

2 **SSB 5606** - H AMD  
3 By Representative

4 ADOPTED 4/14/95

5 On page 2, line 6, after "of" strike everything down to and  
6 including "This" on page 6, line 14, and insert "salvaged water by  
7 local communities and individuals for domestic, agricultural,  
8 industrial, recreational, and fish and wildlife habitat creation and  
9 enhancement purposes, including wetland enhancement, will contribute to  
10 the peace, health, safety, and welfare of the people of the state of  
11 Washington. To the extent salvaged water is appropriate and available  
12 for beneficial uses, it should be used where feasible to supplement  
13 existing water supplies without threatening existing resources or  
14 public health in order to preserve potable water for drinking purposes  
15 and encourage water conservation practices.

16 The legislature further finds and declares that the use of salvaged  
17 water is not inconsistent with the policy of antidegradation of state  
18 waters announced in other state statutes, including the water pollution  
19 control act, chapter 90.48 RCW and the water resources act, chapter  
20 90.54 RCW, nor is it inconsistent with the state's relinquishment  
21 statutes, chapter 90.48 RCW.

22 It is the intent of the legislature that the department of ecology  
23 and the department of health undertake the necessary steps to encourage  
24 the development of water reclamation facilities so that reclaimed water  
25 may be made available to help meet the growing water requirements of  
26 the state. It is also the intent of the legislature that the  
27 relationship between reclaimed water and other salvaged water be  
28 clarified to allow for the maximum use of current water conservation  
29 technologies and promote efficient administration of this limited  
30 resource.

31 The legislature further finds and declares that reclaimed water  
32 facilities are water pollution control facilities as defined in chapter  
33 70.146 RCW and are eligible for financial assistance as provided in  
34 chapter 70.146 RCW.

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

1 Unless the context clearly requires otherwise, the definitions in  
2 this section apply throughout this chapter.

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

7 (2) "Land application" means application of treated effluent for  
8 purposes of irrigation or landscape enhancement for residential,  
9 business, and governmental purposes.

10 (3) "Person" means any state, individual, public or private  
11 corporation, political subdivision, governmental subdivision,  
12 governmental agency, municipality, copartnership, association, firm,  
13 trust estate, or any other legal entity whatever.

14 (4) "Reclaimed water" means effluent derived in any part from  
15 sewage from a wastewater treatment system that has been adequately and  
16 reliably treated, so that as a result of that treatment, it is suitable  
17 for a (~~(direct)~~) beneficial use or a controlled use that would not  
18 otherwise occur.

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

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

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

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

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

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

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

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

7       (13) "Salvaged water" means water reclaimed under this chapter and  
8 water made surplus through efficiencies in use and related activities.

9       (14) "Streamflow augmentation" means the discharge of reclaimed  
10 water to rivers and streams of the state or other surface water bodies,  
11 but not wetlands.

12       (15) "Surface percolation" means the controlled application of  
13 water to the ground surface for the purpose of recharging ground water.

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

22       (17) "Man-made wetlands" means a wetland intentionally created from  
23 a nonwetland site to produce or replace natural habitat.

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

26       (1) Reclaimed water may be beneficially used for surface  
27 percolation provided the reclaimed water meets the ground water  
28 recharge criteria as measured in ground water beneath or down gradient  
29 of the recharge project site, and has been incorporated into a sewer or  
30 water comprehensive plan, as applicable, adopted by the applicable  
31 local government and approved by the department of health or department  
32 of ecology as applicable.

33       (2) If the state ground water recharge criteria as defined in RCW  
34 90.46.010 do not contain a standard for a constituent or contaminant,  
35 the department of ecology shall establish a discharge limit consistent  
36 with the goals of this chapter.

37       (3) Reclaimed water that does not meet the ground water recharge  
38 criteria may be beneficially used for surface percolation where the

1 department of ecology has specifically authorized such use at such  
2 lower standard.

