
HOUSE BILL 3087

State of Washington

58th Legislature

2004 Regular Session

By Representative Linville

Read first time 01/27/2004. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to promoting the use of reclaimed water; amending
2 RCW 90.54.010, 90.54.020, 90.54.180, 90.46.005, 90.46.040, and
3 90.46.120; adding a new section to chapter 90.46 RCW; creating a new
4 section; and providing an expiration date.

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

6 **Sec. 1.** RCW 90.54.010 and 1990 c 295 s 1 are each amended to read
7 as follows:

8 (1) The legislature finds that:

9 (a) Proper utilization of the water resources of this state is
10 necessary to the promotion of public health and the economic well-being
11 of the state and the preservation of its natural resources and
12 aesthetic values. Although water is a renewable resource, its supply
13 and availability are becoming increasingly limited, particularly during
14 summer and fall months and dry years when demand is greatest. Growth
15 and prosperity have significantly increased the competition for this
16 limited resource. Adequate water supplies are essential to meet the
17 needs of the state's growing population and economy. At the same time
18 instream resources and values must be preserved and protected so that
19 future generations can continue to enjoy them((-));

1 (b) All citizens of Washington share an interest in the proper
2 stewardship of our invaluable water resources. To ensure that
3 available water supplies are managed to best meet both instream and
4 offstream needs, a comprehensive planning process is essential. The
5 people of the state have the unique opportunity to work together to
6 plan and manage our water. Through a comprehensive planning process
7 that includes the state, Indian tribes, local governments, and
8 interested parties, it is possible to make better use of available
9 water supplies and achieve better management of water resources.
10 Through comprehensive planning, conflicts among water users and
11 interests can be reduced or resolved. It is in the best interests of
12 the state that comprehensive water resource planning be given a high
13 priority so that water resources and associated values can be utilized
14 and enjoyed today and protected for tomorrow((~~-~~));

15 (c) Diverse hydrologic, climatic, cultural, and socioeconomic
16 conditions exist throughout the regions of the state. Water resource
17 issues vary significantly across regions. Comprehensive water resource
18 planning is best accomplished through a regional planning process
19 sensitive to the unique characteristics and issues of each region((~~-~~));

20 (d) Comprehensive water resource planning must provide interested
21 parties adequate opportunity to participate. Water resource issues are
22 best addressed through cooperation and coordination among the state,
23 Indian tribes, local governments, and interested parties((~~-~~));

24 (e) The long-term needs of the state require ongoing assessment of
25 water availability, use, and demand. A thorough inventory of available
26 resources is essential to water resource management. Current state
27 water resource data and data management is inadequate to meet changing
28 needs and respond to competing water demands. Therefore, a state water
29 resource data program is needed to support an effective water resource
30 management program. Efforts should be made to coordinate and
31 consolidate into one resource data system all relevant information
32 developed by the department of ecology and other agencies relating to
33 the use, protection, and management of the state's water resources; and

34 (f) The state must promote the use of reclaimed water where
35 feasible according to the standards specified in section 7 of this act.

36 (2) It is the purpose of this chapter to set forth fundamentals of
37 water resource policy for the state to ((~~insure~~)) ensure that waters of
38 the state are protected and fully utilized for the greatest benefit to

1 the people of the state of Washington and, in relation thereto, to
2 provide direction to the department of ecology, other state agencies
3 and officials, and local government in carrying out water and related
4 resources programs.

5 ~~((It is the intent of))~~ (3) The legislature intends to work closely
6 with the executive branch, Indian tribes, local government, and
7 interested parties to ensure that water resources of the state are
8 wisely managed.

9 **Sec. 2.** RCW 90.54.020 and 1997 c 442 s 201 are each amended to
10 read as follows:

11 Utilization and management of the waters of the state shall be
12 guided by the following general declaration of fundamentals:

13 (1) Uses of water for domestic, stock watering, industrial,
14 commercial, agricultural, irrigation, hydroelectric power production,
15 mining, fish and wildlife maintenance and enhancement, recreational,
16 and thermal power production purposes, and preservation of
17 environmental and aesthetic values, and all other uses compatible with
18 the enjoyment of the public waters of the state, are declared to be
19 beneficial.

20 (2) Allocation of waters among potential uses and users shall be
21 based generally on the securing of the maximum net benefits for the
22 people of the state. Maximum net benefits shall constitute total
23 benefits less costs including opportunities lost.

24 (3) The quality of the natural environment shall be protected and,
25 where possible, enhanced as follows:

26 (a) Perennial rivers and streams of the state shall be retained
27 with base flows necessary to provide for preservation of wildlife,
28 fish, scenic, aesthetic and other environmental values, and
29 navigational values. Lakes and ponds shall be retained substantially
30 in their natural condition. Withdrawals of water which would conflict
31 therewith shall be authorized only in those situations where it is
32 clear that overriding considerations of the public interest will be
33 served.

