

---

SENATE BILL 6730

---

State of Washington

59th Legislature

2006 Regular Session

By Senators Fraser, Swecker, Fairley, Prentice, Kline, Thibaudeau and Franklin

Read first time 01/19/2006. Referred to Committee on Water, Energy & Environment.

1 AN ACT Relating to reclaimed water; amending RCW 90.46.005,  
2 90.46.010, 90.46.030, 90.46.040, 90.46.042, 90.46.044, 90.46.050,  
3 90.46.080, 90.46.090, and 90.46.100; and adding new sections to chapter  
4 90.46 RCW.

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, in coordination with the department  
9 of health, shall adopt rules as necessary to carry out the provisions  
10 of this chapter in accordance with the public policy for reclaimed  
11 water use as declared in RCW 90.46.005.

12 (2) Rules required by this section must be adopted by December 31,  
13 2008.

14 (3) The department of ecology must consult with the advisory  
15 committee created in RCW 90.46.050 in all aspects of rule development  
16 and adoption under this section.

17 **Sec. 2.** RCW 90.46.005 and 2001 c 69 s 1 are each amended to read  
18 as follows:

1 The legislature finds that by encouraging the use of reclaimed  
2 water while assuring the health and safety of all Washington citizens  
3 and the protection of its environment, the state of Washington will  
4 continue to use water in the best interests of present and future  
5 generations.

6 To facilitate the use of reclaimed water as soon as is practicable,  
7 the legislature encourages the cooperative efforts of the public and  
8 private sectors (~~(and the use of pilot projects)~~) to effectuate the  
9 goals of this chapter. The legislature further directs the department  
10 of health and the department of ecology to coordinate efforts towards  
11 developing an efficient and streamlined process for creating and  
12 implementing processes for the use of reclaimed water.

13 It is hereby declared that the people of the state of Washington  
14 have a primary interest in the development of facilities to provide  
15 reclaimed water to replace potable water in nonpotable applications, to  
16 supplement existing surface and ground water supplies, and to assist in  
17 meeting the future water requirements of the state.

18 The legislature further finds and declares that the utilization of  
19 reclaimed water by local communities for domestic, agricultural,  
20 industrial, recreational, and fish and wildlife habitat creation and  
21 enhancement purposes, including wetland enhancement, will contribute to  
22 the peace, health, safety, and welfare of the people of the state of  
23 Washington. To the extent reclaimed water is appropriate for  
24 beneficial uses, it should be so used to preserve potable water for  
25 drinking purposes. Use of reclaimed water constitutes the development  
26 of new basic water supplies needed for future generations.

27 The legislature further finds and declares that the use of  
28 reclaimed water is not inconsistent with the policy of antidegradation  
29 of state waters announced in other state statutes, including the water  
30 pollution control act, chapter 90.48 RCW and the water resources act,  
31 chapter 90.54 RCW.

32 The legislature finds that other states, including California,  
33 Florida, and Arizona, have successfully used reclaimed water to  
34 supplement existing water supplies without threatening existing  
35 resources or public health.

36 It is the intent of the legislature that the department of ecology  
37 and the department of health undertake the necessary steps to encourage

1 the development of water reclamation facilities so that reclaimed water  
2 may be made available to help meet the growing water requirements of  
3 the state.

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

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

20 **Sec. 3.** RCW 90.46.010 and 2002 c 329 s 3 are each amended to read  
21 as follows:

22 The definitions in this section apply throughout this chapter  
23 unless the context clearly requires otherwise.

24 (1) "Agricultural industrial process water" means a water supply  
25 derived from treating wastewater used in agricultural processing as  
26 permitted under this chapter.

27 (2) "Agricultural processing" means the processing of crops or milk  
28 to produce a product primarily for wholesale or retail sale for human  
29 or animal consumption, including but not limited to potato, fruit,  
30 vegetable, and grain processing.

