



MEMORANDUM

TO: Water Resources Committee and Alternates, Board of Directors and Alternates

FROM: Scott Petersen, Water Policy Director

DATE: June 5, 2023

RE: Water Resources Committee to Consider Recommendations on Legislation /
Board of Directors to Consider Same

Staff Recommendation

Federal Legislation

Support

- Adopt a position of "Support" on H.R. 3675 (Boebert), Western Water Accelerated Revenue Repayment Act
- Adopt a position of "Support" on S. ____ (Feinstein), Canal Conveyance Capacity Restoration Act
- Adopt a position of "Support" on S. ____ (Feinstein), STREAM Act

Support and Amend

- Adopt a position of "Support and Amend" on S. ____ (Feinstein), RAIN Act

Oppose

- Adopt a position of "Oppose" on S. 658 (Booker), EQIP Improvement Act of 2023

State Legislation

Oppose

- Adopt a position of "Oppose" on AB 754 (Papan), Water management planning: automatic conservation plan
- Adopt a position of "Oppose" on AB 1205 (Bauer-Kahan), Water rights: sale, transfer, or lease: agricultural lands



Summary

H.R. 3675 (Boebert), Western Water Accelerated Revenue Repayment Act

RECOMMENDATION: SUPPORT

OBJECTIVE: Improve Water Infrastructure Affecting Authority Member Agencies

This bill would permanently extend Section 4011 of Subtitle J of the Water Infrastructure Improvements for the Nation (WIIN) Act.

Status

H.R. 3675 was introduced on May 25, 2023, and has been referred to the House Committee on Natural Resources.

Importance to the Authority

Under federal law, Bureau of Reclamation (BOR) water storage and delivery project costs are allocated to the beneficiaries of such projects. Water users must repay those costs allocated to them under the federal “beneficiaries pay” principal. Those costs are repaid through multi-year “repayment contracts” and as long as a repayment obligation existed, federal strings are attached such as paperwork requirement and limitations on how much acreage a farmer could plant.

Prior to 2016, if some water users wanted to repay what they owe early and/or in a lump sum, an individual federal law would have had to be enacted. This usually took years despite the fact the federal government would have been receiving early revenue. As a result, many water users simply decided it wasn’t worth the effort. To help remedy this situation, Section 4011 of the WIIN (Water Infrastructure Improvements for the Nation) Act (P.L. 114-322) authorized these agriculture and municipal water users to prepay outstanding construction costs through a single lump sum payment or over a period of three years. The nonpartisan Congressional Budget Office projected at the time that Section 4011 would expedite payments and generate \$639 million in receipts for the Treasury from repayment over the FY2015-FY2024 period. These revenues went into a discretionary account dedicated to building new water storage.

This program was successful, with more than 75 entities, including the majority of Water Authority member agencies, deciding to prepay what they owe the federal government, with many of those water users no longer having to live under federal paperwork and acreage limitation requirements. While the water users would no longer have to negotiate water contracts as a result of owing nothing to the federal government, water availability would still be subject to drought and state and federal environmental rules.

Since this prepayment authority expired in 2020, this bill permanently reauthorizes Section 4011 to allow the federal government to receive early revenue from water users who have the ability to prepay what they owe

Pros:

- The bill would permanently extend important provisions of the WIIN Act that allowed Water Authority member agencies to prepay their repayment contracts and allow the remaining Water Authority member agencies to do so as well.



Cons:

- None identified at this time.
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S. ___ (Feinstein) – Canal Conveyance Capacity Restoration Act

RECOMMENDATION: SUPPORT

OBJECTIVE: Improve Water Infrastructure Affecting Authority Member Agencies

This bill would authorize the Secretary of the Interior to provide financial assistance for the design, planning, and construction of the Delta-Mendota Canal, San Luis Canal, Friant-Kern Canal, and the non-federal pools of the California Aqueduct. Specifically, the legislation would authorize the following nonreimbursable federal funding amounts for the following:

- \$183,900,000 for the Delta-Mendota Canal
- \$194,000,000 for the San Luis Canal
- \$180,000,000 for the Friant-Kern Canal
- \$95,500,000 for the non-federal pools of the California Aqueduct
- \$180,000,000 to implement the Restoration Goal of the San Joaquin River Restoration Settlement Act

Status

S. ___ is expected to be introduced the week of June 5, and is expected to be referred to the Senate Committee on Energy and Natural Resources.

Note: Authority staff transmitted a support letter to the Senator's office at their request, given the Board's adoption of a support position on identical legislation introduced in the House of Representatives by Representative Jim Costa on May 4. Staff is bringing this to the Board for ratification of the position adopted by the Executive Director pursuant to delegated authority.

Importance to the Authority

This bill would authorize nonreimbursable federal funding to support subsidence repair costs of up to one-third of the total cost of subsidence repair costs to the Delta-Mendota (DMC), San Luis, and Friant-Kern Canals, and the California Aqueduct. This would provide up to \$183.9 million for subsidence mitigation along the DMC and up to \$194 million for repairs along the San Luis Canal. Additionally, the legislation authorizes an additional \$180 million for the San Joaquin River Restoration Program, which could be used to construct necessary infrastructure to address fish migration concerns for Authority members.

Pros:

- The bill would provide up to a one-third cost share of nonreimbursable federal funds for capacity restoration of key conveyance for Authority member agencies.

Cons:

- None identified at this time.
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S. ___ (Feinstein) – Support To Rehydrate the Environment, Agriculture, and Municipalities (STREAM) Act

RECOMMENDATION: SUPPORT

OBJECTIVE: Improve Water Infrastructure Affecting Authority Member Agencies

This bill would make a number of changes to key authorities that govern Reclamation policy. Specifically, the legislation makes the following changes:

- Expedites non-federal storage projects with less than \$250 million in federal funding, water recycling, and desalination projects by allowing Interior to approve the projects.
- Authorizes \$750 million in funding for surface and groundwater storage and conveyance projects (including natural water retention and release projects).
- Authorizes \$300 million for water recycling projects, \$150 million for desalination projects, \$100 million for projects to provide drinking water for disadvantaged communities, and \$250 million for environmental restoration projects.
- Requires Congressional approval of future federal storage projects and non-federal storage projects with over \$250 million in federal funding, consistent with similar provisions in the WIIN Act and the Infrastructure Investment and Jobs Act (IIJA).
- Authorizes a “Reclamation WRDA” process where Reclamation notifies Congress of completed feasibility studies each year to set up an orderly process to authorize projects, which could have the effect of shortening timelines for Congressional approval of Federal storage projects, similar to the effects of the “Chief’s Report” for the Army Corps of Engineers.
- Grandfathers storage projects that receive construction funding from the \$1.15 billion provided for storage in the bipartisan infrastructure law so they can receive storage funds authorized under this bill and they do not need further authorization to complete construction, including the B.F. Sisk Dam Raise and Reservoir Expansion Project and the Delta-Mendota Canal Subsidence Correction Project.
- Authorizes non-reimbursable federal grants for non-Federal storage projects funded by the bill if they have public benefits that are provided either directly as part of the project or through federal spending on environmental benefits in the same watershed approved as part of a watershed plan adopted together with the project.
- If a project does have public benefits, it can receive non-reimbursable grants for water supply benefits on a dollar-for-dollar basis for each dollar of public benefits the project provides, up to the 25% maximum federal cost-share (e.g. a project can receive \$5 million in non-reimbursable funding for water supply if it has \$5 million or more of public benefits). This incentivizes multi-benefit projects with water supply and environmental benefits.
- Non-federal storage projects with water supply benefits are eligible for reimbursable funding, similar to existing law.
- During droughts, Interior can implement emergency drought relief projects through building permanent facilities, if those facilities are supported by the State where the projects are located and require a federal investment of less than \$30 million. Current law allows funding only for temporary facilities, excepting groundwater wells. Given the increased frequency of droughts, it



is more efficient to install permanent facilities rather than frequently installing and removing temporary facilities.

Status

S. ___ is expected to be introduced the week of June 5, and is expected to be referred to the Senate Committee on Energy and Natural Resources.

Note: *Authority staff transmitted a support letter to the Senator's office at their request, given the Board's adoption of a support position on substantively similar legislation during the 117th Congress. Staff is bringing this to the Board for ratification of the position adopted by the Executive Director pursuant to delegated authority.*

Importance to the Authority

The legislation would authorize significant amounts of funding for projects of importance to the Water Authority and its members, including:

- \$750 million for surface and groundwater storage and conveyance projects
- \$300 million for water recycling projects
- \$150 million for desalination projects
- \$100 million for projects to provide drinking water to disadvantaged communities
- \$250 million for environmental restoration projects

Additionally, the legislation makes a number of policy changes that are beneficial, including by:

- increasing the opportunities for projects to receive nonreimbursable funds compared to current law by expanding the definition of public benefits
- Reauthorizing CALFED through FY27
- Streamlining approvals of non-federal storage and conveyance projects and water recycling projects by removing the requirement that the project is named in an appropriations bill
- Increasing the cap for water recycling projects from \$20 million (in 1996 dollars) to \$50 million
- Amending the Reclamation States Emergency Drought Relief Act to allow for permanent facilities to be installed rather than only temporary facilities.

Pros:

- The legislation provides substantial funding for numerous project types of importance to the Water Authority and its members.
- The legislation streamlines project approvals at the Congressional level, expediting project delivery.
- The legislation modifies the definition of public benefits in a way that would expand opportunities for non-reimbursable federal funding to be available for projects.

Cons:

- None identified at this time.
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S. ___ (Feinstein) – Restore Aging Infrastructure Now (RAIN) Act

RECOMMENDATION: SUPPORT AND AMEND

OBJECTIVE: Improve Water Infrastructure Affecting Authority Member Agencies

This bill would authorize the Secretary of the Interior to modify transferred works projects that are being funded by the Aging Infrastructure account through the Infrastructure Investment and Jobs Act to add public benefits, including supplying disadvantaged communities drinking water and refuge water supply.

The transferred works O&M entity (in the case of the DMC, this would be the Water Authority) and any adversely impacted party (including Water Authority member agencies) have two years to provide concurrence for project modifications to add public benefits or the project moves forward as originally designed.

The legislation would require that at least 50% of the proposed project modifications would be public benefits and would authorize non-reimbursable funding from the Aging Infrastructure account for these public benefits, as well as transition 15% of the reimbursable benefits to adversely impacted parties to be nonreimbursable.

Status

S. ___ is expected to be introduced the week of June 5, and is expected to be referred to the Senate Committee on Energy and Natural Resources.

Note: Authority staff transmitted a support letter to the Senator's office at their request after analyzing the legislation and having a discussion with the Water Authority's Federal Affairs Workgroup. Staff is bringing this to the Board for ratification of the position adopted by the Executive Director pursuant to delegated authority.

Importance to the Authority

This bill would authorize nonreimbursable federal funding to support potential project modifications to provide drinking water to disadvantaged communities adjacent to the DMC and to convey refuge water supplies, out of the existing Aging Infrastructure account, which is currently reimbursable. There are projected to be nearly 100,000 people living in frontline communities within 10 miles of the DMC by 2040 as well as an unmet Incremental Level 4 Refuge water supply need south of Delta of approximately 150,000 acre-feet. The ability to utilize nonreimbursable funding through the Aging Infrastructure account could substantially reduce costs for Water Authority member agencies and expedite the project funding for the DMC Subsidence Capacity Restoration Project.

Staff does have some questions related to implementation and the need for long-term O&M funding for additional beneficiaries and is proposing working with the author to ensure that the legislative language or subsequent engagement with Reclamation provides sufficient funding for disadvantaged communities and refuge water supply to meet long-term O&M obligations, which is why staff is recommending a "Support and Amend" position.

Pros:

- The bill would provide for the ability to modify the DMC to provide drinking water for disadvantaged communities, with a commensurate decrease in reimbursable costs of 15% greater than the public benefit achieved. For example, if 25% of the benefits of the DMC correction project



were allocated to public benefits, then 25% of those costs would be nonreimbursable, plus an additional 15% of reimbursable costs for other beneficiaries would become nonreimbursable.

- Existing project beneficiaries have a right to refuse project modifications requested by the Secretary.

Cons:

- The Secretary could delay a project by up to two years seeking additional beneficiaries and project modifications, resulting in increased costs and project delays.
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S. 658 (Booker) – EQIP Improvement Act of 2023

RECOMMENDATION: OPPOSE

OBJECTIVE: Improve Water Infrastructure Affecting Authority Member Agencies

Summary

This bill would modify USDA's Environmental Quality Incentives Program (EQIP) by modifying the five year cap on grants for certain practices from \$450,000 to \$150,000 and reducing the payments on some practices from 75 percent to 40 percent. Specifically, the payment reductions would occur on many practices that will be used for implementation of the Sustainable Groundwater Management Act and other on-farm conservation practices associated with greater water use efficiency.

Status

S. 658 was introduced in the Senate on March 6, 2023, and has been referred to the Senate Committee on Agriculture, Nutrition, and Forestry. Additional key cosponsors include: Mike Lee (R-UT), Blumenthal (D-CT).

Importance to the Authority

EQIP is a voluntary farm bill conservation program run by USDA that helps bankroll farmers' transition to sustainable practices. It provides grants so farmers can incorporate practices like cover crops, no-till and nutrient management. It's one of the most popular programs and is oversubscribed.