34 (b) Waters of the state shall be of high quality. Regardless of
35 the quality of the waters of the state, all wastes and other materials
36 and substances proposed for entry into said waters shall be provided
37 with all known, available, and reasonable methods of treatment prior to

1 entry. Notwithstanding that standards of quality established for the
2 waters of the state would not be violated, wastes and other materials
3 and substances shall not be allowed to enter such waters which will
4 reduce the existing quality thereof, except in those situations where
5 it is clear that overriding considerations of the public interest will
6 be served. Technology-based effluent limitations or standards for
7 discharges for municipal water treatment plants located on the
8 Chehalis, Columbia, Cowlitz, Lewis, or Skagit river shall be adjusted
9 to reflect credit for substances removed from the plant intake water
10 if:

11 (i) The municipality demonstrates that the intake water is drawn
12 from the same body of water into which the discharge is made; and

13 (ii) The municipality demonstrates that no violation of receiving
14 water quality standards or appreciable environmental degradation will
15 result.

16 (4) The development of multipurpose water storage facilities shall
17 be a high priority for programs of water allocation, planning,
18 management, and efficiency. The department, other state agencies,
19 local governments, and planning units formed under (~~section 107 or 108~~
20 ~~of this act~~) chapter 90.82 RCW shall evaluate the potential for the
21 development of new storage projects and the benefits and effects of
22 storage in reducing damage to stream banks and property, increasing the
23 use of land, providing water for municipal, industrial, agricultural,
24 power generation, and other beneficial uses, and improving stream flow
25 regimes for fisheries and other instream uses.

26 (5) Adequate and safe supplies of water shall be preserved and
27 protected in potable condition to satisfy human domestic needs.

28 (6) Multiple-purpose impoundment structures are to be preferred
29 over single-purpose structures. Due regard shall be given to means and
30 methods for protection of fishery resources in the planning for and
31 construction of water impoundment structures and other artificial
32 obstructions.

33 (7) Federal, state, and local governments, individuals,
34 corporations, groups and other entities shall (~~be encouraged to~~)
35 carry out practices of conservation as they relate to the use of the
36 waters of the state. In addition to traditional development
37 approaches, improved water use efficiency and conservation, including
38 reclaiming and reusing municipal and industrial effluent, shall be

1 emphasized in the management of the state's water resources and (~~in~~
2 ~~some cases~~) will be a potential new source of water with which to meet
3 future needs throughout the state.

4 (8) Development of water supply systems, whether publicly or
5 privately owned, which provide water to the public generally in
6 regional areas within the state shall be encouraged. Development of
7 water supply systems for multiple domestic use which will not serve the
8 public generally shall be discouraged where water supplies are
9 available from water systems serving the public.

10 (9) Full recognition shall be given in the administration of water
11 allocation and use programs to the natural interrelationships of
12 surface and ground waters.

13 (10) Expressions of the public interest will be sought at all
14 stages of water planning and allocation discussions.

15 (11) Water management programs, including but not limited to, water
16 quality, flood control, drainage, erosion control and storm runoff are
17 deemed to be in the public interest.

18 **Sec. 3.** RCW 90.54.180 and 1989 c 348 s 5 are each amended to read
19 as follows:

20 Consistent with the fundamentals of water resource policy set forth
21 in this chapter, state and local governments, individuals,
22 corporations, groups and other entities shall (~~be encouraged to~~)
23 carry out water use efficiency and conservation programs and practices
24 consistent with the following:

25 (1) Water efficiency and conservation programs (~~should~~) shall
26 utilize an appropriate mix of economic incentives, cost share programs,
27 regulatory programs, and technical and public information efforts.
28 Programs which encourage voluntary participation are preferred.

29 (2) Increased water use efficiency (~~should receive consideration~~
30 ~~as~~) and conservation, including reclamation and reuse of municipal and
31 industrial effluent, shall be considered a potential source of water in
32 state and local water resource planning processes. In determining the
33 cost-effectiveness of alternative water sources, consideration
34 (~~should~~) shall be given to the benefits of conservation, (~~waste~~
35 ~~water recycling~~) including reclamation and reuse of municipal and
36 industrial effluent, and impoundment of waters.

1 (3) In determining the cost-effectiveness of alternative water
2 sources, full consideration should be given to the benefits of storage
3 which can reduce the damage to stream banks and property, increase the
4 utilization of land, provide water for municipal, industrial,
5 agricultural, and other beneficial uses, provide for the generation of
6 electric power from renewable resources, and improve stream flow
7 regimes for fishery and other instream uses.

8 (4) Entities receiving state financial assistance for construction
9 of water source expansion or acquisition of new sources shall develop,
10 and implement if cost-effective, a water use efficiency and
11 conservation element of a water supply plan pursuant to RCW
12 43.20.230(1).