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

5 (1) Reclaimed water may be beneficially used for discharge into  
6 man-made wetlands provided the reclaimed water meets the class A or B  
7 reclaimed water standards as defined in the reclamation criteria, and  
8 the discharge is incorporated into a sewer or water comprehensive plan,  
9 as applicable, adopted by the applicable local government and approved  
10 by the department of health or department of ecology as applicable.

11 (2) Reclaimed water that does not meet the class A or B reclaimed  
12 water standards may be beneficially used for discharge into man-made  
13 wetlands where the department of ecology has specifically authorized  
14 such use at lower standards.

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

17 Reclaimed water intended for beneficial reuse may be discharged for  
18 streamflow augmentation provided the reclaimed water meets the  
19 requirements of the federal water pollution control act, chapter 90.48  
20 RCW, and is incorporated into a sewer or water comprehensive plan, as  
21 applicable, adopted by the applicable local government and approved by  
22 the department of health or department of ecology as applicable.

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

25 The department of ecology shall, in consultation with the  
26 department of health, adopt a single set of standards, procedures, and  
27 guidelines, on or before December 31, 1996, for direct recharge using  
28 reclaimed water. The standards shall address both water quality  
29 considerations and avoidance of property damage from excessive  
30 recharge.

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

33 The department of ecology shall, in consultation with the  
34 department of health, adopt a single set of standards, procedures, and

1 guidelines, on or before June 30, 1996, for discharge of reclaimed  
2 water to wetlands.

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

5 On or before December 31, 1995, the department of ecology and  
6 department of health shall, in consultation with local governments and  
7 local interested parties, jointly review and, if required, propose  
8 amendments to chapter 372-32 WAC to resolve conflicts between the  
9 development of reclaimed water projects in the Puget Sound region and  
10 chapter 372-32 WAC.

11 NEW SECTION. **Sec. 9.** The department of ecology and the department  
12 of health shall report on the progress of the implementation of this  
13 act to the members of the agriculture and ecology committee of the  
14 house of representatives and the members of the ecology and parks  
15 committee of the senate by December 15, 1995.

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

18 (1) The department of health shall, before (~~May 1, 1992~~) July 1,  
19 1995, form an advisory committee, in coordination with the department  
20 of ecology and the department of agriculture, which will provide  
21 technical assistance in the development of standards, procedures, and  
22 guidelines required by this chapter. Such committee shall be composed  
23 of individuals from the public water and wastewater utilities,  
24 landscaping enhancement industry, commercial and industrial application  
25 community, and any other persons deemed technically helpful by the  
26 department of health.

27 (2) (~~The department of health shall report to the joint select~~  
28 ~~committee on water resource policy by December 1, 1992, on the fee~~  
29 ~~structure which has been recommended under RCW 90.46.030(3) and review~~  
30 ~~fees authorized under RCW 90.46.040(3).)~~ The advisory committee shall:  
31 Review and make recommendations regarding the relationship between the  
32 right to use reclaimed water and the abandonment and relinquishment  
33 statutes, chapter 90.48 RCW; examine the anomaly in water allocation  
34 law posed by statutes calling for the issuance of permits under the  
35 water pollution control laws, chapter 90.48 RCW, rather than permits  
36 issued under the state's water allocation laws which govern other

1 salvaged water; analyze whether the administration of use permits for  
2 reclaimed water should be transferred to the water allocation laws; and  
3 identify administrative barriers to the use of practices or  
4 technologies that will result in water being made surplus because of  
5 greater efficiencies.

6 NEW SECTION. Sec. 11. Sections 1 through 10 of this"

7 Correct internal references accordingly and correct the title.

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10 ADOPTED 4/14/95

11 On page 6, after line 18, insert the following:

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

1 filed with the county auditor in like manner and with the same effect  
2 as provided in the original certificate or permit to divert water.

