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**ENGROSSED SUBSTITUTE HOUSE BILL 2884**

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**State of Washington**

**59th Legislature**

**2006 Regular Session**

**By** House Committee on Economic Development, Agriculture & Trade  
(originally sponsored by Representatives Linville and McCoy)

READ FIRST TIME 01/31/06.

1       AN ACT Relating to reclaimed water; amending RCW 90.46.050,  
2 90.46.030, 90.46.040, 90.46.042, 90.46.044, 90.46.080, 90.46.090, and  
3 90.46.100; adding a new section to chapter 90.46 RCW; and creating a  
4 new section.

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

6       NEW SECTION. **Sec. 1.** A new section is added to chapter 90.46 RCW  
7 to read as follows:

8       (1) The department of ecology shall, in coordination with the  
9 department of health, adopt rules for reclaimed water use consistent  
10 with this chapter. The rules must address all aspects of reclaimed  
11 water use, including commercial and industrial uses, land applications,  
12 direct recharge, wetland discharge, surface percolation, constructed  
13 wetlands, stream flow augmentation, and greywater use. The rules must  
14 also designate whether the department of ecology or the department of  
15 health will be the lead permitting or regulatory agency responsible for  
16 a particular aspect of reclaimed water use. In developing the rules,  
17 the departments of health and ecology shall amend or rescind any  
18 existing rules on reclaimed water in conflict with the new rules.

1 (2) All rules required to be adopted pursuant to this section must  
2 be completed no later than December 31, 2010, although the department  
3 of ecology is encouraged to adopt the final rules as soon as possible.  
4 The department of ecology may not update the rules adopted under this  
5 section unless specific legislative authority is provided to update the  
6 standards.

7 (3) The department of ecology must consult with the advisory  
8 committee created under RCW 90.46.050 in all aspects of rule  
9 development required under this section.

10 **Sec. 2.** RCW 90.46.050 and 1995 c 342 s 9 are each amended to read  
11 as follows:

12 The department of ~~((health))~~ ecology shall, before July 1, ~~((1995))~~  
13 2006, form an advisory committee, in coordination with the department  
14 of ~~((ecology))~~ health and the department of agriculture, which will  
15 provide technical assistance in the development of standards,  
16 procedures, and guidelines required by this chapter. ~~((Such))~~ The  
17 advisory committee shall be composed of ~~((individuals from the public~~  
18 ~~water and wastewater utilities, landscaping enhancement industry,~~  
19 ~~commercial and industrial application community, and any other persons~~  
20 ~~deemed technically helpful by the department of health))~~ a broad range  
21 of interested individuals representing the various stakeholders that  
22 utilize or are potentially impacted by the use of reclaimed water. The  
23 advisory committee must also contain individuals with technical  
24 expertise and knowledge of new advancements in technology.

25 NEW SECTION. **Sec. 3.** The department of ecology must present  
26 interim reports to the appropriate committees of the legislature by  
27 January 1, 2008, and January 1, 2009, that summarize the steps taken to  
28 that date towards the final rule making required by section 1 of this  
29 act. The reports must include, at a minimum, a summary of  
30 participation in the advisory group and the topics considered by the  
31 department.

32 **Sec. 4.** RCW 90.46.030 and 2005 c 59 s 1 are each amended to read  
33 as follows:

34 (1)(a) The department of health shall, in coordination with the

1 department of ecology, adopt a single set of standards, procedures, and  
2 guidelines on or before August 1, 1993, for the industrial and  
3 commercial use of reclaimed water.

4 (b) Standards adopted under this section are superseded by any  
5 rules adopted by the department of ecology pursuant to section 1 of  
6 this act as they relate to the industrial and commercial use of  
7 reclaimed water.

8 (2) Until the department of ecology adopts rules pursuant to  
9 section 1 of this act that relate to the industrial and commercial use  
10 of reclaimed water, the department of health may issue a reclaimed  
11 water permit for industrial and commercial uses of reclaimed water to  
12 the generator of reclaimed water who may then distribute the water,  
13 subject to provisions in the permit governing the location, rate, water  
14 quality, and purposes of use. Permits issued after the adoption of  
15 rules under section 1 of this act must be consistent with the adopted  
16 rules.

