

2 **SSB 5606 - H COMM AMD NOT ADOPTED 4/14/95**

3 By Committee on Agriculture & Ecology

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 90.46.005 and 1992 c 204 s 1 are each amended to read
8 as follows:

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

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

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

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

34 The legislature further finds and declares that the use of
35 reclaimed water is not inconsistent with the policy of antidegradation
36 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 have successfully used
4 reclaimed water to supplement existing water supplies without
5 threatening existing resources or public health.

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

11 The legislature further finds and declares that reclaimed water
12 facilities are water pollution control facilities as defined in chapter
13 70.146 RCW and are eligible for financial assistance as provided in
14 chapter 70.146 RCW.

15 **Sec. 2.** RCW 90.46.010 and 1992 c 204 s 2 are each amended to read
16 as follows:

17 Unless the context clearly requires otherwise, the definitions in
18 this section apply throughout this chapter.

19 (1) "Greywater" means (~~sewage~~) wastewater having the consistency
20 and strength of residential domestic type wastewater. Greywater
21 includes wastewater from sinks, showers, and laundry fixtures, but does
22 not include toilet or urinal waters.

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

26 (3) "Person" means any state, individual, public or private
27 corporation, political subdivision, governmental subdivision,
28 governmental agency, municipality, copartnership, association, firm,
29 trust estate, or any other legal entity whatever.

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

35 (5) "Sewage" means water-carried human wastes(~~(, including kitchen,~~
36 ~~bath, and laundry waste)~~) from residences, buildings, industrial and
37 commercial establishments, or other places, together with such ground

1 water infiltration, surface waters, or industrial wastewater as may be
2 present.

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

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

6 (8) "Direct beneficial use" means the use of reclaimed water, that
7 has been transported from the point of production to the point of use
8 without an intervening discharge to the waters of the state, for a
9 beneficial purpose.

10 (9) "Direct recharge" means the controlled subsurface addition of
11 water directly to the ground water basin that results in the
12 replenishment of ground water.

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

17 (11) "Planned ground water recharge project" means any reclaimed
18 water project designed for the purpose of recharging ground water, via
19 direct recharge or surface spreading.

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

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

26 (14) "Surface spreading" means the controlled application of water
27 to the ground surface for the purpose of replenishing ground water.

28 (15) "Wetland or wetlands" means areas that are inundated or
29 saturated by surface water or ground water at a frequency and duration
30 sufficient to support, and that under normal circumstances do support,
31 a prevalence of vegetation typically adapted to life in saturated soil
32 conditions. Wetlands generally include swamps, marshes, bogs, and
33 similar areas. No agency shall use a delineation process for what
34 constitutes a wetland that is more stringent than that adopted by the
35 United States army corps of engineers.

36 (16) "Created wetlands" means a wetland intentionally created from
37 a nonwetland site to produce or replace natural habitat.

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

3 (1) Reclaimed water may be beneficially used for surface spreading
4 provided the reclaimed water meets the ground water recharge criteria
5 as measured in ground water beneath or down gradient of the recharge
6 project site, and has been incorporated into a sewer or water
7 comprehensive plan, as applicable, adopted by the applicable local
8 government and approved by the department of health or department of
9 ecology as applicable.

10 (2) If the state ground water recharge criteria as defined by RCW
11 90.46.010 do not contain a standard for a constituent or contaminant,
12 the department of ecology shall establish a discharge limit consistent
13 with the goals of this chapter.

14 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.46 RCW
15 to read as follows:

16 (1) Reclaimed water may be beneficially used for discharge into
17 created wetlands provided the reclaimed water meets the class A
18 reclaimed water standard as defined in the reclamation criteria, and
19 the discharge is incorporated into a sewer or water comprehensive plan,
20 as applicable, adopted by the applicable local government and approved
21 by the department of health or department of ecology as applicable.

