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**SUBSTITUTE HOUSE BILL 1548**

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**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** House Committee on Agriculture & Ecology (originally sponsored by Representatives G. Chandler, Linville, Mastin and Koster)

Read first time 03/02/1999.

1 AN ACT Relating to industrial reclaimed water; amending RCW  
2 90.46.010, 90.46.120, 90.46.030, 90.46.130, and 90.14.140; and adding  
3 a new section to chapter 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 industrial purposes, irrigation, municipal purposes,  
8 streamflow augmentation for fish, and other purposes authorized in  
9 conformance with a permit issued under chapter 90.48 RCW.

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

14 ((+6)) (7) "User" means any person who uses reclaimed water.

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

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

23 (10) "Beneficial use" means the use of reclaimed water ~~((, that has~~  
24 ~~been transported from the point of production to the point of use~~  
25 ~~without an intervening discharge to the waters of the state,))~~ for a  
26 beneficial purpose, including but not limited to land application,  
27 replenishment of ground water, wetland enhancement, and streamflow  
28 augmentation providing increased instream flows for fish.

29 ((+9)) (11) "Direct recharge" means the controlled subsurface  
30 addition of water directly to the ground water basin that results in  
31 the replenishment of ground water.

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

36 ((+11)) (13) "Planned ground water recharge project" means any  
37 reclaimed water project designed for the purpose of recharging ground  
38 water, via direct recharge or surface percolation.

1       (~~(12)~~) (14) "Reclamation criteria" means the criteria set forth  
2 in the water reclamation and reuse interim standards and subsequent  
3 revisions adopted by the department of ecology and the department of  
4 health.

5       (~~(13)~~) (15) "Streamflow augmentation" means the discharge of  
6 reclaimed water to rivers and streams of the state or other surface  
7 water bodies, but not wetlands.

8       (~~(14)~~) (16) "Surface percolation" means the controlled  
9 application of water to the ground surface for the purpose of  
10 replenishing ground water.

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

19       (~~(16)~~) (18) "Constructed beneficial use wetlands" means those  
20 wetlands intentionally constructed on nonwetland sites to produce or  
21 replace natural wetland functions and values. Constructed beneficial  
22 use wetlands are considered "waters of the state."

23       (~~(17)~~) (19) "Constructed treatment wetlands" means those wetlands  
24 intentionally constructed on nonwetland sites and managed for the  
25 primary purpose of wastewater or storm water treatment. Constructed  
26 treatment wetlands are considered part of the collection and treatment  
27 system and are not considered "waters of the state."

28       **Sec. 2.** RCW 90.46.120 and 1997 c 444 s 1 are each amended to read  
29 as follows:

30       Except as provided in RCW 90.46.130, the owner of a wastewater  
31 treatment facility that is reclaiming water with a permit issued under  
32 (~~this~~) chapter 90.48 RCW governing the location, rate, water quality,  
33 and purpose of the use has the exclusive right to any reclaimed water  
34 generated by the wastewater treatment facility. Upon securing a permit  
35 under this chapter, the use and distribution of the reclaimed water by  
36 the owner of the wastewater treatment facility is exempt from the  
37 (~~permit requirements of~~) requirements to obtain a permit under RCW  
38 90.03.250 and 90.44.060 and the requirements to obtain approval of a

1 change or amendment of a water right under RCW 90.03.380, 90.03.383,  
2 90.03.390, 90.44.100, or 90.44.105. Revenues derived from the  
3 reclaimed water facility shall be used only to offset the cost of  
4 operation of the wastewater utility fund or other applicable source of  
5 system-wide funding.

6 If the proposed use or uses of reclaimed water are intended to  
7 augment or replace potable water supplies or create the potential for  
8 the development of additional potable water supplies, such use or uses  
9 shall be considered in the development of the regional water supply  
10 plan or plans addressing potable water supply service by multiple water  
11 purveyors. This may include water system plans and coordinated water  
12 system plans adopted under chapters 43.20 and 70.116 RCW. The owner of  
13 a wastewater treatment facility that proposes to reclaim water shall be  
14 included as a participant in the development of such regional water  
15 supply plan ~~((or plans))~~ and water system plans. The water supply  
16 planning activities shall be developed and coordinated to ensure that  
17 opportunities for reclaimed water are evaluated and that proposals for  
18 construction in public rights of way delineated within the plan  
19 consider infrastructure needed to distribute reclaimed water.  
20 Wastewater plans adopted under chapter 90.48 RCW shall include a  
21 statement of certification that reclamation and reuse elements in  
22 applicable regional water supply plans and water system plans have been  
23 fully considered and accounted for with regard to the need for future  
24 distribution of reclaimed water.