The legislation would reduce the five-year grant cap from \$450,000 to \$150,000, a move they say would let more farmers on the program by freeing up cash. It would also end a current requirement that 50 percent of EQIP funds flow to livestock operators, allowing states to determine their own usage.

The bill would also allow states greater flexibility to reduce payments to practices that show limited environmental benefit, freeing up money for those with clearer benefits based on USDA data. Those practices are cover crops, no-till, crop rotations, nutrient management, and streamside buffers.

For some specific practices, cost share percentages would be pulled down from 75 to 40 percent. These include roads, fish ponds, stock ponds, dams, animal waste pits, pipelines and land clearing.

Pros:

- The change in the grant cap could enable more growers to access EQIP.
- The bill increases the flexibility of use of program funds, repurposing mandatory 50% funding for livestock operators to other agricultural commodities.



Cons:

- The change in the grant cap could limit the programs utility for growers accessing the program for larger projects.
 - The bill will reduce funds flowing to livestock operators, creating additional potential burdens on a strained industry important to the San Joaquin Valley.
 - Reduces the costs share percentage for the program for many types of water infrastructure, including dams, pipelines, and land clearing.
 - Reduces payments on practices that may receive increased usage as SGMA is implemented more fully, including cover crops, no-till, crop rotations, nutrient management, and streamside buffers.
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[A.B. 754 \(Papan\) – Water management planning: automatic conservation plan](#)

RECOMMENDATION: OPPOSE

OBJECTIVE: Core Objective

Existing Law

Existing law, the Urban Water Management Planning Act, requires every urban water supplier that directly or indirectly provides water for municipal purposes to prepare and adopt an urban water management plan (UWMP). Existing law requires a UWMP to quantify past, current, and projected water use, identifying the uses among water use sectors, including, among others, commercial, agricultural, and industrial. Existing law requires an UWMP to identify and quantify, to the extent practicable, the existing and planned sources of water available to the supplier over a specified period of time, providing supporting and related information, including, among other things, a description of the management of each supply in correlation with the other identified supplies when multiple sources of water supply are identified.

Existing law requires an agricultural water supplier to prepare and adopt an agricultural water management plan (AWMP) with specified components on or before December 31, 2012, and to update those plans on or before December 31, 2015, and on or before April 1, 2021, and thereafter on or before April 1 in the years ending in six and one. Existing law requires an agricultural water supplier to submit its plan to the Department of Water Resources (DWR) no later than 30 days after the adoption of the plan and requires DWR to review an agricultural water management plan and notify an agricultural water supplier if the department determines that it is noncompliant. Existing law requires an agricultural water supplier to submit copies of its plan no later than 30 days after the department's review and requires DWR to submit its report summarizing the status of the plans to the Legislature on or before April 30 in the years ending in seven and two.

Summary

Urban Water Supplier Provisions

If an urban water supplier identifies a reservoir as an existing or planned source of water available to the supplier, that urban water supplier's UWMP would be required include the following additional information:

1. A target water supply storage curve based on target carryover levels sufficient to satisfy water users and ecological stream flow needs for at least five years, with reasonably predicted inflow



calculations considering local conditions and climate change. The reservoir storage level shall be calculated each month based on reservoir capacity, projected inflows, evaporation, water demands from all users, and streamflow requirements, and shall be plotted against the target water supply storage curve on a calendar to ensure that target storage levels are met; and,

2. An automatic conservation plan to be implemented when the reservoir storage level falls below the target water supply storage curve determined above. The bill stipulates that when both an automatic conservation plan and a water shortage contingency plan are in effect, the more restrictive of the two plans shall govern.

The bill would require an automatic conservation plan developed by an urban water supplier to include all the following:

- 1) Six standard water storage levels corresponding to progressive ranges of up to 10, 20, 30, 40, and 50 percent shortages below the target water supply curve and greater than 50 percent shortage;
- 2) At each water shortage level, urban water suppliers shall initiate conservation response actions that align with the defined shortage levels and include at a minimum, all the following:
 - a) Locally appropriate water supply augmentation actions;
 - b) Locally appropriate water demand reduction actions to adequately respond to shortages;
 - c) Locally appropriate operational changes; and,
 - d) Mandatory prohibitions against specific water use practices that are in addition to state-mandated prohibitions and appropriate to the local conditions.
- 3) For each action, an estimate of the extent that the gap between target reservoir storage level and the actual reservoir storage level will be reduced by for implementation of the action;
- 4) For each action, an estimate of impacts to other water resources, including any increase in groundwater extraction;
- 5) Water demand reduction actions shall be applied to all customer classes, and may include any of the following:
 - a) Water waste prevention ordinances;
 - b) Metering;
 - c) Conservation pricing;
 - d) Public education and outreach;
 - e) Programs to assess and manage distribution system real loss; and,
 - f) Water conservation program coordination and staffing support.
- 6) Other demand management measures that have a significant impact on water use as measured in gallons per capita per day; and,
- 7) Other demand management measures that have a significant impact on water used by downstream water rights holders.

Agricultural Water Supplier Provisions

If an agricultural water supplier identifies a reservoir as an existing or planned source of water available to the supplier, an agricultural water management plan would be required to include the following additional information:

- 1) A target water supply storage curve based on target carryover levels sufficient to satisfy water users and ecological stream flow needs for at least five years, with reasonably predicted inflow calculations



considering local conditions and climate change. The reservoir storage level shall be calculated each month based on reservoir capacity, projected inflows, evaporation, water demands from all users, and streamflow requirements, and shall be plotted against the target water supply storage curve on a calendar to ensure that target storage levels are met;

- 2) An automatic conservation plan that is implemented when the reservoir storage level falls below the target water supply storage curve determined above. When both an automatic conservation plan and a drought plan are in effect, the more restrictive of the two plans shall govern.

An automatic conservation plan developed by an agricultural water supplier would be required to include the following:

- 1) Six standard water shortage levels corresponding to progressive ranges of up to 10, 20, 30, 40, and 50 percent shortages below the target water supply curve and greater than 50 percent storage;
- 2) At each water shortage level, agricultural water suppliers shall initiate conservation response actions that align with the defined shortage levels and include, at a minimum, all the following:
 - a) Locally appropriate supply augmentation actions;
 - b) Locally appropriate demand reduction actions to adequately respond to shortages;
 - c) Locally appropriate operational changes;
 - d) Additional, mandatory prohibitions against specific water use practices that are in addition to state-mandated prohibitions and appropriate to the local conditions.
- 3) For each action, an estimate of the extent that the gap between the target reservoir storage level and the actual reservoir storage level will be reduced by implementation of the action; and,
- 4) For each action, an estimate of impacts to other water resources, including any increase in groundwater extraction.

