
SUBSTITUTE HOUSE BILL 2743

State of Washington

65th Legislature

2018 Regular Session

By House Agriculture & Natural Resources (originally sponsored by Representatives Springer, Graves, Slatter, McBride, Goodman, Rodne, Appleton, and Tharinger)

READ FIRST TIME 02/02/18.

1 AN ACT Relating to integration of reclaimed water, water system
2 planning, and groundwater source protection; amending RCW 90.46.220;
3 and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature reaffirms its findings
6 that reclaimed water represents an important new water supply source
7 for meeting the state's objectives in protecting and preserving
8 potable supplies for drinking water purposes and meeting the future
9 water requirements of the state. The legislature further finds that
10 reclaimed water development should occur by integrating the
11 development, sale, distribution, and use of reclaimed water with the
12 objectives of regional and local watershed and water system plans. It
13 is therefore the intent of the legislature to:

14 (1) Advance state, regional, and local water supply objectives,
15 including those objectives stated in local watershed, water system,
16 and growth management plans, through integration of reclaimed water
17 to help achieve those objectives;

18 (2) Avoid or minimize duplicative or inefficient infrastructure
19 and adverse impacts on public water systems affected by the
20 distribution and use of reclaimed water within their service areas;

1 (3) Enable public water systems to provide affordable, equitable,
2 and sustainable rate structures for their customers, including over
3 successive planning horizons as reclaimed water is substituted for
4 potable or fresh water where suitable;

5 (4) Protect the financial integrity of public water systems,
6 including consistency with long-term financial planning and ensuring
7 the capacity to meet municipal bond obligations; and

8 (5) Encourage the use of reclaimed water for environmental
9 purposes, including discharge to wetlands and streamflow
10 augmentation, where consistent with appropriate measures that foster
11 and protect drinking water sources.

12 **Sec. 2.** RCW 90.46.220 and 2009 c 456 s 9 are each amended to
13 read as follows:

14 (1) Any person proposing to generate any type of reclaimed water
15 for a use regulated under this chapter shall obtain a permit from the
16 lead agency prior to distribution or use of that water. The permittee
17 may then distribute and use the water, subject to the provisions in
18 the permit. The permit must include provisions that protect human
19 health and the environment. At a minimum, the permit must:

20 (a) Assure adequate and reliable treatment; and

21 (b) Govern the water quality, location, rate, and purpose of use.

22 (2) A permit under this chapter may be issued only to:

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

24 (b) A private utility as defined in RCW 36.94.010;

25 (c) The holder of a waste disposal permit issued under chapter
26 90.48 RCW; or

27 (d) The owner of an agricultural processing facility that is
28 generating agricultural industrial process water for agricultural
29 use, or the owner of an industrial facility that is generating
30 industrial process water for reuse.

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

36 (4) Permits shall be issued for a fixed term specified by the
37 rules adopted under RCW 90.46.015. A permittee shall apply for permit
38 renewal prior to the end of the term. The rules adopted under RCW

1 90.46.015 shall specify the process of renewal, modification, change
2 of ownership, suspension, and termination.

3 (5)(a) Before a permit applicant or permittee may convey,
4 distribute, store, supply, or use reclaimed water at one or more
5 locations within, or in hydrologic connection to, an aquifer or
6 groundwater source covered by a critical aquifer recharge area, a
7 wellhead protection area, or a sole source aquifer area, the permit
8 applicant or permittee must enter into a written agreement with any
9 affected group A public water system. The written agreement must
10 include reasonable terms and conditions, as necessary, to protect
11 groundwater quality.

12 (b) An affected group A public water system may waive the
13 agreement requirement in (a) of this subsection for a period of time
14 not to exceed the term of the reclaimed water permit.

15 (6) Notwithstanding the written agreement required in subsection
16 (5) of this section, existing and permitted beneficial uses of
17 reclaimed water in operation before the effective date of this
18 section are not subject to the requirements of subsection (5) of this
19 section until the permit for such existing beneficial uses expires or
20 is renewed. Any expansion or increase of an existing beneficial use
21 of reclaimed water is subject to the written agreement requirement in
22 subsection (5) of this section.

23 (7) The lead agency may deny an application for a permit or
24 modify, suspend, or revoke a permit for good cause, including but not
25 limited to, any case in which it finds that the permit was obtained
26 by fraud or misrepresentation, or there is or has been a failure,
27 refusal, or inability to comply with the requirements of this chapter
28 or the rules adopted under this chapter.

29 ~~((+6))~~ (8) The lead agency shall provide for adequate public
30 notice and opportunity for review and comment on all initial permit
31 applications and renewal applications. Methods for providing notice
32 may include ~~((electronic-mail))~~ email, posting on the lead agency's
33 internet site, publication in a local newspaper, press releases,
34 mailings, or other means of notification the lead agency determines
35 appropriate. The lead agency shall also publicize notice of final
36 permitting decisions.

37 ~~((+7))~~ (9) Any person aggrieved by a permitting decision has the
38 right to an adjudicative proceeding. An adjudicative proceeding
39 conducted under this subsection is governed by chapter 34.05 RCW. For
40 any permit decision for which the department of ecology is the lead

1 agency under this chapter, any appeal shall be in accordance with
2 chapter 43.21B RCW. For any permit decision for which department of
3 health is the lead agency under this chapter, any application for an
4 adjudicative proceeding must be in writing, state the basis for
5 contesting the action, include a copy of the decision, be served on
6 and received by the department of health within twenty-eight days of
7 receipt of notice of the final decision, and be served in a manner
8 that shows proof of receipt.

9 ~~((8))~~ (10) In the event that a permit applicant or permittee
10 and a group A public water system are not able to reach agreement on
11 a written agreement required by subsection (5) of this section, then
12 the permit applicant, permittee, or group A public water system may
13 petition the secretary of the department of health, or the
14 secretary's designee, who will issue a decision. However, the parties
15 must have first: (a) Engaged in good faith efforts to negotiate the
16 terms of a written agreement; and (b) undertaken good faith efforts
17 to resolve the issues through mediation, consistent with chapter 7.07
18 RCW, or other facilitated negotiations, with each party bearing its
19 own costs and a pro rata share of mediation costs. Upon request of
20 the department of health, the parties to the dispute must reimburse
21 the department's costs of responding to a petition and issuing a
22 decision.

23 (11) Permit requirements for the distribution and use of
24 greywater will be established in rules adopted by the department of
25 health under RCW 90.46.015.

26 (12) The department of health and the department of ecology
27 shall, within existing resources, provide reasonable technical
28 assistance on the following issues, if jointly requested by a group A
29 water system and a reclaimed water permit applicant or permittee: The
30 identification of areas within the group A water system's service
31 area where reclaimed water may be served and the proposed uses; the
32 location, schedule, and responsibility for construction and
33 maintenance of facilities to treat, convey, or deliver reclaimed
34 water within the service area; the protection of water resources,
35 including current and future public drinking water sources, and other
36 environmental concerns; rates and charges applicable to reclaimed
37 water customers; potential financial impacts to public water system
38 ratepayers and bondholders; and coordination and integration of

1 proposed reclaimed water use into the group A public water system
2 comprehensive planning process, including financial planning.

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