31 (3) "Agricultural water use" means the use of water for irrigation  
32 and other uses related to the production of agricultural products.  
33 These uses include, but are not limited to, construction, operation,  
34 and maintenance of agricultural facilities and livestock operations at  
35 farms, ranches, dairies, and nurseries. Examples of these uses  
36 include, but are not limited to, dust control, temperature control, and  
37 fire control.

1       (4) "Constructed wetlands" means those wetlands intentionally  
2 constructed on nonwetland sites and managed for the primary purpose of  
3 polishing reclaimed water or aesthetics. Constructed wetlands are not  
4 considered "waters of the state."

5       (5) "Controlled use" refers to the indirect use of reclaimed water  
6 commingled with state water that has been stored or conveyed through  
7 public waters, such as lakes, rivers, and aquifers, followed by the  
8 subsequent recovery and use of the water for a beneficial purpose as  
9 permitted under this chapter.

10       (6) "Created wetlands" means those wetlands intentionally  
11 constructed on nonwetland sites to produce or replace natural wetland  
12 functions and values. Created wetlands are considered "waters of the  
13 state."

14       (7) "Direct recharge" means the subsurface addition of water  
15 directly into the ground water basin for the purpose of replenishment  
16 of ground water.

17       (8) "Direct use" means the use of reclaimed water, that has been  
18 transported from the point of production to the point of use without an  
19 intervening discharge to the waters of the state, for a beneficial  
20 purpose as permitted under this chapter. Direct use refers to  
21 conveyance of reclaimed water through pumps and pipes for irrigation,  
22 industry, urban nonpotable purposes, or planned environmental benefits  
23 such as wetlands, maintaining instream flows, lakes, or aquifer levels.  
24 "Direct use" does not include storage or conveyance through public  
25 waters for planned recovery of the reclaimed water.

26       (9) "Domestic wastewater" means water carrying human wastes,  
27 including kitchen, bathroom, and laundry wastes, collected from  
28 residences, industries, or other establishments.

29       (10) "Greywater" means wastewater having the consistency and  
30 strength of residential domestic type wastewater. Greywater includes  
31 wastewater from sinks, showers, and laundry fixtures, but does not  
32 include toilet or urinal waters.

33       ~~((+2))~~ (11) "Industrial reuse water" means a water supply derived  
34 from treating wastewater used in industrial processing as permitted  
35 under this chapter.

36       (12) "Land application" means ~~((application of treated effluent for~~  
37 ~~purposes of))~~ use of a water supply as permitted under this chapter for

1 irrigation or landscape enhancement (~~for residential, business, and~~  
2 ~~governmental purposes~~)).

3 ~~((3))~~ (13) "Mitigated use" refers to the use of state water in  
4 exchange for at least an equivalent amount of reclaimed water  
5 beneficially used for streamflow augmentation, ground water  
6 augmentation, or other beneficial purpose, within the same source of  
7 supply, and as permitted under this chapter.

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

12 ~~((4))~~ (15) "Planned ground water recharge project" means any  
13 project permitted under this chapter for the purpose of replenishing  
14 ground water.

15 (16) "Reclaimed water" means (~~effluent derived~~) a water supply  
16 produced in any part (~~from sewage~~) through the treatment of domestic  
17 wastewater from a wastewater treatment system (~~that has been~~  
18 adequately and reliably treated, so that as a result of that treatment,  
19 it is suitable for a beneficial use or a controlled use that would not  
20 otherwise occur) and permitted through this chapter. As a result of  
21 such treatment, reclaimed water is suitable for direct, controlled, and  
22 mitigated uses and is no longer considered wastewater.

23 ~~((5) "Sewage" means water carried human wastes from residences,~~  
24 ~~buildings, industrial and commercial establishments, or other places,~~  
25 ~~together with such ground water infiltration, surface waters, or~~  
26 ~~industrial wastewater as may be present.~~

27 ~~(6))~~ (17) "Streamflow augmentation" means the planned conveyance  
28 and use of reclaimed water in rivers and streams of the state or other  
29 surface water bodies, excluding wetlands, for the purpose of  
30 replenishing surface water.