25 **Sec. 3.** RCW 90.46.030 and 1992 c 204 s 4 are each amended to read  
26 as follows:

27 (1) The department of ~~((health))~~ ecology shall, in coordination  
28 with the department of ~~((ecology))~~ health, adopt ~~((a single set of~~  
29 ~~standards, procedures, and guidelines on or before August 1, 1993))~~  
30 rules by December 31, 2000, for the industrial and commercial use of  
31 reclaimed water.

32 (2) The department of ~~((health))~~ ecology may issue a reclaimed  
33 water permit for industrial and commercial uses of reclaimed water to  
34 the generator of reclaimed water who may then distribute the water,  
35 subject to provisions in the permit governing the location, rate, water  
36 quality, and purposes of use.

37 (3) The department of ~~((health))~~ ecology in consultation with the  
38 advisory committee established in RCW 90.46.050, shall develop

1 recommendations for a fee structure for permits issued under subsection  
2 (2) of this section. Fees shall be established in amounts to fully  
3 recover, and not exceed, expenses incurred by the department of health  
4 and the department of ecology in processing permit applications and  
5 modifications, monitoring and evaluating compliance with permits, and  
6 conducting inspections and supporting the reasonable overhead expenses  
7 that are directly related to these activities. Permit fees may not be  
8 used for research or enforcement activities. The department of health  
9 shall not issue permits under this section until a fee structure has  
10 been established.

11 (4) A permit under this section for use of reclaimed water may be  
12 issued only to a municipal, quasi-municipal, or other governmental  
13 entity or to the holder of a waste discharge permit issued under  
14 chapter 90.48 RCW.

15 (5) The authority and duties created in this section are in  
16 addition to any authority and duties already provided in law with  
17 regard to sewage and wastewater collection, treatment, and disposal for  
18 the protection of health and safety of the state's waters. Nothing in  
19 this section limits the powers of the state or any political  
20 subdivision to exercise such authority.

21 **Sec. 4.** RCW 90.46.130 and 1997 c 444 s 4 are each amended to read  
22 as follows:

23 Facilities that reclaim water under this chapter shall not impair  
24 any existing water right (~~downstream from any freshwater discharge~~  
25 ~~points of such facilities unless compensation or mitigation for such~~  
26 ~~impairment is agreed to by the holder of the affected water right))  
27 unless the holder of the water right is equitably compensated. If the  
28 original source of the industrial reclaimed water is ground water, and  
29 the industrial reclaimed water is used for land application, then no  
30 compensation is required under this section.~~

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

33 The department of ecology, in consultation with the department of  
34 health and water purveyors, may adopt rules establishing criteria to  
35 determine when the use of reclaimed water is feasible to replace  
36 potable water supplied for nonpotable water use. Local governments may

1 adopt ordinances requiring the use of reclaimed water for nonpotable  
2 uses when determined feasible.

3 **Sec. 6.** RCW 90.14.140 and 1998 c 258 s 1 are each amended to read  
4 as follows:

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

9 (a) Drought, or other unavailability of water;

10 (b) Active service in the armed forces of the United States during  
11 military crisis;

12 (c) Nonvoluntary service in the armed forces of the United States;

13 (d) The operation of legal proceedings;

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

17 (f) Federal laws imposing land or water use restrictions either  
18 directly or through the voluntary enrollment of a landowner in a  
19 federal program implementing those laws, or acreage limitations, or  
20 production quotas;

21 (g) The substitution of the use of industrial reclaimed water, as  
22 defined in RCW 90.46.010, for water used under a valid right, when the  
23 reclaimed water is used in accordance with a permit issued under  
24 chapter 90.48 RCW.

25 (2) Notwithstanding any other provisions of RCW 90.14.130 through  
26 90.14.180, there shall be no relinquishment of any water right:

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

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

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

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

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

3 (f) If such right or portion of the right is leased to another  
4 person for use on land other than the land to which the right is  
5 appurtenant as long as the lessee makes beneficial use of the right in  
6 accordance with this chapter and a transfer or change of the right has  
7 been approved by the department in accordance with RCW 90.03.380,  
8 90.03.383, 90.03.390, or 90.44.100.

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