Status

A.B. 754 was introduced on February 13, 2023, as a spot bill and was substantively amended into its current form on March 9. The bill was heard and amended a second time at the Committee on Water, Parks, and Wildlife on April 24, where it passed on a 10-4 vote. The bill has been referred to the Committee on Appropriations.

Importance to the Authority

In response to the 2012-2016, Governor Brown signed Executive Order B-37-16, "Making Conservation a California Way of Life" in May of 2016. The Executive Order called for DWR and the State Water Resources Control Board (State Water Board) to work together to develop a permanent conservation framework that includes specific requirements for water use efficiency and drought planning.

During the 2017-2018 legislative session, eight policy bills and a budget trailer bill were introduced to implement the Governor's call for making conservation a way of life based on the State agencies' framework. Following extensive legislative debate and stakeholder engagement, on May 31, 2018, AB 1668 (Friedman) and SB 606 (Hertzberg) were signed into law. These bills established the statutory framework to improve drought preparedness and regional resilience; they also established and refined the requirements for urban and agricultural water management plans.

Many of the requirements of these bills have either taken effect or are in the process of being finalized. Planning requirements are already in effect, requiring urban and agricultural water suppliers to prepare a



variety of drought-related reports and plans including: urban and agricultural water management plans including a drought risk assessment or drought plan, water shortage contingency plans (urban), annual water supply and demand assessment (urban), and annual water budget (agricultural).

Urban Water Management Plans

Urban water suppliers are required to prepare and adopt a UWMP and update the plan every five years. In developing an UWMP, a water supplier will assess changes in natural hydrology, climate, and groundwater conditions, anticipate the implications of regional, state, and federal regulations, understand supply conditions and water use variability, prepare for water shortages and unforeseen calamities, and identify regional constraints on or opportunities for shared water resources.

Water Shortage Contingency Plans

As part of its UWMP, urban water suppliers are required to prepare and adopt a water shortage contingency plan (WSCP). A WSCP is a detailed proposal that documents the process used by a supplier to anticipate water supply disruptions and describes how the supplier intends to address a water shortage. WSCPs are required to include various elements including a water supply reliability analysis, annual water supply and demand assessment procedures, six standard water shortage stages corresponding to progressive ranges of up to 10-, 20-, 30-, 40-, and 50-percent shortages and greater than 50-percent shortage, shortage response actions, communication protocols, and compliance and enforcement protocols. While WSCPs are primarily meant for the supplier's decision makers, management and operational staff, communications staff, and customers, WSCPs also have statewide utility for DWR, the State Water Board, and the Legislature in addressing extreme drought conditions or statewide calamities that impact water supply availability.

Annual Water Supply and Demand Assessment

Urban water suppliers are also required to prepare an annual water supply and demand assessment (Assessment) and submit an annual shortage report to DWR every year. The Assessment and associated report are to be conducted based on the water supplier's procedures detailed in its adopted WSCP. The Assessment is developed based on the assumption that the upcoming year is going to be dry; however, implementation of any response actions will need to take into consideration actual water supply and demand conditions applicable to the current year. The annual shortage report includes information on anticipated shortage, triggered shortage response actions, compliance and enforcement actions and communication actions described in the WSCP. After submittal, suppliers must perform ongoing reassessments of their water supply and demand conditions throughout the year.

Drought Risk Assessment

Further, UWMPs are required to contain a drought risk assessment, which examines water supplies, water uses, and the resulting water supply reliability under a reasonable prediction for five consecutive dry years. The drought risk assessment is required to include a comparison of the total water supply sources available to the water supplier with the total projected water use for the drought period and considerations of the historical drought hydrology, plausible changes on projected supplies and demands under climate change conditions, anticipated regulatory changes, and other locally applicable criteria.



Agricultural Water Management Plans

The Water Conservation Act of 2009 (SB X7-7) requires agricultural water suppliers to adopt and submit an Agricultural Water Management Plan (AWMP) to DWR every five years. SB X7-7 stipulates agricultural water suppliers can submit individual plans or collaborate and submit regional plans, as long as it meets the requirements outlined in SB X7-7. AB 1668 (Friedman, 2018) requires AWMPs to quantify measures to increase agricultural water use efficiency, include an annual water budget, describe the agricultural water supplier's water management strategy with specified elements, and include a drought plan describing the actions of the agricultural water supplier for drought preparedness and management of water supplies and allocations during drought conditions.

Drought Plan

As part of its AWMP, an agricultural water supplier is required to develop a drought plan for periods of limited water supply describing the actions it would take for drought preparedness and management of water supplies during drought conditions. These plans must include resilience planning including: data and indicators, analyses of potential vulnerabilities, and discussion of opportunities and strengths. The drought plan must also identify how the agricultural water supplier will respond in a drought including: process for declaring and implementing a water shortage, enforcement and appeal procedures, methods to evaluate effectiveness, communication protocols, and an analysis of fiscal potential impacts.

AB 754 additionally requires UWMPs and AWMPs, if a reservoir is identified as an existing or planned source of water available to the supplier, to include specified information related to water storage and conservation, including a target water supply storage curve, and an automatic conservation plan that would be implemented when the reservoir storage level falls below that curve. The bill further requires specified response actions to be taken when water storage falls to specified storage levels.

As summarized above, various drought planning tools already exist to improve drought preparedness and regional resilience, and water providers are required to prepare, adopt, and review a plethora of plans and reports to identify methods, procedures, and actions that ensure the adequate water supplies are available to meet existing and future water needs. Much of what would be included in the required automatic conservation plan and the correlating conservation response actions would be duplicative of shortage response actions, communication protocols, and compliance and enforcement protocols outlined in a water providers' UWMP and AWMP.

Further, the bill fails consider that while a water provider may receive water from a reservoir, that reservoir may be owned and operated by the U.S. Bureau of Reclamation and/or is part of the larger State Water Project or Central Valley Project, and that the requirements placed on water providers would be based on reservoir actions that are out of their control. For those water agencies that rely in whole or part on locally managed reservoirs, they are largely already accounting for the issues this bill seeks to address in their water management plans. For urban water retailers, the annual water supply and demand assessment already also largely accounts for reservoirs as a potential water resource.

On the heels of the 2012-2016 drought, the Administration and Legislature enacted and implemented a number of new reporting requirements designed to ensure that local water agencies are adequately planning for drought and water shortage and that the State has access to pertinent information. All of this new reporting has gone into effect and the goals of this bill are largely met with the existing reporting.



This bill appears to be creating a duplicative requirement without any additional benefits to either the state or local agencies.