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

9 (3) A change in place of use by an individual water user or users  
10 of water provided by an irrigation district need only receive approval  
11 for the change from the board of directors of the district if the use  
12 of water continues within the irrigation 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 crops grown under the water right.  
20 The use within an irrigation district of water supplied by the district  
21 and made surplus as provided in this subsection shall be regulated  
22 solely as provided by the board of directors of the irrigation district  
23 except as follows: Such a use requires the approval of the board of  
24 directors of the irrigation district or must otherwise be authorized by  
25 the board; the board may approve or authorize such a use only if the  
26 use does not impair the financial or operational integrity of the  
27 district; and water made surplus through a change in the crops grown  
28 with district-supplied water is not available for use as a matter of  
29 right by the individual water user making the change, but may be used  
30 by the board for the benefit of the district generally. The district's  
31 board of directors may approve or otherwise authorize under this  
32 subsection uses of such surplus water that result in the total  
33 irrigated acreage within the district exceeding the irrigated acreage  
34 recorded with the department for the district's water right if the  
35 board notifies the department of the change in the irrigated acreage  
36 within the district. Such a notification provides a change in the  
37 district's water right and, upon receiving the notification, the  
38 department shall revise its records for the district's right to reflect  
39 the change. A change or use authorized by or under this subsection

1 shall be made without loss of priority of the right. The use of water  
2 other than irrigation district-supplied water that is made surplus as  
3 provided in this subsection is governed by section 13 of this act.

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

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

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

23 This section does not apply to water supplied by an irrigation  
24 district.

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

27 (1) After an application to, and upon the issuance by the  
28 department of an amendment to the appropriate permit or certificate of  
29 ground water right, the holder of a valid right to withdraw public  
30 ground waters may, without losing his priority of right, construct  
31 wells or other means of withdrawal at a new location in substitution  
32 for or in addition to those at the original location, or he may change  
33 the manner or the place of use of the water(~~(: PROVIDED, HOWEVER, That~~  
34 ~~such)).~~ An amendment shall be issued only after publication of notice  
35 of the application and findings as prescribed in the case of an  
36 original application. Such amendment shall be issued by the department  
37 only on the conditions that: ((+1)) (a) The additional or substitute



1 well or wells shall tap the same body of public ground water as the  
2 original well or wells; ~~((+2))~~ (b) use of the original well or wells  
3 shall be discontinued upon construction of the substitute well or  
4 wells; ~~((+3))~~ (c) the construction of an additional well or wells  
5 shall not enlarge the right conveyed by the original permit or  
6 certificate; and ~~((+4))~~ (d) other existing rights shall not be  
7 impaired. The department may specify an approved manner of  
8 construction and shall require a showing of compliance with the terms  
9 of the amendment, as provided in RCW 90.44.080 in the case of an  
10 original permit.

11 (2) This section does not apply to a change in use of a portion of  
12 the water governed by a ground water right that is made surplus to the  
13 beneficial uses exercised under the right through the implementation of  
14 practices or technologies, including but not limited to conveyance  
15 technologies, which are more efficient or more water use efficient than  
16 those under which the right was perfected or through a change in the  
17 crops grown under the water right. RCW 90.03.380(4) and section 13 of  
18 this act apply to water made surplus as provided in this subsection.

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

21 When an application complying with the provisions of this chapter  
22 and with the rules and regulations of the department has been filed,  
23 the same shall be placed on record with the department, and it shall be  
24 its duty to investigate the application, and determine what water, if  
25 any, is available for appropriation, and find and determine to what  
26 beneficial use or uses it can be applied. If it is proposed to  
27 appropriate water for irrigation purposes, the department shall  
28 investigate, determine and find what lands are capable of irrigation by  
29 means of water found available for appropriation. If it is proposed to  
30 appropriate water for the purpose of power development, the department  
31 shall investigate, determine and find whether the proposed development  
32 is likely to prove detrimental to the public interest, having in mind  
33 the highest feasible use of the waters belonging to the public. If the  
34 application does not contain, and the applicant does not promptly  
35 furnish sufficient information on which to base such findings, the  
36 department may issue a preliminary permit, for a period of not to  
37 exceed three years, requiring the applicant to make such surveys,  
38 investigations, studies, and progress reports, as in the opinion of the