31 (18) "Surface percolation" means the planned application of water  
32 to the ground surface for the purpose of replenishing ground water.

33 (19) "User" means any person who uses reclaimed water.

34 ~~((7))~~ (20) "Wastewater" means water (~~and~~) containing wastes  
35 (~~discharged~~) collected from homes, business(~~es~~), and/or industry  
36 (~~to the sewer system~~) for treatment or disposal.

37 ~~((8) "Beneficial use" means the use of reclaimed water, that has~~

1 ~~been transported from the point of production to the point of use~~  
2 ~~without an intervening discharge to the waters of the state, for a~~  
3 ~~beneficial purpose.~~

4 ~~(9) "Direct recharge" means the controlled subsurface addition of~~  
5 ~~water directly to the ground water basin that results in the~~  
6 ~~replenishment of ground water.~~

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

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

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

17 ~~(13) "Streamflow augmentation" means the discharge of reclaimed~~  
18 ~~water to rivers and streams of the state or other surface water bodies,~~  
19 ~~but not wetlands.~~

20 ~~(14) "Surface percolation" means the controlled application of~~  
21 ~~water to the ground surface for the purpose of replenishing ground~~  
22 ~~water.~~

23 ~~(15))~~ (21) "Wetland or wetlands" means areas that are inundated or  
24 saturated by surface water or ground water at a frequency and duration  
25 sufficient to support, and that under normal circumstances do support,  
26 a prevalence of vegetation typically adapted to life in saturated soil  
27 conditions. Wetlands generally include swamps, marshes, bogs, and  
28 similar areas. Wetlands regulated under this chapter shall be  
29 delineated in accordance with the manual adopted by the department of  
30 ecology pursuant to RCW 90.58.380.

31 ~~((16) "Constructed beneficial use wetlands" means those wetlands~~  
32 ~~intentionally constructed on nonwetland sites to produce or replace~~  
33 ~~natural wetland functions and values. Constructed beneficial use~~  
34 ~~wetlands are considered "waters of the state."~~

35 ~~(17) "Constructed treatment wetlands" means those wetlands~~  
36 ~~intentionally constructed on nonwetland sites and managed for the~~  
37 ~~primary purpose of wastewater or storm water treatment. Constructed~~

1 ~~treatment wetlands are considered part of the collection and treatment~~  
2 ~~system and are not considered "waters of the state."~~

3 ~~(18) "Agricultural industrial process water" means water that has~~  
4 ~~been used for the purpose of agricultural processing and has been~~  
5 ~~adequately and reliably treated, so that as a result of that treatment,~~  
6 ~~it is suitable for other agricultural water use.~~

7 ~~(19) "Agricultural processing" means the processing of crops or~~  
8 ~~milk to produce a product primarily for wholesale or retail sale for~~  
9 ~~human or animal consumption, including but not limited to potato,~~  
10 ~~fruit, vegetable, and grain processing.~~

11 ~~(20) "Agricultural water use" means the use of water for irrigation~~  
12 ~~and other uses related to the production of agricultural products.~~  
13 ~~These uses include, but are not limited to, construction, operation,~~  
14 ~~and maintenance of agricultural facilities and livestock operations at~~  
15 ~~farms, ranches, dairies, and nurseries. Examples of these uses~~  
16 ~~include, but are not limited to, dust control, temperature control, and~~  
17 ~~fire control.~~

18 ~~(21) "Industrial reuse water" means water that has been used for~~  
19 ~~the purpose of industrial processing and has been adequately and~~  
20 ~~reliably treated so that, as a result of that treatment, it is suitable~~  
21 ~~for other uses.))~~

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

24 (1) The department of health shall, in coordination with the  
25 department of ecology, adopt a single set of standards, procedures, and  
26 guidelines on or before August 1, 1993, for the industrial and  
27 commercial use of reclaimed water. These standards apply only until  
28 the department of ecology adopts rules, in accordance with section 1 of  
29 this act, regarding the industrial and commercial use of reclaimed  
30 water.