Pros:

- Limited benefits identified

Cons:

- Institutes additional and duplicative requirements for various planning efforts that are already required for Authority members at substantial costs with limited additional benefits

A.B. 1205 (Bauer-Kahan) – Water rights: sale, transfer, or lease: agricultural lands

RECOMMENDATION: OPPOSE

OBJECTIVE: Core Objective

Existing Law

Existing law declares that, because of the conditions prevailing in this state, the general welfare requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable, that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of the water is to be exercised with a view to the reasonable and beneficial use of the water in the interest of the people and for the public welfare.

Summary

AB 1205 would declare that the sale, transfer, or lease of an interest in any water right for profit, on or below agricultural lands within the state by an investment fund, shall not be considered a reasonable or beneficial use of water.

Status

A.B. 1205 was introduced on February 16, 2023, as a spot bill and was amended into its current form on March 23, 2023. The bill is currently scheduled to be heard in the Assembly Water, Parks, and Wildlife Committee on May 3, 2023.

Importance to the Authority

AB 1205 would declare that the sale, transfer, or lease of an interest in any water right for profit, on or below agricultural lands within the state by an investment fund, shall not be considered a reasonable or beneficial use of water.

Authority member agencies engage in water transfers both through the pooled Authority transfer program, as well as conducting individual transactions, as a means of addressing shortages in contract supplies from the United States. As institutional investment in agriculture increases, passage of this legislation would potentially remove those potential water transfer partners and pose a chilling effect on the market.

Potential Amendments

Seek clarification of “transfer for profit”

Seek clarification that underlying definition of “investment fund” does not impact water authority member agency grower legal models



Pros:

- Would discourage institutional investment in agricultural land for the purposes of water market speculation

Cons:

- Limits use of underlying property right for certain types of property owner
 - May cause delays and/or more expensive process for water transfers as ownership is verified
 - Lacks clarity in definition of “transfer for profit”
 - Lacks clarity in underlying definition of “investment fund”, which could include certain legal models of existing grower
 - Could limit available sellers in the water market, increasing prices and reducing agricultural competitiveness in the marketplace
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Guidelines for Taking Positions on Legislation

A number of controversial bills are introduced each year in the Congress and in the California Legislature. It is important to understand how the Authority takes positions on legislation.

Policy

By Agenda Item 9, dated December 8, 2022, the Board adopted the Fiscal Year 2024 Objectives.

Water Authority's Positions on Legislation

The Water Authority takes positions on legislation that, if enacted, would impact Water Authority members, consistent with Water Authority Board adopted Goals and Objectives. The Water Authority may take the following positions on legislation: Oppose, Support, Oppose Unless Amended, Support if Amended, Not Favor, Favor, Not Favor Unless Amended, Favor if Amended, and Watch (neutral). The Water Authority’s staff and consultants testify and advocate with legislators and staff through meetings and member agency contacts on all positions except Watch, Favor and Not Favor. For Favor and Not Favor positions, written communication of the Water Authority’s position is provided to the legislator. Nothing in this section should be read to preclude the Executive Director or his or her delegee from taking an informal support or informal oppose position on behalf of the Water Authority that is consistent with adopted legislative or policy objectives, or to preclude the Executive Director from communicating a position on emergency legislation after obtaining the concurrence of the Chair, or the Chair’s designee, provided that the Executive Director informs the Board regarding such positions on emergency legislation no later than the next regularly scheduled Board meeting.

Amendment Development Process

If the Water Authority takes an Oppose Unless Amended or Support if Amended position, the Water Authority will typically discuss the concepts for the amendments at the meeting. Then Water Authority staff, in consultation with Committee and/or Board Members as needed, will develop the amendments after the meeting.



Information Sharing

To provide adequate information to the entire Water Authority membership, the Water Authority provides legislative updates, posts positions and other information on our website, and sends out advisories and alerts on key legislation.

The Water Authority's legislative department is available to provide specific information on bills on request and Board Members are encouraged to communicate Water Authority positions on priority legislation in meetings with legislative staff, consistent with Water Authority policy. The Water Authority's Water Policy Director appreciates being informed by Water Authority members of positions taken by Water Authority members on legislation.

BILL TEXT

.....
(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R. _____

To amend the Water Infrastructure Improvements for the Nation Act to extend certain contract prepayment authority.

IN THE HOUSE OF REPRESENTATIVES

Mrs. BOEBERT introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Water Infrastructure Improvements for the Nation Act to extend certain contract prepayment authority.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Western Water Accel-
5 erated Revenue Repayment Act”.

6 **SEC. 2. EXTENSION OF PREPAYMENT AUTHORITY.**

7 Section 4013 of the Water Infrastructure Improve-
8 ments for The Nation Act (Public Law 114–322) is
9 amended—

- 1 (1) in paragraph (1), by striking “; and” and
- 2 inserting a semicolon;
- 3 (2) in paragraph (2), by striking the period and
- 4 inserting “; and”; and
- 5 (3) by adding at the end the following:
- 6 “(3) section 4011.”.

117TH CONGRESS
1ST SESSION

S. _____

To provide financial assistance for projects to address certain subsidence impacts in the State of California, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To provide financial assistance for projects to address certain subsidence impacts in the State of California, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Canal Conveyance Ca-
5 pacity Restoration Act”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are—

- 8 (1) to address severe subsidence impacts that
9 have substantially reduced the carrying capacity of
10 the water delivery system of the State; and

1 (2) to provide additional water supply in the
 2 State at a relatively low cost per acre-foot to in-
 3 crease—

4 (A) resiliency to increasingly severe
 5 droughts in the State;

6 (B) groundwater recharge needed to assist
 7 in meeting groundwater sustainability goals es-
 8 tablished under State law; and

9 (C) the reliability of surface or ground-
 10 water supplies, portions of which serve dis-
 11 advantaged communities.

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

14 (1) **FEDERAL POOL.**—The term “Federal pool”
 15 means each of pools 13 through 21 of the San Luis
 16 Canal/California Aqueduct, which are owned by the
 17 United States and operated by the California De-
 18 partment of Water Resources under the agreement
 19 entitled “Agreement Between the United States of
 20 America and the Department of Water Resources of
 21 the State of California for the Construction and Op-
 22 eration of the Joint-Use Facilities of the San Luis
 23 Unit” and dated December 30, 1961.

24 (2) **NET PRESENT VALUE OF THE LOCAL CON-**
 25 **TRIBUTION TO REIMBURSABLE FEDERAL FUND-**

1 ING.—The term “net present value of the local con-
2 tribution to reimbursable Federal funding” means,
3 with respect to a project, the amount equal to the
4 difference between—

5 (A) the total amount of reimbursable Fed-
6 eral funds made available for a project; and

7 (B) the amount of the present value, as of
8 the date of the calculation, of any interest sub-
9 sidy provided through the repayment terms to
10 the Treasury over similarly structured munic-
11 ipal bond financing available to the non-Federal
12 entity on the disbursement of the reimbursable
13 Federal funds for the project.