13 (5) State programs to improve water use efficiency (~~should~~) shall
14 focus on those areas of the state in which water is overappropriated;
15 areas that experience diminished streamflows or aquifer levels,
16 including areas with declining fish stocks because of lack of stream
17 flow; and areas where projected water needs, including those for
18 instream flows, exceed available supplies.

19 (6) Existing and future generations of citizens of the state of
20 Washington (~~should~~) shall be made aware of the importance of the
21 state's water resources and the need for wise and efficient use and
22 development of this vital resource. In order to increase this
23 awareness, state agencies (~~should~~) shall integrate public education
24 on increasing water use efficiency into existing public information
25 efforts. This effort shall be coordinated with other levels of
26 government, including local governments and Indian tribes.

27 **Sec. 4.** RCW 90.46.005 and 2001 c 69 s 1 are each amended to read
28 as follows:

29 (1) The legislature finds that, by encouraging the use of reclaimed
30 water while assuring the health and safety of all Washington citizens
31 and the protection of its environment, the state of Washington will
32 continue to use water in the best interests of present and future
33 generations.

34 (2) To facilitate the use of reclaimed water as soon as is
35 practicable, the legislature encourages the cooperative efforts of the
36 public and private sectors and the use of pilot projects to effectuate
37 the goals of this chapter. The legislature (~~further~~) also directs

1 the department of health and the department of ecology to coordinate
2 efforts towards developing an efficient and streamlined process for
3 creating and implementing processes for the use of reclaimed water and
4 to promote the use of reclaimed water in nonpotable applications as an
5 alternative to using potable water supplies for these applications.

6 (~~It is hereby declared~~) (3) The legislature declares that the
7 people of the state of Washington have a primary interest in the
8 development of facilities to provide reclaimed water to replace potable
9 water in nonpotable applications, to supplement existing surface and
10 ground water supplies, and to assist in meeting the future water
11 requirements of the state.

12 (4) The legislature further finds and declares that the utilization
13 of reclaimed water by local communities for domestic, agricultural,
14 industrial, recreational, and fish and wildlife habitat creation and
15 enhancement purposes, including wetland enhancement, will contribute to
16 the peace, health, safety, and welfare of the people of the state of
17 Washington. To the extent reclaimed water is appropriate for
18 beneficial uses, the legislature declares that it should be so used to
19 preserve potable water for drinking purposes. The legislature also
20 recognizes that the use of reclaimed water constitutes the development
21 of new basic water supplies needed for future generations.

22 (5) The legislature further finds and declares that the use of
23 reclaimed water is not inconsistent with the policy of antidegradation
24 of state waters announced in other state statutes, including the water
25 pollution control act, chapter 90.48 RCW and the water resources act,
26 chapter 90.54 RCW.

27 (6) The legislature finds that other states, including California,
28 Florida, and Arizona, have successfully used reclaimed water to
29 supplement existing water supplies without threatening existing
30 resources or public health. The legislature also recognizes that local
31 governments in this state have developed or are developing programs to
32 use reclaimed water to supplement their water supplies.

33 (~~It is the intent of~~) (7) The legislature intends that the
34 department of ecology and the department of health undertake the
35 necessary steps to encourage the development of water reclamation
36 facilities so that reclaimed water may be made available to help meet
37 the growing water requirements of the state.

1 (8) The legislature further finds and declares that reclaimed water
2 facilities are water pollution control facilities as defined in chapter
3 70.146 RCW and are eligible for financial assistance as provided in
4 chapter 70.146 RCW. The legislature finds that funding demonstration
5 projects will ensure the future use of reclaimed water. The
6 legislature recognizes that demonstration projects in RCW 90.46.110 are
7 varied in nature and will provide the experience necessary to test
8 different facets of the standards and refine a variety of technologies
9 so that water purveyors can begin to use reclaimed water technology in
10 a more cost-effective manner. The legislature declares that this is
11 especially critical in smaller cities and communities where the
12 feasibility for such projects is great, but there are scarce resources
13 to develop the necessary facilities.

14 (9) The legislature further finds that the agricultural processing
15 industry can play a critical and beneficial role in promoting the
16 efficient use of water by having the opportunity to develop and reuse
17 agricultural industrial process water from food processing.

18 **Sec. 5.** RCW 90.46.040 and 1992 c 204 s 5 are each amended to read
19 as follows:

20 (1) The department of ecology shall, in coordination with the
21 department of health, adopt a single set of standards, procedures, and
22 guidelines(~~(, on or before August 1, 1993,)~~) for land applications of
23 reclaimed water.

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

31 (3) In cases where the department of ecology determines, in land
32 applications of reclaimed water, that a (~~significant~~) risk to the
33 public health exists, the department shall refer the application to the
34 department of health for review and consultation, and the department of
35 health may require fees appropriate for review and consultation from
36 the applicant pursuant to RCW 43.70.250.