22 (2) Reclaimed water that does not meet the class A reclaimed water
23 standard may be beneficially used for discharge into created wetlands
24 where the department of ecology has specifically authorized such use at
25 such lower standard in conjunction with a pilot project designated
26 pursuant to this chapter, the purpose of which is to test and implement
27 the use of created wetlands for advanced treatment.

28 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.46 RCW
29 to read as follows:

30 Reclaimed water intended for beneficial reuse may be discharged for
31 streamflow augmentation provided the reclaimed water meets the
32 requirements of the federal water pollution control act, chapter 90.48
33 RCW, and is incorporated into a sewer or water comprehensive plan, as
34 applicable, adopted by the applicable local government and approved by
35 the department of health or department of ecology as applicable.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.46 RCW
2 to read as follows:

3 The department of ecology shall, in consultation with the
4 department of health, adopt a single set of standards, procedures, and
5 guidelines, on or before December 31, 1996, for direct recharge using
6 reclaimed water. The standards shall address both water quality
7 considerations and avoidance of property damage from excessive
8 recharge.

9 NEW SECTION. **Sec. 7.** A new section is added to chapter 90.46 RCW
10 to read as follows:

11 The department of ecology shall, in consultation with the
12 department of health, adopt a single set of standards, procedures, and
13 guidelines, on or before June 30, 1996, for discharge of reclaimed
14 water to wetlands.

15 NEW SECTION. **Sec. 8.** A new section is added to chapter 90.46 RCW
16 to read as follows:

17 On or before December 31, 1995, the department of ecology and
18 department of health shall, in consultation with local interested
19 parties, jointly review and, if required, propose amendments to chapter
20 372-32 WAC to resolve conflicts between the development of reclaimed
21 water projects in the Puget Sound region and chapter 372-32 WAC.

22 NEW SECTION. **Sec. 9.** The department of ecology and the department
23 of health shall report on the progress of the implementation of this
24 act to the members of the agriculture and ecology committee of the
25 house of representatives and the members of the ecology and parks
26 committee of the senate by December 15, 1995.

27 **Sec. 10.** RCW 90.46.050 and 1992 c 204 s 6 are each amended to read
28 as follows:

29 ((~~(1)~~)) The department of health shall, before ((~~May 1, 1992~~)) July
30 1, 1995, form an advisory committee, in coordination with the
31 department of ecology and the department of agriculture, which will
32 provide technical assistance in the development of standards,
33 procedures, and guidelines required by this chapter. Such committee
34 shall be composed of individuals from the public water and wastewater
35 utilities, landscaping enhancement industry, commercial and industrial

1 application community, and any other persons deemed technically helpful
2 by the department of health.

3 ~~((2) The department of health shall report to the joint select
4 committee on water resource policy by December 1, 1992, on the fee
5 structure which has been recommended under RCW 90.46.030(3) and review
6 fees authorized under RCW 90.46.040(3).))~~

7 **Sec. 11.** RCW 90.03.380 and 1991 c 347 s 15 are each amended to
8 read as follows:

9 (1) The right to the use of water which has been applied to a
10 beneficial use in the state shall be and remain appurtenant to the land
11 or place upon which the same is used: PROVIDED, HOWEVER, That ~~((said))~~
12 the right may be transferred to another or to others and become
13 appurtenant to any other land or place of use without loss of priority
14 of right theretofore established if such change can be made without
15 detriment or injury to existing rights. The point of diversion of
16 water for beneficial use or the purpose of use may be changed, if such
17 change can be made without detriment or injury to existing rights.
18 Before any transfer of such right to use water or change of the point
19 of diversion of water or change of purpose of use can be made, any
20 person having an interest in the transfer or change, shall file a
21 written application therefor with the department, and ~~((said))~~ the
22 application shall not be granted until notice of ~~((said))~~ the
23 application ~~((shall be))~~ is published as provided in RCW 90.03.280. If
24 it shall appear that such transfer or such change may be made without
25 injury or detriment to existing rights, the department shall issue to
26 the applicant a certificate in duplicate granting the right for such
27 transfer or for such change of point of diversion or of use. The
28 certificate so issued shall be filed and be made a record with the
29 department and the duplicate certificate issued to the applicant may be
30 filed with the county auditor in like manner and with the same effect
31 as provided in the original certificate or permit to divert water.

