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**SUBSTITUTE SENATE BILL 6730**

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**State of Washington**

**59th Legislature**

**2006 Regular Session**

**By** Senate Committee on Water, Energy & Environment (originally sponsored by Senators Fraser, Swecker, Fairley, Prentice, Kline, Thibaudeau and Franklin)

READ FIRST TIME 02/03/06.

1       AN ACT Relating to reclaimed water; amending RCW 90.46.005,  
2 90.46.010, 90.46.030, 90.46.040, 90.46.042, 90.46.044, 90.46.050,  
3 90.46.080, 90.46.090, and 90.46.100; adding new sections to chapter  
4 90.46 RCW; and creating a new section.

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

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

8       (1) The department of ecology, in coordination with the department  
9 of health, shall adopt rules as necessary to carry out the provisions  
10 of this chapter in accordance with the public policy for reclaimed  
11 water use as declared in RCW 90.46.005.

12       (2) The department of health shall, in coordination with the  
13 department of ecology, adopt rules for reclaimed water use specific to  
14 greywater applications consistent with this chapter.

15       (3) Rules required by this section must be adopted by December 31,  
16 2009.

17       (4) The department of ecology must consult with the advisory  
18 committee created in RCW 90.46.050 in all aspects of rule development  
19 and adoption under this section.

1       **Sec. 2.** RCW 90.46.005 and 2001 c 69 s 1 are each amended to read  
2 as follows:

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

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

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

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

29       The legislature further finds and declares that the use of  
30 reclaimed water is not inconsistent with the policy of antidegradation  
31 of state waters announced in other state statutes, including the water  
32 pollution control act, chapter 90.48 RCW and the water resources act,  
33 chapter 90.54 RCW.

34       The legislature finds that other states, including California,  
35 Florida, and Arizona, have successfully used reclaimed water to  
36 supplement existing water supplies without threatening existing  
37 resources or public health.

1 It is the intent of the legislature that the department of ecology  
2 and the department of health undertake the necessary steps to encourage  
3 the development of water reclamation facilities so that reclaimed water  
4 may be made available to help meet the growing water requirements of  
5 the state.

6 The legislature further finds and declares that reclaimed water  
7 facilities are water pollution control facilities as defined in chapter  
8 70.146 RCW and are eligible for financial assistance as provided in  
9 chapter 70.146 RCW. ~~((The legislature finds that funding demonstration  
10 projects will ensure the future use of reclaimed water. The  
11 demonstration projects in RCW 90.46.110 are varied in nature and will  
12 provide the experience necessary to test different facets of the  
13 standards and refine a variety of technologies so that water purveyors  
14 can begin to use reclaimed water technology in a more cost effective  
15 manner. This is especially critical in smaller cities and communities  
16 where the feasibility for such projects is great, but there are scarce  
17 resources to develop the necessary facilities.))~~

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

22 **Sec. 3.** RCW 90.46.010 and 2002 c 329 s 3 are each amended to read  
23 as follows:

24 The definitions in this section apply throughout this chapter  
25 unless the context clearly requires otherwise.

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

30 (2) "Land application" means ~~((application of treated effluent for  
31 purposes of))~~ use of reclaimed water as permitted under this chapter  
32 for irrigation or landscape enhancement ~~((for residential, business,  
33 and governmental purposes))~~.

34 (3) "Person" means any state, individual, public or private  
35 corporation, political subdivision, governmental subdivision,  
36 governmental agency, municipality, copartnership, association, firm,  
37 trust estate, or any other legal entity whatever.

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

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

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

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

13 (8) "Beneficial use" means the use of reclaimed water, that has  
14 been transported from the point of production to the point of use  
15 without an intervening discharge to the waters of the state, for a  
16 beneficial purpose.

17 (9) "Direct recharge" means the controlled subsurface addition of  
18 water directly to the ground water basin that results in the  
19 replenishment of ground water.

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

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

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

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

33 (14) "Surface percolation" means the controlled application of  
34 water to the ground surface for the purpose of replenishing ground  
35 water.

