

2 **SSB 5606 - H AMD 835 WITHDRAWN 4/14/95**

3 By Representatives Chandler and Mastin

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 used where feasible to supplement  
33 existing water supplies without threatening existing resources or  
34 public health in order to preserve potable water for drinking purposes.

35 The legislature further finds and declares that the use of  
36 reclaimed water is not inconsistent with the policy of antidegradation

1 of state waters announced in other state statutes, including the water  
2 pollution control act, chapter 90.48 RCW and the water resources act,  
3 chapter 90.54 RCW.

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

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

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

15 Unless the context clearly requires otherwise, the definitions in  
16 this section apply throughout this chapter.

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

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

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

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

33 (5) "Sewage" means water-carried human wastes(~~(, including kitchen,~~  
34 ~~bath, and laundry waste)~~) from residences, buildings, industrial and  
35 commercial establishments, or other places, together with such ground  
36 water infiltration, surface waters, or industrial wastewater as may be  
37 present.

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

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

3 (8) "Beneficial use," as used in this chapter, means the use of  
4 reclaimed water, that has been transported from the point of production  
5 to the point of use without an intervening discharge to the waters of  
6 the state, for a beneficial purpose.

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

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

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

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

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

23 (14) "Surface percolation" means the controlled application of  
24 water to the ground surface for the purpose of recharging ground water.

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

33 (16) "Man-made wetlands" means a wetland intentionally created from  
34 a nonwetland site to produce or replace natural habitat.

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

37 (1) Reclaimed water may be beneficially used for surface  
38 percolation provided the reclaimed water meets the ground water

1 recharge criteria as measured in ground water beneath or down gradient  
2 of the recharge project site, and has been incorporated into a sewer or  
3 water comprehensive plan, as applicable, adopted by the applicable  
4 local government and approved by the department of health or department  
5 of ecology as applicable.

6 (2) If the state ground water recharge criteria as defined by RCW  
7 90.46.010 do not contain a standard for a constituent or contaminant,  
8 the department of ecology shall establish a discharge limit consistent  
9 with the goals of this chapter.

10 (3) Reclaimed water that does not meet the ground water recharge  
11 criteria may be beneficially used for surface percolation where the  
12 department of ecology has specifically authorized such use at such  
13 lower standard.

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 man-made wetlands provided the reclaimed water meets the class A or B  
18 reclaimed water standards 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 or B reclaimed  
23 water standards may be beneficially used for discharge into man-made  
24 wetlands where the department of ecology has specifically authorized  
25 such use at such lower standards.

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

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

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

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

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

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

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

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

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

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

28 ((+1)) The department of health shall, before ((May 1, 1992)) July  
29 1, 1995, form an advisory committee, in coordination with the  
30 department of ecology and the department of agriculture, which will  
31 provide technical assistance in the development of standards,  
32 procedures, and guidelines required by this chapter. Such committee  
33 shall be composed of individuals from the public water and wastewater  
34 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 NEW SECTION. **Sec. 11.** Sections 1 through 10 of this act shall not  
8 be construed as affecting any existing right acquired or liability or  
9 obligation incurred under the sections amended or repealed in this act  
10 or under any rule or order adopted under those sections, nor as  
11 affecting any proceeding instituted under those sections.

12 **Sec. 12.** RCW 90.03.380 and 1991 c 347 s 15 are each amended to  
13 read as follows:

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

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

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

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

1 exceeding the irrigated acreage recorded with the department for the  
2 district's water right if the board notifies the department of the  
3 change in the irrigated acreage within the district. Such a  
4 notification provides a change in the district's water right and, upon  
5 receiving the notification, the department shall revise its records for  
6 the district's right to reflect the change. A change or use authorized  
7 by or under this subsection shall be made without loss of priority of  
8 the right. The use of water other than irrigation district-supplied  
9 water that is made surplus as provided in this subsection is governed  
10 by section 13 of this act.