32 (2) If an application for change proposes to transfer water rights
33 from one irrigation district to another, the department shall, before
34 publication of notice, receive concurrence from each of the irrigation
35 districts that such transfer or change will not adversely affect the
36 ability to deliver water to other landowners or impair the financial or
37 operational integrity of either of the districts.

1 (3) A change in place of use by an individual water user or users
2 of water provided by an irrigation district need only receive approval
3 for the change from the board of directors of the district if the use
4 of water continues within the irrigation district. The board of
5 directors may approve such a change if the board determines that the
6 change: Will not adversely affect the district's ability to deliver
7 water to other landowners; will not require the construction by the
8 district of diversion or drainage facilities unless the board finds
9 that the construction by the district is in the interest of the
10 district; will not impair the financial or operational integrity of the
11 district; and is consistent with the contractual obligations of the
12 district.

13 (4) Subsections (1), (2), and (3) of this section do not apply to
14 a change regarding a portion of the water governed by a water right
15 that is made surplus to the beneficial uses exercised under the right
16 through the implementation of practices or technologies, including but
17 not limited to conveyance practices or technologies, which are more
18 efficient or more water use efficient than those under which the right
19 was perfected or through a change in the crops grown under the water
20 right. The use within an irrigation district of water supplied by the
21 district and made surplus as provided in this subsection shall be
22 regulated solely as provided by the board of directors of the
23 irrigation district except as follows: Such a use requires the
24 approval of the board of directors of the irrigation district or must
25 otherwise be authorized by the board; the board may approve or
26 authorize such a use only if the use does not impair the financial or
27 operational integrity of the district; and water made surplus through
28 a change in the crops grown with district-supplied water is not
29 available for use as a matter of right by the individual water user
30 making the change, but may be used by the board for the benefit of the
31 district generally. The district's board of directors may approve or
32 otherwise authorize under this subsection uses of such surplus water
33 that result in the total irrigated acreage within the district
34 exceeding the irrigated acreage recorded with the department for the
35 district's water right if the board notifies the department of the
36 change in the irrigated acreage within the district. Such a
37 notification provides a change in the district's water right and, upon
38 receiving the notification, the department shall revise its records for
39 the district's right to reflect the change. A change or use authorized

1 by or under this subsection shall be made without loss of priority of
2 the right. The use of water other than irrigation district-supplied
3 water that is made surplus as provided in this subsection is governed
4 by section 12 of this act.

5 (5) This section shall not apply to trust water rights acquired by
6 the state through the funding of water conservation projects under
7 chapter 90.38 RCW or RCW 90.42.010 through 90.42.070.

8 (6) The department may not initiate relinquishment proceedings
9 under chapter 90.14 RCW regarding a water right for which an
10 application for a transfer or change is filed under this section for a
11 period of two years after the date the department receives the filing.

12 NEW SECTION. Sec. 12. A new section is added to chapter 90.03 RCW
13 to read as follows:

14 If a portion of the water governed by a water right is made surplus
15 to the beneficial uses exercised under the right through the
16 implementation of practices or technologies, including but not limited
17 to conveyance practices or technologies, which are more efficient or
18 more water use efficient than those under which the right was perfected
19 or through a change in the crops grown under the water right, the right
20 to use the surplus water may be changed to use on other lands owned by
21 the holder of the water right that are contiguous to the lands upon
22 which the use of the water was authorized by the right before such a
23 change. Such a change shall be made without loss of priority of the
24 right. The holder of the water right shall notify the department of
25 such a change. The notification provides a change in the holder's
26 water right and, upon receiving the notification, the department shall
27 revise its records for the water right to reflect the change.

