 distribution and use of reclaimed water within their service areas;

1 (3) Enable public water systems to provide affordable, equitable,
2 and sustainable rate structures for their customers, including over
3 successive planning horizons as reclaimed water is substituted for
4 potable or fresh water where suitable;

5 (4) Protect the financial integrity of public water systems,
6 including consistency with long-term financial planning and ensuring
7 the capacity to meet municipal bond obligations; and

8 (5) Encourage the use of reclaimed water for environmental
9 purposes, including discharge to wetlands and streamflow
10 augmentation, where consistent with appropriate measures that foster
11 and protect drinking water sources.

12 **Sec. 2.** RCW 90.46.220 and 2009 c 456 s 9 are each amended to
13 read as follows:

14 (1) Any person proposing to generate any type of reclaimed water
15 for a use regulated under this chapter shall obtain a permit from the
16 lead agency prior to distribution or use of that water. The permittee
17 may then distribute and use the water, subject to the provisions in
18 the permit. The permit must include provisions that protect human
19 health and the environment. At a minimum, the permit must:

20 (a) Assure adequate and reliable treatment; and

21 (b) Govern the water quality, location, rate, and purpose of use.

22 (2) A permit under this chapter may be issued only to:

23 (a) A municipal, quasi-municipal, or other governmental entity;

24 (b) A private utility as defined in RCW 36.94.010;

25 (c) The holder of a waste disposal permit issued under chapter
26 90.48 RCW; or

27 (d) The owner of an agricultural processing facility that is
28 generating agricultural industrial process water for agricultural
29 use, or the owner of an industrial facility that is generating
30 industrial process water for reuse.

31 (3) Before deciding whether to issue a permit under this section
32 to a private utility, the lead agency may require information that is
33 reasonable and necessary to determine whether the private utility has
34 the financial and other resources to ensure the reliability,
35 continuity, and supervision of the reclaimed water facility.

36 (4) Permits shall be issued for a fixed term specified by the
37 rules adopted under RCW 90.46.015. A permittee shall apply for permit
38 renewal prior to the end of the term. The rules adopted under RCW

1 90.46.015 shall specify the process of renewal, modification, change
2 of ownership, suspension, and termination.

3 (5)(a) Before a permit applicant or permittee may distribute,
4 supply, use, or otherwise make available reclaimed water for use or
5 distribution at one or more locations within the retail or wholesale
6 service area of any group A public water system, the permit applicant
7 or permittee must enter into a written agreement with the group A
8 public water system. The written agreement must include reasonable
9 terms and conditions, as necessary, to address the following matters:

10 (i) The identification of areas within the service area where
11 reclaimed water may be served and the proposed uses;

12 (ii) The location, schedule, and responsibility for construction
13 and maintenance of facilities to treat, convey, or deliver reclaimed
14 water within the service area;

15 (iii) The protection of water resources, including current and
16 future public drinking water sources, and other environmental
17 concerns;

18 (iv) Rates and charges applicable to reclaimed water customers;

19 (v) Potential financial impacts to public water system ratepayers
20 and bondholders;

21 (vi) Coordination and integration of proposed reclaimed water use
22 into the group A public water system comprehensive planning process,
23 including financial planning; and

24 (vii) Other subjects the parties determine merit coordination.

25 (b) A group A public water system may waive the agreement
26 requirement in (a) of this subsection for a period of time not to
27 exceed the term of the reclaimed water permit.

28 (6) Before a permit applicant or permittee may convey,
29 distribute, store, supply, or use reclaimed water at one or more
30 locations within, or in hydrologic connection to, an aquifer or
31 groundwater source covered by a critical aquifer recharge area, a
32 wellhead protection area, or a sole source aquifer area, the permit
33 applicant or permittee and the affected group A public water system
34 must enter into a written agreement that contains terms and
35 conditions to protect groundwater quality. An affected group A public
36 water system may waive this agreement requirement for a period of
37 time not to exceed the term of the reclaimed water permit.

38 (7) Notwithstanding the written agreement required in subsections
39 (5) and (6) of this section, existing and permitted beneficial uses
40 of reclaimed water in operation before the effective date of this

1 section are not subject to the requirements of subsections (5) and
2 (6) of this section until the permit for such existing beneficial
3 uses expires or is renewed. Any expansion or increase of an existing
4 beneficial use of reclaimed water is subject to the written agreement
5 requirement in subsections (5) and (6) of this section.

6 (8) The lead agency may deny an application for a permit or
7 modify, suspend, or revoke a permit for good cause, including but not
8 limited to, any case in which it finds that the permit was obtained
9 by fraud or misrepresentation, or there is or has been a failure,
10 refusal, or inability to comply with the requirements of this chapter
11 or the rules adopted under this chapter.

12 ((+6)) (9) The lead agency shall provide for adequate public
13 notice and opportunity for review and comment on all initial permit
14 applications and renewal applications. Methods for providing notice
15 may include ((~~electronic mail~~)) email, posting on the lead agency's
16 internet site, publication in a local newspaper, press releases,
17 mailings, or other means of notification the lead agency determines
18 appropriate. The lead agency shall also publicize notice of final
19 permitting decisions.

20 ((+7)) (10) Any person aggrieved by a permitting decision has
21 the right to an adjudicative proceeding. An adjudicative proceeding
22 conducted under this subsection is governed by chapter 34.05 RCW. For
23 any permit decision for which the department of ecology is the lead
24 agency under this chapter, any appeal shall be in accordance with
25 chapter 43.21B RCW. For any permit decision for which department of
26 health is the lead agency under this chapter, any application for an
27 adjudicative proceeding must be in writing, state the basis for
28 contesting the action, include a copy of the decision, be served on
29 and received by the department of health within twenty-eight days of
30 receipt of notice of the final decision, and be served in a manner
31 that shows proof of receipt.

32 ((+8)) (11) In the event that a permit applicant or permittee
33 and a group A public water system are not able to reach agreement on
34 a written agreement required by subsection (5) or (6) of this
35 section, then the permit applicant, permittee, or group A public
36 water system may petition the secretary of the department of health,
37 or the secretary's designee, who will issue a decision. However, the
38 parties must have first: (a) Engaged in good faith efforts to
39 negotiate the terms of a written agreement; and (b) undertaken good
40 faith efforts to resolve the issues through mediation, consistent

1 with chapter 7.07 RCW, or other facilitated negotiations, with each
2 party bearing its own costs and a pro rata share of mediation costs.
3 Upon request of the department of health, the parties to the dispute
4 must reimburse the department's costs of responding to a petition and
5 issuing a decision.

6 (12) Permit requirements for the distribution and use of
7 greywater will be established in rules adopted by the department of
8 health under RCW 90.46.015.

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