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

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

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

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

34 This section does not apply to water supplied by an irrigation  
35 district.

36 **Sec. 14.** RCW 90.44.100 and 1987 c 109 s 113 are each amended to  
37 read as follows:



1       (1) After an application to, and upon the issuance by the  
2 department of an amendment to the appropriate permit or certificate of  
3 ground water right, the holder of a valid right to withdraw public  
4 ground waters may, without losing his priority of right, construct  
5 wells or other means of withdrawal at a new location in substitution  
6 for or in addition to those at the original location, or he may change  
7 the manner or the place of use of the water(~~(: PROVIDED, HOWEVER, That~~  
8 ~~such))~~). An amendment shall be issued only after publication of notice  
9 of the application and findings as prescribed in the case of an  
10 original application. Such amendment shall be issued by the department  
11 only on the conditions that: ((+1)) (a) The additional or substitute  
12 well or wells shall tap the same body of public ground water as the  
13 original well or wells; ((+2)) (b) use of the original well or wells  
14 shall be discontinued upon construction of the substitute well or  
15 wells; ((+3)) (c) the construction of an additional well or wells  
16 shall not enlarge the right conveyed by the original permit or  
17 certificate; and ((+4)) (d) other existing rights shall not be  
18 impaired. The department may specify an approved manner of  
19 construction and shall require a showing of compliance with the terms  
20 of the amendment, as provided in RCW 90.44.080 in the case of an  
21 original permit.

22       (2) This section does not apply to a change in use of a portion of  
23 the water governed by a ground water right that is made surplus to the  
24 beneficial uses exercised under the right through the implementation of  
25 practices or technologies, including but not limited to conveyance  
26 practices or technologies, which are more efficient or more water use  
27 efficient than those under which the right was perfected or through a  
28 change in the crops grown under the water right. RCW 90.03.380(4) and  
29 section 13 of this act apply to water made surplus as provided in this  
30 subsection.

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

35       **Sec. 15.** RCW 90.03.290 and 1994 c 264 s 84 are each amended to  
36 read as follows:

37       When an application complying with the provisions of this chapter  
38 and with the rules and regulations of the department has been filed,

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

1 with existing rights, or threatens to prove detrimental to the public  
2 interest, having due regard to the highest feasible development of the  
3 use of the waters belonging to the public, it shall be duty of the  
4 department to reject such application and to refuse to issue the permit  
5 asked for. If the permit is refused because of conflict with existing  
6 rights and such applicant shall acquire same by purchase or  
7 condemnation under RCW 90.03.040, the department may thereupon grant  
8 such permit. Any application may be approved for a less amount of  
9 water than that applied for, if there exists substantial reason  
10 therefor, and in any event shall not be approved for more water than  
11 can be applied to beneficial use for the purposes named in the  
12 application. In determining whether or not a permit shall issue upon  
13 any application, it shall be the duty of the department to investigate  
14 all facts relevant and material to the application. After the  
15 department approves said application in whole or in part and before any  
16 permit shall be issued thereon to the applicant, such applicant shall  
17 pay the fee provided in RCW 90.03.470: PROVIDED FURTHER, That in the  
18 event a permit is issued by the department upon any application, it  
19 shall be its duty to notify the director of fish and wildlife of such  
20 issuance.

21 This section does not apply to changes made under section 13 of  
22 this act or to applications for transfers or changes made under RCW  
23 90.03.380 or 90.44.100.

24 **Sec. 16.** RCW 90.44.445 and 1993 c 99 s 1 are each amended to read  
25 as follows:

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

1        This section applies only in an area with a ground water area or  
2 subarea management program in effect on the effective date of this  
3 section. The provisions of section 13 of this act, RCW 90.03.380, and  
4 90.44.100 apply to transfers, changes, and amendments to permits or  
5 rights for the beneficial use of ground water in any other area.

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

10    **SSB 5606** - H AMD  
11        By

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13        On page 1, line 2 of the title, after "wastewater;" strike the  
14 remainder of the title and insert "amending RCW 90.46.005, 90.46.010,  
15 90.46.050, 90.03.380, 90.44.100, 90.03.290, and 90.44.445; adding new  
16 sections to chapter 90.46 RCW; adding a new section to chapter 90.03  
17 RCW; creating new sections; and declaring an emergency."

--- END ---