28 This section does not apply to water supplied by an irrigation
29 district.

30 **Sec. 13.** RCW 90.44.100 and 1987 c 109 s 113 are each amended to
31 read as follows:

32 (1) After an application to, and upon the issuance by the
33 department of an amendment to the appropriate permit or certificate of
34 ground water right, the holder of a valid right to withdraw public
35 ground waters may, without losing his priority of right, construct
36 wells or other means of withdrawal at a new location in substitution
37 for or in addition to those at the original location, or he may change

1 the manner or the place of use of the water(~~(: PROVIDED, HOWEVER, That~~
2 ~~such))~~). An amendment shall be issued only after publication of notice
3 of the application and findings as prescribed in the case of an
4 original application. Such amendment shall be issued by the department
5 only on the conditions that: ((+1)) (a) The additional or substitute
6 well or wells shall tap the same body of public ground water as the
7 original well or wells; ((+2)) (b) use of the original well or wells
8 shall be discontinued upon construction of the substitute well or
9 wells; ((+3)) (c) the construction of an additional well or wells
10 shall not enlarge the right conveyed by the original permit or
11 certificate; and ((+4)) (d) other existing rights shall not be
12 impaired. The department may specify an approved manner of
13 construction and shall require a showing of compliance with the terms
14 of the amendment, as provided in RCW 90.44.080 in the case of an
15 original permit.

16 (2) This section does not apply to a change in use of a portion of
17 the water governed by a ground water right that is made surplus to the
18 beneficial uses exercised under the right through the implementation of
19 practices or technologies, including but not limited to conveyance
20 practices or technologies, which are more efficient or more water use
21 efficient than those under which the right was perfected or through a
22 change in the crops grown under the water right. RCW 90.03.380(4) and
23 section 12 of this act apply to water made surplus as provided in this
24 subsection.

25 (3) The department may not initiate relinquishment proceedings
26 under chapter 90.14 RCW regarding a water right for which an
27 application for a transfer or change is filed under this section for a
28 period of two years after the date the department receives the filing.

29 **Sec. 14.** RCW 90.03.290 and 1994 c 264 s 84 are each amended to
30 read as follows:

31 When an application complying with the provisions of this chapter
32 and with the rules and regulations of the department has been filed,
33 the same shall be placed on record with the department, and it shall be
34 its duty to investigate the application, and determine what water, if
35 any, is available for appropriation, and find and determine to what
36 beneficial use or uses it can be applied. If it is proposed to
37 appropriate water for irrigation purposes, the department shall
38 investigate, determine and find what lands are capable of irrigation by

1 means of water found available for appropriation. If it is proposed to
2 appropriate water for the purpose of power development, the department
3 shall investigate, determine and find whether the proposed development
4 is likely to prove detrimental to the public interest, having in mind
5 the highest feasible use of the waters belonging to the public. If the
6 application does not contain, and the applicant does not promptly
7 furnish sufficient information on which to base such findings, the
8 department may issue a preliminary permit, for a period of not to
9 exceed three years, requiring the applicant to make such surveys,
10 investigations, studies, and progress reports, as in the opinion of the
11 department may be necessary. If the applicant fails to comply with the
12 conditions of the preliminary permit, it and the application or
13 applications on which it is based shall be automatically canceled and
14 the applicant so notified. If the holder of a preliminary permit
15 shall, before its expiration, file with the department a verified
16 report of expenditures made and work done under the preliminary permit,
17 which, in the opinion of the department, establishes the good faith,
18 intent and ability of the applicant to carry on the proposed
19 development, the preliminary permit may, with the approval of the
20 governor, be extended, but not to exceed a maximum period of five years
21 from the date of the issuance of the preliminary permit. The
22 department shall make and file as part of the record in the matter,
23 written findings of fact concerning all things investigated, and if it
24 shall find that there is water available for appropriation for a
25 beneficial use, and the appropriation thereof as proposed in the
26 application will not impair existing rights or be detrimental to the
27 public welfare, it shall issue a permit stating the amount of water to
28 which the applicant shall be entitled and the beneficial use or uses to
29 which it may be applied: PROVIDED, That where the water applied for is
30 to be used for irrigation purposes, it shall become appurtenant only to
31 such land as may be reclaimed thereby to the full extent of the soil
32 for agricultural purposes. But where there is no unappropriated water
33 in the proposed source of supply, or where the proposed use conflicts
34 with existing rights, or threatens to prove detrimental to the public
35 interest, having due regard to the highest feasible development of the
36 use of the waters belonging to the public, it shall be duty of the
37 department to reject such application and to refuse to issue the permit
38 asked for. If the permit is refused because of conflict with existing
39 rights and such applicant shall acquire same by purchase or