14 (3) NON-FEDERAL POOL.—The term “non-Fed-
15 eral pool” means each of pools 22 through 40 of the
16 California Aqueduct, which are owned by the State
17 and operated by the California Department of Water
18 Resources.

19 (4) SECRETARY.—The term “Secretary” means
20 the Secretary of the Interior, acting through the
21 Commissioner of Reclamation.

22 (5) STATE.—The term “State” means the State
23 of California.

1 **SEC. 4. FRIANT-KERN CANAL AND DELTA-MENDOTA CANAL**
2 **SUBSIDENCE MITIGATION PROJECTS.**

3 (a) **IN GENERAL.**—The Secretary may provide finan-
4 cial assistance for the design, planning, and construction
5 of—

6 (1) Federal facility improvements to the Friant
7 Division, Central Valley Project, California, under
8 section 10201(a)(1) of the San Joaquin River Res-
9 toration Settlement Act (Public Law 111–11; 123
10 Stat. 1365); and

11 (2) a project to restore conveyance capacity at,
12 and to mitigate subsidence-related impacts on, the
13 Delta-Mendota Canal, through a partnership with—

14 (A) a public water agency that contracts
15 for the delivery of Central Valley Project water;
16 or

17 (B) a local joint powers authority formed
18 under State law by public water agencies that
19 contract for the delivery of Central Valley
20 Project water.

21 (b) **COST-SHARING REQUIREMENT.**—

22 (1) **FEDERAL SHARE.**—The Federal share of
23 the cost of carrying out a project under subsection
24 (a) shall be not more than 33 percent of the total
25 cost of the project, including amounts contributed
26 after October 1, 2018.

1 (2) FORM OF NON-FEDERAL SHARE.—The non-
2 Federal share of the cost of carrying out a project
3 under subsection (a) may be provided in the form of
4 cash or in-kind contributions, including the net
5 present value of the local contribution to the reim-
6 bursable Federal funding for the project after Octo-
7 ber 1, 2018.

8 (c) REQUIRED DETERMINATION BY SECRETARY.—
9 Federal funds shall not be made available under this Act
10 for a project under subsection (a) unless the Secretary de-
11 termines that—

12 (1) there is an adequate non-Federal cost share
13 to match the total amount of federally appropriated
14 financial assistance made available for the project as
15 of the date of the determination of the Secretary;
16 and

17 (2) the project is designed in a manner—

18 (A) to satisfy the purposes described in
19 section 2, after taking into account anticipated
20 future subsidence; and

21 (B) to comply with all applicable require-
22 ments of Federal and State law, including part
23 2.74 of division 6 of the California Water Code
24 (commonly known as the “California Sustain-
25 able Groundwater Management Act”).

1 **SEC. 5. CALIFORNIA AQUEDUCT SUBSIDENCE MITIGATION**
2 **PROJECT.**

3 (a) **IN GENERAL.**—The Secretary may provide finan-
4 cial assistance for the design, planning, and construction
5 of projects to restore conveyance capacity at, and to miti-
6 gate subsidence-related impacts on, the Federal pool and
7 non-Federal pool.

8 (b) **NON-FEDERAL PARTNERS.**—To carry out this
9 section, the Secretary may enter into partnerships with—

10 (1) the State; or

11 (2) a local joint powers authority formed under
12 State law by public water agencies that contract for
13 delivery of water from the Central Valley Project or
14 the State Water Project.

15 (c) **COST-SHARING REQUIREMENT.**—

16 (1) **FEDERAL SHARE.**—The Federal share of
17 the cost of carrying out a project under subsection
18 (a) shall be not more than 33 percent of the total
19 cost of the project, including any amounts expended
20 by the State for subsidence repairs in the Federal
21 pool and non-Federal pool for the project after Octo-
22 ber 1, 2018.

23 (2) **FORM OF NON-FEDERAL SHARE.**—The non-
24 Federal share of the cost of a project provided finan-
25 cial assistance under subsection (a) may be in the
26 form of cash or in-kind contributions.

1 (d) REQUIRED DETERMINATION BY SECRETARY.—
2 Federal funds shall not be made available under this Act
3 for a project under subsection (a) unless the Secretary de-
4 termines, with the concurrence of the Governor of the
5 State, that—

6 (1) there is an adequate non-Federal cost share
7 to match the total amount of federally appropriated
8 financial assistance made available for the project as
9 of the date of the determination of the Secretary;
10 and

11 (2) the project is designed in a manner—

12 (A) to satisfy the purposes described in
13 section 2, after taking into account anticipated
14 future subsidence; and

15 (B) to comply with all applicable require-
16 ments of Federal and State law, including part
17 2.74 of division 6 of the California Water Code
18 (commonly known as the “California Sustain-
19 able Groundwater Management Act”).

20 **SEC. 6. ENVIRONMENTAL COMPLIANCE.**

21 In carrying out a project under this Act, the Sec-
22 retary shall comply with applicable environmental laws, in-
23 cluding—

24 (1) the National Environmental Policy Act of
25 1969 (42 U.S.C. 4321 et seq.);

- 1 (2) the Endangered Species Act of 1973 (16
2 U.S.C. 1531 et seq.); and
3 (3) applicable State law.

4 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

5 (a) IN GENERAL.—There are authorized to be appro-
6 priated to the Secretary, as adjusted annually to reflect
7 changes since March 2021 in the Bureau of Reclamation
8 Construction Cost Trends Index applicable to the types
9 of construction involved—

10 (1) \$180,000,000 to carry out section 4(a)(1),
11 consistent with, and in addition to funding author-
12 ized under, section 10203(c) of the San Joaquin
13 River Restoration Settlement Act (Public Law 111–
14 11; 123 Stat. 1367);

15 (2) \$183,900,000 to carry out section 4(a)(2);

16 (3) \$194,000,000 to pay the Federal share for
17 the Federal pool under section 5;

18 (4) \$95,500,000 to pay the Federal share for
19 the non-Federal pool under section 5; and

20 (5) \$180,000,000 to implement the Restoration
21 Goal of the settlement described in section 10004 of
22 the San Joaquin River Restoration Settlement Act
23 (Public Law 111–11; 123 Stat. 1350), in addition to
24 the funding authorized under section 10009 of that
25 Act.

1 (b) LIMITATIONS.—Amounts made available under
2 subsection (a) may not be used—

3 (1) to build new surface storage;

4 (2) to raise existing reservoirs; or

5 (3) to enlarge the carrying capacity of a canal
6 constructed by the Bureau of Reclamation, except
7 for a temporary increase in carrying capacity that is
8 intended—

9 (A) to mitigate anticipated future subsid-
10 ence; and

11 (B) to avoid an increase in carrying capac-
12 ity that would otherwise be required on the oc-
13 currence of anticipated future subsidence.

