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HOUSE BILL 1548

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State of Washington

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By Representatives G. Chandler, Linville, Mastin and Koster

Read first time 01/28/1999. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to industrial reclaimed water; amending RCW  
2 90.46.010, 90.46.120, and 90.14.140; and adding new sections to chapter  
3 90.46 RCW.

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

5 **Sec. 1.** RCW 90.46.010 and 1997 c 444 s 5 are each amended to read  
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

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

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

16 (3) "Person" means any state, individual, public or private  
17 corporation, political subdivision, governmental subdivision,  
18 governmental agency, municipality, copartnership, association, firm,  
19 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) "Industrial reclaimed water" means industrial wastewater that  
7 is used for agricultural purposes in conformance with a permit issued  
8 under chapter 90.48 RCW.

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

13 ~~((+6))~~ (7) "User" means any person who uses reclaimed water.

14 ~~((+7))~~ (8) "Wastewater" means water and wastes discharged from  
15 homes, businesses, and industry to the sewer system.

16 ~~((+8))~~ (9) "Industrial wastewater" means the water or liquid  
17 carried waste from industrial or commercial processes, as distinct from  
18 sewage or domestic wastewater, and may result from any process or  
19 activity of industry, manufacture, trade or business, from the  
20 development of any natural resource, or from animal operations, such as  
21 feed lots, poultry houses, or dairies.

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

26 ~~((+9))~~ (11) "Direct recharge" means the controlled subsurface  
27 addition of water directly to the ground water basin that results in  
28 the replenishment of ground water.

29 ~~((+10))~~ (12) "Ground water recharge criteria" means the  
30 contaminant criteria found in the drinking water quality standards  
31 adopted by the state board of health pursuant to chapter 43.20 RCW and  
32 the department of health pursuant to chapter 70.119A RCW.

33 ~~((+11))~~ (13) "Planned ground water recharge project" means any  
34 reclaimed water project designed for the purpose of recharging ground  
35 water, via direct recharge or surface percolation.

36 ~~((+12))~~ (14) "Reclamation criteria" means the criteria set forth  
37 in the water reclamation and reuse interim standards and subsequent  
38 revisions adopted by the department of ecology and the department of  
39 health.

1       (~~(13)~~) (15) "Streamflow augmentation" means the discharge of  
2 reclaimed water to rivers and streams of the state or other surface  
3 water bodies, but not wetlands.

4       (~~(14)~~) (16) "Surface percolation" means the controlled  
5 application of water to the ground surface for the purpose of  
6 replenishing ground water.

7       (~~(15)~~) (17) "Wetland or wetlands" means areas that are inundated  
8 or saturated by surface water or ground water at a frequency and  
9 duration sufficient to support, and that under normal circumstances do  
10 support, a prevalence of vegetation typically adapted to life in  
11 saturated soil conditions. Wetlands generally include swamps, marshes,  
12 bogs, and similar areas. Wetlands regulated under this chapter shall  
13 be delineated in accordance with the manual adopted by the department  
14 of ecology pursuant to RCW 90.58.380.

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

19       (~~(17)~~) (19) "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       **Sec. 2.** RCW 90.46.120 and 1997 c 444 s 1 are each amended to read  
25 as follows:

26       (1) The owner of a wastewater treatment facility that is reclaiming  
27 water with a permit issued under this chapter has the exclusive right  
28 to any reclaimed water generated by the wastewater treatment facility.  
29 Use and distribution of the reclaimed water by the owner of the  
30 wastewater treatment facility is exempt from the permit requirements of  
31 RCW 90.03.250 and 90.44.060. Revenues derived from the reclaimed water  
32 facility shall be used only to offset the cost of operation of the  
33 wastewater utility fund or other applicable source of system-wide  
34 funding.

35       If the proposed use or uses of reclaimed water are intended to  
36 augment or replace potable water supplies or create the potential for  
37 the development of additional potable water supplies, such use or uses  
38 shall be considered in the development of the regional water supply

1 plan or plans addressing potable water supply service by multiple water  
2 purveyors. The owner of a wastewater treatment facility that proposes  
3 to reclaim water shall be included as a participant in the development  
4 of such regional water supply plan or plans.

5 (2) The owner of a facility that provides industrial reclaimed  
6 water for agricultural purposes and does so under a permit issued under  
7 chapter 90.48 RCW has the exclusive right to any of the industrial  
8 reclaimed water generated by the facility. Use and distribution of the  
9 industrial reclaimed water is exempt from the requirements to obtain a  
10 permit under RCW 90.03.250 or 90.44.060 and the requirements to obtain  
11 approval of a transfer, change, or amendment of a water right under RCW  
12 90.03.380, 90.03.383, 90.03.390, 90.44.100, or 90.44.105.

13 NEW SECTION. Sec. 3. A new section is added to chapter 90.46 RCW  
14 to read as follows:

15 Industrial reclaimed water may be beneficially used for  
16 agricultural purposes if it is used in conformance with a permit issued  
17 for the use under chapter 90.48 RCW.

18 NEW SECTION. Sec. 4. A new section is added to chapter 90.46 RCW  
19 to read as follows:

20 A facility that provides industrial reclaimed water for land  
21 application under this chapter shall not impair any existing water  
22 right relying on a discharge of the wastewater from the facility unless  
23 the holder of the impaired right is equitably compensated.

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

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

- 30 (a) Drought, or other unavailability of water;  
31 (b) Active service in the armed forces of the United States during  
32 military crisis;  
33 (c) Nonvoluntary service in the armed forces of the United States;  
34 (d) The operation of legal proceedings;

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

4 (f) Federal laws imposing land or water use restrictions either  
5 directly or through the voluntary enrollment of a landowner in a  
6 federal program implementing those laws, or acreage limitations, or  
7 production quotas.

8 (2) Notwithstanding any other provisions of RCW 90.14.130 through  
9 90.14.180, there shall be no relinquishment of any water right:

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

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

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

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

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

24 (f) If such right or portion of the right is leased to another  
25 person for use on land other than the land to which the right is  
26 appurtenant as long as the lessee makes beneficial use of the right in  
27 accordance with this chapter and a transfer or change of the right has  
28 been approved by the department in accordance with RCW 90.03.380,  
29 90.03.383, 90.03.390, or 90.44.100; or

30 (g) The substitution of the use of industrial reclaimed water, as  
31 defined in RCW 90.46.010, for the use of water under the right if the  
32 substituted water is used in accordance with a valid permit issued  
33 under chapter 90.48 RCW.

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