36 (15) "Wetland or wetlands" means areas that are inundated or  
37 saturated by surface water or ground water at a frequency and duration  
38 sufficient to support, and that under normal circumstances do support,

1 a prevalence of vegetation typically adapted to life in saturated soil  
2 conditions. Wetlands generally include swamps, marshes, bogs, and  
3 similar areas. Wetlands regulated under this chapter shall be  
4 delineated in accordance with the manual adopted by the department of  
5 ecology pursuant to RCW 90.58.380.

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

10 (17) "Constructed treatment wetlands" means those wetlands  
11 intentionally constructed on nonwetland sites and managed for the  
12 primary purpose of wastewater or storm water treatment. Constructed  
13 treatment wetlands are considered part of the collection and treatment  
14 system and are not considered "waters of the state."

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

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

23 (20) "Agricultural water use" means the use of water for irrigation  
24 and other uses related to the production of agricultural products.  
25 These uses include, but are not limited to, construction, operation,  
26 and maintenance of agricultural facilities and livestock operations at  
27 farms, ranches, dairies, and nurseries. Examples of these uses  
28 include, but are not limited to, dust control, temperature control, and  
29 fire control.

30 (21) "Industrial reuse water" means water that has been used for  
31 the purpose of industrial processing and has been adequately and  
32 reliably treated so that, as a result of that treatment, it is suitable  
33 for other uses.

34 (22) "Constructed wetlands" means those wetlands intentionally  
35 constructed on nonwetland sites and managed for the primary purpose of  
36 polishing reclaimed water or aesthetics. Constructed wetlands are not  
37 considered "waters of the state."

1       (23) "Created wetlands" means those wetlands intentionally  
2 constructed on nonwetland sites to produce or replace natural wetland  
3 functions and values. Created wetlands are considered "waters of the  
4 state."

5       **Sec. 4.** RCW 90.46.030 and 2005 c 59 s 1 are each amended to read  
6 as follows:

7       (1) The department of health shall, in coordination with the  
8 department of ecology, adopt a single set of standards, procedures, and  
9 guidelines on or before August 1, 1993, for the industrial and  
10 commercial use of reclaimed water. These standards apply only until  
11 the department of ecology adopts rules, in accordance with section 1 of  
12 this act, regarding the industrial and commercial use of reclaimed  
13 water.

14       (2) The department of health may issue a reclaimed water permit for  
15 industrial and commercial uses of reclaimed water to the generator of  
16 reclaimed water who may then distribute the water, subject to  
17 provisions in the permit governing the location, rate, water quality,  
18 and purposes of use.

19       (3) The department of health in consultation with the advisory  
20 committee established in RCW 90.46.050, shall develop recommendations  
21 for a fee structure for permits issued under subsection (2) of this  
22 section. Fees shall be established in amounts to fully recover, and  
23 not exceed, expenses incurred by the department of health in processing  
24 permit applications and modifications, monitoring and evaluating  
25 compliance with permits, and conducting inspections and supporting the  
26 reasonable overhead expenses that are directly related to these  
27 activities. Permit fees may not be used for research or enforcement  
28 activities. The department of health shall not issue permits under  
29 this section until a fee structure has been established.

30       (4) A permit under this section for use of reclaimed water may be  
31 issued only to:

- 32       (a) A municipal, quasi-municipal, or other governmental entity;  
33       (b) A private utility as defined in RCW 36.94.010; or  
34       (c) The holder of a waste discharge permit issued under chapter  
35 90.48 RCW.

36       (5) The authority and duties created in this section are in  
37 addition to any authority and duties already provided in law with

1 regard to sewage and wastewater collection, treatment, and disposal for  
2 the protection of health and safety of the state's waters. Nothing in  
3 this section limits the powers of the state or any political  
4 subdivision to exercise such authority.

5 (6) The department of health may implement the requirements of this  
6 section through the department of ecology by execution of a formal  
7 agreement between the departments. Upon execution of such an  
8 agreement, the department of ecology may issue reclaimed water permits  
9 for industrial and commercial uses of reclaimed water by issuance of  
10 permits under chapter 90.48 RCW, and may establish and collect fees as  
11 required for permits issued under chapter 90.48 RCW.