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

1 (3) The department of health in consultation with the advisory  
2 committee established in RCW 90.46.050, shall develop recommendations  
3 for a fee structure for permits issued under subsection (2) of this  
4 section. Fees shall be established in amounts to fully recover, and  
5 not exceed, expenses incurred by the department of health in processing  
6 permit applications and modifications, monitoring and evaluating  
7 compliance with permits, and conducting inspections and supporting the  
8 reasonable overhead expenses that are directly related to these  
9 activities. Permit fees may not be used for research or enforcement  
10 activities. The department of health shall not issue permits under  
11 this section until a fee structure has been established.

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

- 14 (a) A municipal, quasi-municipal, or other governmental entity;
- 15 (b) A private utility as defined in RCW 36.94.010; or
- 16 (c) The holder of a waste discharge permit issued under chapter  
17 90.48 RCW.

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

24 (6) The department of health may implement the requirements of this  
25 section through the department of ecology by execution of a formal  
26 agreement between the departments. Upon execution of such an  
27 agreement, the department of ecology may issue reclaimed water permits  
28 for industrial and commercial uses of reclaimed water by issuance of  
29 permits under chapter 90.48 RCW, and may establish and collect fees as  
30 required for permits issued under chapter 90.48 RCW.

31 (7) Before deciding whether to issue a permit under this section to  
32 a private utility, the department of health may require information  
33 that is reasonable and necessary to determine whether the private  
34 utility has the financial and other resources to assure the  
35 reliability, continuity, and supervision of the reclaimed water  
36 facility.



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

3       (1) The department of ecology shall, in coordination with the  
4 department of health, adopt a single set of standards, procedures, and  
5 guidelines, on or before August 1, 1993, for land applications of  
6 reclaimed water. These standards apply only until the department of  
7 ecology adopts rules, in accordance with section 1 of this act,  
8 regarding the land application of reclaimed water.

9       (2) A permit is required for any land application of reclaimed  
10 water. The department of ecology may issue a reclaimed water permit  
11 under chapter 90.48 RCW to the generator of reclaimed water who may  
12 then distribute the water, subject to provisions in the permit  
13 governing the location, rate, water quality, and purpose of use. The  
14 department of ecology shall not issue more than one permit for any  
15 individual land application of reclaimed water to a single generator.

16       (3) In cases where the department of ecology determines, in land  
17 applications of reclaimed water, that a significant risk to the public  
18 health exists, the department shall refer the application to the  
19 department of health for review and consultation and the department of  
20 health may require fees appropriate for review and consultation from  
21 the applicant pursuant to RCW 43.70.250.

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

- 24       (a) A municipal, quasi-municipal, or other governmental entity;
- 25       (b) A private utility as defined under RCW 36.94.010; or
- 26       (c) The holder of a waste discharge permit issued under chapter  
27 90.48 RCW.

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

32       (6) Before deciding whether to issue a permit under this section to  
33 a private utility, the department of ecology may require information  
34 that is reasonable and necessary to determine whether the private  
35 utility has the financial and other resources to assure the  
36 reliability, continuity, and supervision of the reclaimed water  
37 facility.

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

3       The department of ecology shall, in consultation with the  
4 department of health, adopt a single set of standards, procedures, and  
5 guidelines, on or before December 31, 1996, for direct recharge using  
6 reclaimed water. The standards shall address both water quality  
7 considerations and avoidance of property damage from excessive  
8 recharge. These standards apply only until the department of ecology  
9 adopts rules, in accordance with section 1 of this act, regarding  
10 direct recharge using reclaimed water.

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

13       The department of ecology shall, in consultation with the  
14 department of health, adopt a single set of standards, procedures, and  
15 guidelines, on or before June 30, 1996, for discharge of reclaimed  
16 water to wetlands. These standards apply only until the department of  
17 ecology adopts rules, in accordance with section 1 of this act,  
18 regarding the discharge of reclaimed water to wetlands.