14 (c) ADDITIONAL AMOUNTS.—Amounts made avail-
15 able under subsection (a) shall be—

16 (1) in addition to any other amounts made
17 available for the purposes described in that sub-
18 section; and

19 (2) nonreimbursable.

1 Title: To support water infrastructure in Reclamation States, and for other purposes.
2
3

4 Be it enacted by the Senate and House of Representatives of the United States of America in
5 Congress assembled,

6 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

7 (a) Short Title.—This Act may be cited as the “Support To Rehydrate the Environment,
8 Agriculture, and Municipalities Act” or the “STREAM Act”.

9 (b) Table of Contents.—The table of contents for this Act is as follows:

10 Sec.1.Short title; table of contents.

11 Sec.2.Definitions.

12 TITLE I—INFRASTRUCTURE DEVELOPMENT

13 Sec.101.Storage and conveyance projects.

14 Sec.102.Annual report to Congress.

15 Sec.103.Competitive grant program for the funding of water recycling projects.

16 Sec.104.Eligible desalination project development.

17 Sec.105.Drinking water assistance for disadvantaged communities.

18 Sec.106.Extraordinary operation and maintenance work; project modification.

19 Sec.107.Use of revenue to improve drought resilience or dam safety.

20 TITLE II—IMPROVED TECHNOLOGY AND DATA

21 Sec.201.Reauthorization of the transboundary aquifer assessment program.

22 TITLE III—ECOSYSTEM RESTORATION AND 23 PROTECTION

24 Sec.301.Ecosystem restoration.

25 Sec.302.Performance-based restoration authority.

26 TITLE IV—MISCELLANEOUS

27 Sec.401.Modifications to drought program under the Reclamation States Emergency Drought
28 Relief Act of 1991.

29 Sec.402.Environmental compliance.

30 Sec.403.Effect.

31 SEC. 2. DEFINITIONS.

32 In this Act:

1 (1) ANNUAL REPORT.—The term “annual report” means a report required under section
2 102(a).

3 (2) AUTHORIZING COMMITTEES OF CONGRESS.—The term “authorizing committees of
4 Congress” means—

5 (A) the Committee on Energy and Natural Resources of the Senate; and

6 (B) the Committee on Natural Resources of the House of Representatives.

7 (3) DISADVANTAGED COMMUNITY.—The term “disadvantaged community” means a low-
8 income community (as defined in section 45D(e) of the Internal Revenue Code of 1986).

9 (4) ELIGIBLE DESALINATION PROJECT.—The term “eligible desalination project” has the
10 meaning given the term in paragraph (2) of section 4(a) of the Water Desalination Act of
11 1996 (42 U.S.C. 10301 note; Public Law 104–298) (as amended by section 104(a)).

12 (5) ELIGIBLE ENTITY.—The term “eligible entity” means—

13 (A) any State, political subdivision of a State, department of a State, or public
14 agency organized pursuant to State law;

15 (B) an Indian Tribe (as defined in section 4 of the Indian Self-Determination and
16 Education Assistance Act (25 U.S.C. 5304)) or an entity controlled by an Indian Tribe;

17 (C) a water users’ association;

18 (D) an agency established by an interstate compact; and

19 (E) an agency established under State law for the joint exercise of powers.

20 (6) FEDERAL BENEFIT.—The term “Federal benefit”, with respect to a non-Federal storage
21 project, water recycling project, or eligible desalination project, means—

22 (A) public benefits provided directly by a project;

23 (B) public benefits that—

24 (i) are—

25 (I) fish and wildlife benefits; or

26 (II) water quality benefits;

27 (ii) are provided by the implementation of a watershed restoration plan
28 approved with the project; and

29 (iii) represent an increased Federal commitment in the watershed as compared
30 to Federal commitments before the date of approval of the project;

31 (C) benefits to a watershed from a water recycling project or eligible desalination
32 project; or

33 (D) water supply benefits identified in accordance with the reclamation laws.

34 (7) FEDERAL STORAGE PROJECT.—The term “Federal storage project” means any project
35 constructed by the Bureau of Reclamation—

36 (A) that involves the construction or expansion of—

1 (i) a surface water storage facility; or

2 (ii) a facility conveying water to or from surface or groundwater storage; and

3 (B) to which the United States holds or will hold title.

4 (8) NATURAL WATER RETENTION AND RELEASE PROJECT.—

5 (A) IN GENERAL.—The term “natural water retention and release project” means a
6 non-Federal storage project designed and developed to increase water availability for
7 optimal management through aquifer recharge, floodplain retention, the alteration of
8 the timing of runoff to allow increased utilization of existing storage facilities, or
9 another mechanism that—

10 (i) uses primarily natural materials appropriate to the specific site and
11 landscape setting; and

12 (ii) substantially mimics natural riverine, wetland, ecosystem, or hydrologic
13 processes.

14 (B) INCLUSIONS.—The term “natural water retention and release project” includes—

15 (i) a single natural water retention and release project;

16 (ii) several distributed natural water retention and release projects across a
17 watershed; and

18 (iii) the redesign, modification, or replacement of existing infrastructure to
19 incorporate natural water retention and release elements.

20 (9) NON-FEDERAL STORAGE PROJECT.—The term “non-Federal storage project” means
21 any project in a Reclamation State that—

22 (A) involves the construction, expansion, or repair by an eligible entity of—

23 (i) a surface or groundwater storage project that is not federally owned;

24 (ii) a facility that is not federally owned conveying water to or from surface or
25 groundwater storage; or

26 (iii) a natural water retention and release project; and

27 (B) provides a benefit in meeting any obligation under applicable Federal law
28 (including regulations).

29 (10) PUBLIC BENEFIT.—The term “public benefit”, with respect to a non-Federal storage
30 project or extraordinary operation and maintenance work, means—

31 (A) a public benefit identified under the reclamation laws;

32 (B) a drinking water benefit for 1 or more disadvantaged communities, including
33 through groundwater recharge, if—

34 (i) the drinking water meets applicable regulatory standards;

35 (ii) the drinking water benefit exceeds express mitigation or compliance
36 requirements under Federal or State law;

37 (iii) the modified project reduces the unit cost per volume, improves water

1 quality, or increases the reliability or quantity of the drinking water supply of the
2 disadvantaged community as compared to the condition of the drinking water or
3 other sources of drinking water available before the modification of the project;

4 (iv) the drinking water benefit is quantified in a public process, including
5 outreach to representatives of the affected disadvantaged community at the
6 earliest practicable opportunity, to determine the scope of funding; and

7 (v) negative impacts on water quality for other communities are not caused as
8 part of the modified project;

9 (C) emergency drinking water supply used in response to a disaster declaration by a
10 Governor; and

11 (D) energy savings benefits, including—

12 (i) the value of associated greenhouse gas reductions; and

13 (ii) any reduction in energy costs for Federal taxpayers, such as reduced water
14 delivery costs for water providing fish and wildlife benefits.