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

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

9 **Sec. 6.** RCW 90.46.120 and 2003 1st sp.s. c 5 s 13 are each amended
10 to read as follows:

11 (1) The owner of a wastewater treatment facility that is reclaiming
12 water with a permit issued under this chapter has the exclusive right
13 to any reclaimed water generated by the wastewater treatment facility.
14 Use and distribution of the reclaimed water by the owner of the
15 wastewater treatment facility is exempt from the permit requirements of
16 RCW 90.03.250 and 90.44.060. Revenues derived from the reclaimed water
17 facility shall be used only to offset the cost of operation of the
18 wastewater utility fund or other applicable source of system-wide
19 funding.

20 (2) If the proposed use or uses of reclaimed water are intended to
21 augment or replace potable water supplies or will create the potential
22 for the development of additional potable water supplies, such use or
23 uses shall be considered in the development of the regional water
24 supply plan or plans addressing potable water supply service by
25 multiple water purveyors, including water system plans and coordinated
26 water system plans under chapters 43.20 and 70.116 RCW. The owner of
27 a wastewater treatment facility that proposes to reclaim water shall be
28 included as a participant in the development of such regional water
29 supply plan or plans and water system plans. The water supply planning
30 activities shall be developed and coordinated to ensure that
31 opportunities to use reclaimed water are evaluated and that proposals
32 for construction in public rights of way delineated within the plan
33 consider infrastructure needed to distribute reclaimed water where
34 feasible.

35 (3) Where opportunities for the use of reclaimed water exist within
36 the period of time addressed by a water supply plan or coordinated
37 water system plan developed under chapter 43.20 or 70.116 RCW, these

1 plans must be developed and coordinated to ensure that opportunities
2 for reclaimed water are evaluated. The requirements of this subsection
3 (3) do not apply to water system plans developed under chapter 43.20
4 RCW for utilities serving less than one thousand service connections.

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

7 The state and local governments shall consider replacement of
8 potable domestic water use with reclaimed water to be feasible when the
9 potable domestic water is being used in mining, manufacturing, or
10 industrial processing or for the irrigation of highway rights of way,
11 parks, golf courses, cemeteries, or other grounds and when the
12 reclaimed water:

13 (1) Is available or can be made available at a quality sufficient
14 to meet the requirements of the intended use;

15 (2) Is available or can be made available in quantities and at a
16 rate and pressure sufficient to meet the requirements of the intended
17 use;

18 (3) Is available or can be made available at a reasonable cost to
19 the user;

20 (4) Can be substituted for potable, domestic quality water in the
21 intended use without significant adverse environmental impact; and

22 (5) Can be substituted for potable domestic water quality in the
23 intended use without impairment of downstream water rights.

24 NEW SECTION. **Sec. 8.** (1) The department of health and the
25 department of ecology shall review the following issues and make
26 recommendations to the legislature regarding any statutory or
27 regulatory changes needed to promote the development of reclaimed water
28 supplies and the use of reclaimed water in the state. Specifically,
29 the department of health and the department of ecology shall consider
30 whether:

31 (a) Reclaimed water should be declared an alternative water source
32 for purposes of considering new applications for water rights under
33 chapter 90.03 RCW when the use of reclaimed water is considered
34 feasible according to section 7 of this act;

35 (b) Use of reclaimed water when deemed feasible according to

1 section 7 of this act should be required as a condition of subdivision
2 or short subdivision approval under chapter 58.17 RCW;

3 (c) Reclaimed water should replace use of potable water for
4 nonpotable water uses when necessary to protect or restore stream
5 flows, especially in areas with listings of species as threatened or
6 endangered according to the federal endangered species act, 16 U.S.C.
7 Sec. 1531 et seq., or in areas in which salmonid stocks are categorized
8 as critical or depressed under the state salmon and steelhead stock
9 inventory;

10 (d) The delegation of responsibilities between the department of
11 ecology and the department of health are appropriate, or whether such
12 delegation should be revised;

13 (e) Any additional incentives, such as tax exemptions or financing,
14 should be implemented to promote the use of reclaimed water; and

15 (f) Additional opportunities for using reclaimed water according to
16 the standards specified in section 7 of this act exist.

17 (2) The department of health and the department of ecology may form
18 an advisory committee to assist them in reviewing and making
19 recommendations regarding the issues identified in subsection (1) of
20 this section.

21 (3) The department of health and the department of ecology shall
22 submit a joint report to the legislature describing the results of this
23 review and identifying any recommendations for statutory or regulatory
24 changes. This report shall be submitted to the legislature no later
25 than December 31, 2004.

26 (4) This section expires June 30, 2005.

--- END ---