19       **Sec. 8.** RCW 90.46.050 and 1995 c 342 s 9 are each amended to read  
20 as follows:

21       (1) The department of ((health)) ecology shall, before ((July 1,

22 1995)) December 1, 2006, form an advisory committee, in coordination  
23 with the department of ((ecology and the department of agriculture))  
24 health, which will provide technical assistance in the development of  
25 standards, rules, procedures, and guidelines required by this chapter.  
26 ((Such)) The advisory committee shall be composed of individuals from  
27 the public water and wastewater utilities, landscaping enhancement  
28 industry, commercial and industrial application community, and any  
29 other persons deemed technically helpful by the department of  
30 ((health)) ecology.

31       (2) The advisory committee shall review and recommend to the  
32 legislature by December 1, 2007, any proposed changes in state law, in  
33 light of (a) issues identified under existing law that are preventing  
34 the full use of reclaimed water, consistent with RCW 90.46.005; (b) the  
35 need to facilitate implementation of locally developed watershed plans  
36 under chapter 90.82 RCW; (c) the development and implementation of a

1 comprehensive partnership to restore the health of Puget Sound, and the  
2 potential role of reclaimed water; and (d) increasingly stringent  
3 federal water quality standards.

4 **Sec. 9.** RCW 90.46.080 and 1997 c 444 s 6 are each amended to read  
5 as follows:

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

13 (2) If the state ground water recharge criteria as defined by RCW  
14 90.46.010 do not contain a standard for a constituent or contaminant,  
15 the department of ecology shall establish a discharge limit consistent  
16 with the goals of this chapter, except as otherwise provided in this  
17 section.

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

23 (4) Any rules adopted by the department of ecology in accordance  
24 with section 1 of this act regarding surface percolation supersede the  
25 provisions of this section.

26 **Sec. 10.** RCW 90.46.090 and 1997 c 444 s 7 are each amended to read  
27 as follows:

28 (1) Reclaimed water may be beneficially used for discharge into  
29 constructed beneficial use wetlands and constructed treatment wetlands  
30 provided the reclaimed water meets the class A or B reclaimed water  
31 standards as defined in the reclamation criteria, and the discharge is  
32 incorporated into a sewer or water comprehensive plan, as applicable,  
33 adopted by the applicable local government and approved by the  
34 department of health or department of ecology as applicable.

35 (2) Reclaimed water that does not meet the class A or B reclaimed  
36 water standards may be beneficially used for discharge into constructed

1 treatment wetlands where the department of ecology, in consultation  
2 with the department of health, has specifically authorized such use at  
3 such lower standards.

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

9 (b) Standards adopted under this section apply only until the  
10 department of ecology adopts rules, in accordance with section 1 of  
11 this act, regarding use in constructed wetlands and created wetlands.

12 **Sec. 11.** RCW 90.46.100 and 1995 c 342 s 5 are each amended to read  
13 as follows:

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

20 (2) Standards adopted under this section apply only until the  
21 department of ecology adopts rules, in accordance with section 1 of  
22 this act, regarding use of reclaimed water for streamflow augmentation.

23 NEW SECTION. **Sec. 12.** A new section is added to chapter 90.46 RCW  
24 to read as follows:

25 (1) Reclaimed water may be used for mitigation projects for  
26 diversions or withdrawals of waters of the state.

27 (2) The use of reclaimed water, consistent with the standards and  
28 criteria developed under the authority of this chapter, shall be  
29 considered a water resource management technique to be considered by  
30 the department under RCW 90.03.255 when evaluating an application for  
31 a water right, change, or transfer, or when proposed as a mitigated  
32 use.

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

35 Any reclaimed water discharger that discharges to ground via

1 surface percolation or direct injection retains the right to the use of  
2 the discharged water if the availability of the water can be  
3 demonstrated in accordance with criteria developed by the department of  
4 ecology.

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

7 The department of ecology financial assistance program shall  
8 evaluate the use of existing state funding sources to pay for some of  
9 the costs of reclaimed water projects and shall work with the advisory  
10 committee created in RCW 90.46.050 to develop recommendations on how to  
11 make additional funding available.

--- END ---