1 department may be necessary. If the applicant fails to comply with the  
2 conditions of the preliminary permit, it and the application or  
3 applications on which it is based shall be automatically canceled and  
4 the applicant so notified. If the holder of a preliminary permit  
5 shall, before its expiration, file with the department a verified  
6 report of expenditures made and work done under the preliminary permit,  
7 which, in the opinion of the department, establishes the good faith,  
8 intent and ability of the applicant to carry on the proposed  
9 development, the preliminary permit may, with the approval of the  
10 governor, be extended, but not to exceed a maximum period of five years  
11 from the date of the issuance of the preliminary permit. The  
12 department shall make and file as part of the record in the matter,  
13 written findings of fact concerning all things investigated, and if it  
14 shall find that there is water available for appropriation for a  
15 beneficial use, and the appropriation thereof as proposed in the  
16 application will not impair existing rights or be detrimental to the  
17 public welfare, it shall issue a permit stating the amount of water to  
18 which the applicant shall be entitled and the beneficial use or uses to  
19 which it may be applied: PROVIDED, That where the water applied for is  
20 to be used for irrigation purposes, it shall become appurtenant only to  
21 such land as may be reclaimed thereby to the full extent of the soil  
22 for agricultural purposes. But where there is no unappropriated water  
23 in the proposed source of supply, or where the proposed use conflicts  
24 with existing rights, or threatens to prove detrimental to the public  
25 interest, having due regard to the highest feasible development of the  
26 use of the waters belonging to the public, it shall be duty of the  
27 department to reject such application and to refuse to issue the permit  
28 asked for. If the permit is refused because of conflict with existing  
29 rights and such applicant shall acquire same by purchase or  
30 condemnation under RCW 90.03.040, the department may thereupon grant  
31 such permit. Any application may be approved for a less amount of  
32 water than that applied for, if there exists substantial reason  
33 therefor, and in any event shall not be approved for more water than  
34 can be applied to beneficial use for the purposes named in the  
35 application. In determining whether or not a permit shall issue upon  
36 any application, it shall be the duty of the department to investigate  
37 all facts relevant and material to the application. After the  
38 department approves said application in whole or in part and before any  
39 permit shall be issued thereon to the applicant, such applicant shall

1 pay the fee provided in RCW 90.03.470: PROVIDED FURTHER, That in the  
2 event a permit is issued by the department upon any application, it  
3 shall be its duty to notify the director of fish and wildlife of such  
4 issuance.

5 This section does not apply to changes made under section 13 of  
6 this act or to changes made under RCW 90.03.380(4) or 90.44.100(2).

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

9 In any acreage expansion program adopted by the department as an  
10 element of a ground water management program, the authorization for a  
11 water right certificate holder to participate in the program shall be  
12 on an annual basis for the first two years. After the two-year period,  
13 the department may authorize participation for ten-year periods. The  
14 department may authorize participation for ten-year periods for  
15 certificate holders who have already participated in an acreage  
16 expansion program for two years. The department may require annual  
17 certification that the certificate holder has complied with all  
18 requirements of the program. The department may terminate the  
19 authority of a certificate holder to participate in the program for one  
20 calendar year if the certificate holder fails to comply with the  
21 requirements of the program.

22 This section applies only in an area with a ground water area or  
23 subarea management program in effect on the effective date of this  
24 section. The provisions of section 13 of this act, RCW 90.03.380, and  
25 90.44.100 apply to transfers, changes, amendments to permits or rights  
26 for the beneficial use of ground water in any other area."

27 Renumber the remaining section consecutively, correct internal  
28 references accordingly, and correct the title.

--- END ---