1 condemnation under RCW 90.03.040, the department may thereupon grant
2 such permit. Any application may be approved for a less amount of
3 water than that applied for, if there exists substantial reason
4 therefor, and in any event shall not be approved for more water than
5 can be applied to beneficial use for the purposes named in the
6 application. In determining whether or not a permit shall issue upon
7 any application, it shall be the duty of the department to investigate
8 all facts relevant and material to the application. After the
9 department approves said application in whole or in part and before any
10 permit shall be issued thereon to the applicant, such applicant shall
11 pay the fee provided in RCW 90.03.470: PROVIDED FURTHER, That in the
12 event a permit is issued by the department upon any application, it
13 shall be its duty to notify the director of fish and wildlife of such
14 issuance.

15 This section does not apply to changes made under section 12 of
16 this act or to applications for transfers or changes made under RCW
17 90.03.380 or 90.44.100.

18 **Sec. 15.** RCW 90.44.445 and 1993 c 99 s 1 are each amended to read
19 as follows:

20 In any acreage expansion program adopted by the department as an
21 element of a ground water management program, the authorization for a
22 water right certificate holder to participate in the program shall be
23 on an annual basis for the first two years. After the two-year period,
24 the department may authorize participation for ten-year periods. The
25 department may authorize participation for ten-year periods for
26 certificate holders who have already participated in an acreage
27 expansion program for two years. The department may require annual
28 certification that the certificate holder has complied with all
29 requirements of the program. The department may terminate the
30 authority of a certificate holder to participate in the program for one
31 calendar year if the certificate holder fails to comply with the
32 requirements of the program.

33 This section applies only in an area with a ground water area or
34 subarea management program in effect on the effective date of this
35 section. The provisions of section 12 of this act, RCW 90.03.380, and
36 90.44.100 apply to transfers, changes, and amendments to permits or
37 rights for the beneficial use of ground water in any other area.

1 NEW SECTION. **Sec. 16.** Sections 1 through 10 of this act shall not
2 be construed as affecting any existing right acquired or liability or
3 obligation incurred under the sections amended or repealed in this act
4 or under any rule or order adopted under those sections, nor as
5 affecting any proceeding instituted under those sections.

6 NEW SECTION. **Sec. 17.** The sum of one hundred thousand dollars, or
7 as much thereof as may be necessary, is appropriated for the biennium
8 ending June 30, 1997, from the state and local improvements revolving
9 account--water supply facilities of the general fund (Referendum 38),
10 to the department of health for the purposes of this act. Any moneys
11 appropriated from this account pursuant to this section must be matched
12 from private sector sources at a rate of one dollar of private money
13 for every two dollars of state money.

14 NEW SECTION. **Sec. 18.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and shall take
17 effect immediately."

18 **SSB 5606** - H COMM AMD
19 By Committee on Agriculture & Ecology

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21 On page 1, line 2 of the title, after "wastewater;" strike the
22 remainder of the title and insert "amending RCW 90.46.005, 90.46.010,
23 90.46.050, 90.03.380, 90.44.100, 90.03.290, and 90.44.445; adding new
24 sections to chapter 90.46 RCW; adding a new section to chapter 90.03
25 RCW; creating new sections; making an appropriation; and declaring an
26 emergency."

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