12 (7) Before deciding whether to issue a permit under this section to  
13 a private utility, the department of health may require information  
14 that is reasonable and necessary to determine whether the private  
15 utility has the financial and other resources to assure the  
16 reliability, continuity, and supervision of the reclaimed water  
17 facility. Permits issued after the adoption of rules under section 1  
18 of this act must be consistent with the adopted rules.

19 **Sec. 5.** RCW 90.46.040 and 2005 c 59 s 2 are each amended to read  
20 as follows:

21 (1) The department of ecology shall, in coordination with the  
22 department of health, adopt a single set of standards, procedures, and  
23 guidelines, on or before August 1, 1993, for land applications of  
24 reclaimed water. These standards apply only until the department of  
25 ecology adopts rules, in accordance with section 1 of this act,  
26 regarding the land application of reclaimed water.

27 (2) A permit is required for any land application of reclaimed  
28 water. The department of ecology may issue a reclaimed water permit  
29 under chapter 90.48 RCW to the generator of reclaimed water who may  
30 then distribute the water, subject to provisions in the permit  
31 governing the location, rate, water quality, and purpose of use. The  
32 department of ecology shall not issue more than one permit for any  
33 individual land application of reclaimed water to a single generator.

34 (3) In cases where the department of ecology determines, in land  
35 applications of reclaimed water, that a significant risk to the public  
36 health exists, the department shall refer the application to the

1 department of health for review and consultation and the department of  
2 health may require fees appropriate for review and consultation from  
3 the applicant pursuant to RCW 43.70.250.

4 (4) A permit under this section for use of reclaimed water may be  
5 issued only to:

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

7 (b) A private utility as defined under RCW 36.94.010; or

8 (c) The holder of a waste discharge permit issued under chapter  
9 90.48 RCW.

10 (5) The authority and duties created in this section are in  
11 addition to any authority and duties already provided in law. Nothing  
12 in this section limits the powers of the state or any political  
13 subdivision to exercise such authority.

14 (6) Before deciding whether to issue a permit under this section to  
15 a private utility, the department of ecology may require information  
16 that is reasonable and necessary to determine whether the private  
17 utility has the financial and other resources to assure the  
18 reliability, continuity, and supervision of the reclaimed water  
19 facility.

20 **Sec. 6.** RCW 90.46.042 and 1995 c 342 s 6 are each amended to read  
21 as follows:

22 The department of ecology shall, in consultation with the  
23 department of health, adopt a single set of standards, procedures, and  
24 guidelines, on or before December 31, 1996, for direct recharge using  
25 reclaimed water. The standards shall address both water quality  
26 considerations and avoidance of property damage from excessive  
27 recharge. These standards apply only until the department of ecology  
28 adopts rules, in accordance with section 1 of this act, regarding  
29 direct recharge using reclaimed water.

30 **Sec. 7.** RCW 90.46.044 and 1995 c 342 s 7 are each amended to read  
31 as follows:

32 The department of ecology shall, in consultation with the  
33 department of health, adopt a single set of standards, procedures, and  
34 guidelines, on or before June 30, 1996, for discharge of reclaimed  
35 water to wetlands. These standards apply only until the department of



1 ecology adopts rules, in accordance with section 1 of this act,  
2 regarding the discharge of reclaimed water to wetlands.

3 **Sec. 8.** RCW 90.46.050 and 1995 c 342 s 9 are each amended to read  
4 as follows:

5 (1) The department of ((health)) ecology shall, before July 1,  
6 ((1995)) 2006, form an advisory committee, in coordination with the  
7 department of ((ecology)) health and the department of agriculture,  
8 which will provide technical assistance in the development of  
9 standards, procedures, and guidelines required by this chapter.  
10 ((Such)) The advisory committee shall be composed of ((individuals from  
11 the public water and wastewater utilities, landscaping enhancement  
12 industry, commercial and industrial application community, and any  
13 other persons deemed technically helpful by the department of health))  
14 a broad range of interested individuals representing the various  
15 stakeholders that use or are potentially impacted by the use of  
16 reclaimed water. The advisory committee must also contain individuals  
17 with technical expertise and knowledge of new advancements in  
18 technology.