17 (3) The department of health in consultation with the advisory  
18 committee established in RCW 90.46.050, shall develop recommendations  
19 for a fee structure for permits issued under subsection (2) of this  
20 section. Fees shall be established in amounts to fully recover, and  
21 not exceed, expenses incurred by the department of health in processing  
22 permit applications and modifications, monitoring and evaluating  
23 compliance with permits, and conducting inspections and supporting the  
24 reasonable overhead expenses that are directly related to these  
25 activities. Permit fees may not be used for research or enforcement  
26 activities. The department of health shall not issue permits under  
27 this section until a fee structure has been established, or after the  
28 rules required by section 1 of this act have been adopted.

29 (4) A permit under this section for use of reclaimed water may be  
30 issued only to:

- 31 (a) A municipal, quasi-municipal, or other governmental entity;
- 32 (b) A private utility as defined in RCW 36.94.010; or
- 33 (c) The holder of a waste discharge permit issued under chapter  
34 90.48 RCW.

35 (5) The authority and duties created in this section are in  
36 addition to any authority and duties already provided in law with  
37 regard to sewage and wastewater collection, treatment, and disposal for

1 the protection of health and safety of the state's waters. Nothing in  
2 this section limits the powers of the state or any political  
3 subdivision to exercise such authority.

4 (6) Until the department of ecology adopts rules pursuant to  
5 section 1 of this act that relate to the industrial and commercial use  
6 of reclaimed water, the department of health may implement the  
7 requirements of this section through the department of ecology by  
8 execution of a formal agreement between the departments. (~~Upon~~  
9 ~~execution of such an agreement~~) After the rules required by section 1  
10 of this act are adopted, the department of ecology may issue reclaimed  
11 water permits for industrial and commercial uses of reclaimed water by  
12 issuance of permits under chapter 90.48 RCW, and may establish and  
13 collect fees as required for permits issued under chapter 90.48 RCW.

14 (7) Until the department of ecology adopts rules pursuant to  
15 section 1 of this act that relate to the industrial and commercial use  
16 of reclaimed water, and before deciding whether to issue a permit under  
17 this section to a private utility, the department of health may require  
18 information that is reasonable and necessary to determine whether the  
19 private utility has the financial and other resources to (~~assure~~)  
20 ensure the reliability, continuity, and supervision of the reclaimed  
21 water facility.

22 **Sec. 5.** RCW 90.46.040 and 2005 c 59 s 2 are each amended to read  
23 as follows:

24 (1)(a) The department of ecology shall, in coordination with the  
25 department of health, adopt a single set of standards, procedures, and  
26 guidelines, on or before August 1, 1993, for land applications of  
27 reclaimed water.

28 (b) Standards adopted under this section are superseded by any  
29 rules adopted by the department of ecology pursuant to section 1 of  
30 this act as they relate to the land application of reclaimed water.

31 (2) A permit is required for any land application of reclaimed  
32 water. The department of ecology may issue a reclaimed water permit  
33 under chapter 90.48 RCW to the generator of reclaimed water who may  
34 then distribute the water, subject to provisions in the permit  
35 governing the location, rate, water quality, and purpose of use. The  
36 department of ecology shall not issue more than one permit for any  
37 individual land application of reclaimed water to a single generator.

1 (3) In cases where the department of ecology determines, in land  
2 applications of reclaimed water, that a significant risk to the public  
3 health exists, the department shall refer the application to the  
4 department of health for review and consultation and the department of  
5 health may require fees appropriate for review and consultation from  
6 the applicant pursuant to RCW 43.70.250.

7 (4) A permit under this section for use of reclaimed water may be  
8 issued only to:

9 (a) A municipal, quasi-municipal, or other governmental entity;

10 (b) A private utility as defined under RCW 36.94.010; or

11 (c) The holder of a waste discharge permit issued under chapter  
12 90.48 RCW.

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

17 (6) Before deciding whether to issue a permit under this section to  
18 a private utility, the department of ecology may require information  
19 that is reasonable and necessary to determine whether the private  
20 utility has the financial and other resources to (~~assure~~) ensure the  
21 reliability, continuity, and supervision of the reclaimed water  
22 facility.

23 **Sec. 6.** RCW 90.46.042 and 1995 c 342 s 6 are each amended to read  
24 as follows:

25 (1) 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 (2) Standards adopted under this section are superseded by any  
32 rules adopted by the department of ecology pursuant to section 1 of  
33 this act as they relate to direct recharge using reclaimed water.

34 **Sec. 7.** RCW 90.46.044 and 1995 c 342 s 7 are each amended to read  
35 as follows:

36 (1) The department of ecology shall, in consultation with the

1 department of health, adopt a single set of standards, procedures, and  
2 guidelines, on or before June 30, 1996, for discharge of reclaimed  
3 water to wetlands.

4 (2) Standards adopted under this section are superseded by any  
5 rules adopted by the department of ecology pursuant to section 1 of  
6 this act as they relate to discharge of reclaimed water to wetlands.

7 **Sec. 8.** RCW 90.46.080 and 1997 c 444 s 6 are each amended to read  
8 as follows:

9 (1) Except as otherwise provided in this section, reclaimed water  
10 may be beneficially used for surface percolation provided the reclaimed  
11 water meets the ground water recharge criteria as measured in ground  
12 water beneath or down gradient of the recharge project site, and has  
13 been incorporated into a sewer or water comprehensive plan, as  
14 applicable, adopted by the applicable local government and approved by  
15 the department of health or department of ecology as applicable.

16 (2) If the state ground water recharge criteria as defined by RCW  
17 90.46.010 do not contain a standard for a constituent or contaminant,  
18 the department of ecology shall establish a discharge limit consistent  
19 with the goals of this chapter, except as otherwise provided in this  
20 section.

21 (3) Except as otherwise provided in this section, reclaimed water  
22 that does not meet the ground water recharge criteria may be  
23 beneficially used for surface percolation where the department of  
24 ecology, in consultation with the department of health, has  
25 specifically authorized such use at such lower standard.

26 (4) The provisions of this section are superseded by any rules  
27 adopted by the department of ecology pursuant to section 1 of this act  
28 as they relate to surface percolation.

29 **Sec. 9.** RCW 90.46.090 and 1997 c 444 s 7 are each amended to read  
30 as follows:

31 (1) Reclaimed water may be beneficially used for discharge into  
32 constructed beneficial use wetlands and constructed treatment wetlands  
33 provided the reclaimed water meets the class A or B reclaimed water  
34 standards as defined in the reclamation criteria, and the discharge is  
35 incorporated into a sewer or water comprehensive plan, as applicable,

1 adopted by the applicable local government and approved by the  
2 department of health or department of ecology as applicable.

3 (2) Reclaimed water that does not meet the class A or B reclaimed  
4 water standards may be beneficially used for discharge into constructed  
5 treatment wetlands where the department of ecology, in consultation  
6 with the department of health, has specifically authorized such use at  
7 such lower standards.

8 (3)(a) The department of ecology and the department of health must  
9 develop appropriate standards for discharging reclaimed water into  
10 constructed beneficial use wetlands and constructed treatment wetlands.  
11 These standards must be considered as part of the approval process  
12 under subsections (1) and (2) of this section.

13 (b) Standards adopted under this section are superseded by any  
14 rules adopted by the department of ecology pursuant to section 1 of  
15 this act as they relate to discharge into constructed beneficial use  
16 wetlands and constructed treatment wetlands.

17 **Sec. 10.** RCW 90.46.100 and 1995 c 342 s 5 are each amended to read  
18 as follows:

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

25 (2) Standards adopted under this section are superseded by any  
26 rules adopted by the department of ecology pursuant to section 1 of  
27 this act as they relate to discharge of reclaimed water for streamflow  
28 augmentation.

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