19 (2) The advisory committee shall review and recommend to the  
20 legislature by December 1, 2007, any proposed changes in state law, in  
21 light of (a) existing conflicts with provisions contained in this  
22 chapter; (b) the need to facilitate implementation of locally developed  
23 watershed plans under chapter 90.82 RCW; (c) the development and  
24 implementation of a comprehensive partnership to restore the health of  
25 Puget Sound, and the potential role of reclaimed water; and (d)  
26 increasingly stringent federal water quality standards.

27 **Sec. 9.** RCW 90.46.080 and 1997 c 444 s 6 are each amended to read  
28 as follows:

29 (1) Except as otherwise provided in this section, reclaimed water  
30 may be beneficially used for surface percolation provided the reclaimed  
31 water meets the ground water recharge criteria as measured in ground  
32 water beneath or down gradient of the recharge project site, and has  
33 been 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 (2) If the state ground water recharge criteria as defined by RCW  
2 90.46.010 do not contain a standard for a constituent or contaminant,  
3 the department of ecology shall establish a discharge limit consistent  
4 with the goals of this chapter, except as otherwise provided in this  
5 section.

6 (3) Except as otherwise provided in this section, reclaimed water  
7 that does not meet the ground water recharge criteria may be  
8 beneficially used for surface percolation where the department of  
9 ecology, in consultation with the department of health, has  
10 specifically authorized such use at such lower standard.

11 (4) Any rules adopted by the department of ecology in accordance  
12 with section 1 of this act regarding surface percolation supersede the  
13 provisions of this section.

14 **Sec. 10.** RCW 90.46.090 and 1997 c 444 s 7 are each amended to read  
15 as follows:

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

23 (2) Reclaimed water that does not meet the class A or B reclaimed  
24 water standards may be beneficially used for discharge into constructed  
25 treatment wetlands where the department of ecology, in consultation  
26 with the department of health, has specifically authorized such use at  
27 such lower standards.

28 (3)(a) The department of ecology and the department of health must  
29 develop appropriate standards for discharging reclaimed water into  
30 constructed beneficial use wetlands and constructed treatment wetlands.  
31 These standards must be considered as part of the approval process  
32 under subsections (1) and (2) of this section.

33 (b) Standards adopted under this section apply only until the  
34 department of ecology adopts rules, in accordance with section 1 of  
35 this act, regarding use in constructed wetlands and created wetlands.

1       **Sec. 11.** RCW 90.46.100 and 1995 c 342 s 5 are each amended to read  
2 as follows:

3       (1) Reclaimed water intended for beneficial reuse may be discharged  
4 for streamflow augmentation provided the reclaimed water meets the  
5 requirements of the federal water pollution control act, chapter 90.48  
6 RCW, and is incorporated into a sewer or water comprehensive plan, as  
7 applicable, adopted by the applicable local government and approved by  
8 the department of health or department of ecology as applicable.

9       (2) Standards adopted under this section apply only until the  
10 department of ecology adopts rules, in accordance with section 1 of  
11 this act, regarding use of reclaimed water for streamflow augmentation.

12       NEW SECTION. **Sec. 12.** A new section is added to chapter 90.46 RCW  
13 to read as follows:

14       (1) Reclaimed water may be used for mitigation projects for  
15 diversions or withdrawals of waters of the state.

16       (2) The use of reclaimed water, consistent with the standards and  
17 criteria developed under the authority of this chapter, shall be  
18 considered a water resource management technique to be considered by  
19 the department under RCW 90.03.255 when evaluating an application for  
20 a water right, change, or transfer, or when proposed as a mitigated  
21 use.

22       NEW SECTION. **Sec. 13.** A new section is added to chapter 90.46 RCW  
23 to read as follows:

24       The department of ecology and the department of health financial  
25 assistance programs shall evaluate the use of existing state funding  
26 sources to pay for some of the costs of reclaimed water projects and  
27 shall work with the advisory committee created in RCW 90.46.050 to  
28 develop recommendations on how to make additional funding available.

29       NEW SECTION. **Sec. 14.** The code reviser shall alphabetize and  
30 renumber the definitions in section 3 of this act.

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