15 (11) RECLAMATION LAWS.—The term “reclamation laws” means Federal reclamation law
16 (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and
17 amendatory of that Act (43 U.S.C. 371 et seq.)).

18 (12) RECLAMATION STATE.—The term “Reclamation State” has the meaning given the
19 term in section 4014 of the Water Infrastructure Improvements for the Nation Act (43
20 U.S.C. 390b note; Public Law 114–322).

21 (13) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

22 (14) STORAGE PROJECT.—The term “storage project” means a Federal storage project or a
23 non-Federal storage project.

24 (15) WATER RECYCLING PROJECT.—The term “water recycling project” means a project
25 provided a grant under section 1602(f) of the Reclamation Wastewater and Groundwater
26 Study and Facilities Act (43 U.S.C. 390h(f)).

27 (16) WATERSHED.—The term “watershed” includes—

28 (A) an entire watershed; or

29 (B) any portion of a watershed, including the upper or lower reaches of the
30 watershed.

31 (17) WATERSHED RESTORATION PLAN.—The term “watershed restoration plan” means a
32 plan approved by the Secretary that would provide benefits to the affected watershed from a
33 non-Federal storage project and other projects and activities, including—

34 (A)(i) restoration of fish and wildlife habitat or flows; or

35 (ii) water quality benefits; and

36 (B) water supply benefits.

37 TITLE I—INFRASTRUCTURE DEVELOPMENT

1 SEC. 101. STORAGE AND CONVEYANCE PROJECTS.

2 (a) Storage Projects.—

3 (1) DEFINITIONS.—Section 4007 of the Water Infrastructure Improvements for the Nation
4 Act (43 U.S.C. 390b note; Public Law 114–322) is amended—

5 (A) by striking subsections (a) and (b) and inserting the following:

6 “(a) Definitions.—In this section:

7 “(1) DESIGN; STUDY.—

8 “(A) IN GENERAL.—The terms ‘design’ and ‘study’ include any design, permitting,
9 study (including a feasibility study), materials engineering or testing, surveying, or
10 preconstruction activity relating to a water storage facility.

11 “(B) EXCLUSIONS.—The terms ‘design’ and ‘study’ do not include an appraisal
12 study or other preliminary review intended to determine whether further study is
13 appropriate.

14 “(2) ELIGIBLE ENTITY.—The term ‘eligible entity’ means—

15 “(A) a State, Indian Tribe, municipality, irrigation district, water district, wastewater
16 district, or other organization with water or power delivery authority;

17 “(B) a State, regional, or local authority, the members of which include 1 or more
18 organizations with water or power delivery authority; or

19 “(C)(i) an agency established under State law for the joint exercise of powers;

20 “(ii) a combination of entities described in subparagraphs (A) and (B); or

21 “(iii) with respect to a natural water retention and release project, a qualified partner.

22 “(3) ELIGIBLE PROJECT.—The term ‘eligible project’ means a project described in
23 subsection (b).

24 “(4) FEDERAL BENEFIT; NATURAL WATER RETENTION AND RELEASE PROJECT; NON-
25 FEDERAL STORAGE PROJECT; PUBLIC BENEFIT; STORAGE PROJECT; WATERSHED; WATERSHED
26 RESTORATION PLAN.—The terms ‘Federal benefit’, ‘natural water retention and release
27 project’, ‘non-Federal storage project’, ‘public benefit’, ‘storage project’, ‘watershed’, and
28 ‘watershed restoration plan’ have the meanings given the terms in section 2 of the Support
29 To Rehydrate the Environment, Agriculture, and Municipalities Act.

30 “(5) QUALIFIED PARTNER.—The term ‘qualified partner’ means a nonprofit organization
31 operating in a Reclamation State that is acting with the written support of an eligible
32 entity.”;

33 (B) by striking subsections (e), (f), and (i); and

34 (C) by redesignating subsections (c), (d), (g), (h), (j), and (k) as subsections (b), (c),
35 (d), (e), (f), and (g), respectively.

36 (2) NON-FEDERAL STORAGE PROJECTS.—Section 4007(b) of the Water Infrastructure
37 Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322) (as
38 redesignated by paragraph (1)(C)) is amended—

- 1 (A) in the subsection heading, by striking “State-led” and inserting “Non-Federal”;
- 2 (B) by striking “State-led” each place it appears and inserting “non-Federal”;
- 3 (C) in paragraph (1), by striking “project in” and all that follows through the period
4 at the end and inserting “project.”;
- 5 (D) in paragraph (2)—
- 6 (i) in the paragraph heading, by inserting “OR INDIAN TRIBE” after
7 “GOVERNOR”;
- 8 (ii) in the matter preceding subparagraph (A), by striking “Participation” and
9 inserting “Subject to paragraph (5), in the case of natural water retention and
10 release projects, participation”;
- 11 (iii) in subparagraph (A), by inserting “or the sponsoring Indian Tribe, in the
12 case of a Tribal project” after “located”; and
- 13 (iv) in subparagraph (B), in the matter preceding clause (i), by striking “State or
14 local sponsor” and inserting “State, Tribal, or local”; and
- 15 (E) by adding at the end the following:
- 16 “(5) NATURAL WATER RETENTION AND RELEASE PROJECTS.—Participation by the
17 Secretary of the Interior in a natural water retention and release project under this
18 subsection shall only occur if—
- 19 “(A) for a project that costs not more than \$10,000,000, the eligible entity
20 demonstrates that the natural water retention and release project would help optimize
21 the storage or delivery of water in a watershed in which a Bureau of Reclamation
22 facility is located; and
- 23 “(B) for a project that costs more than \$10,000,000—
- 24 “(i) the requirements described in paragraph (2) have been met; and
- 25 “(ii) the eligible entity determines, and the Secretary of the Interior concurs,
26 that—
- 27 “(I) the natural water retention and release project would produce or allow
28 additional retention or delivery of water in a watershed in which a Bureau of
29 Reclamation facility is located; and
- 30 “(II) there is a credible estimate of the quantity of the storage benefit of
31 the natural water retention and release project during each of a ‘wet’ year, a
32 ‘normal’ year, and a ‘dry’ year.
- 33 “(6) OTHER AUTHORIZATION REQUIRED.—Non-Federal storage projects with a Federal
34 cost-share exceeding \$250,000,000 may not be carried out under this subsection.
- 35 “(7) FEDERAL COST SHARE.—
- 36 “(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the
37 cost of any eligible project provided a grant under this subsection shall not exceed 25
38 percent of the total cost of the eligible project.

1 “(B) EXCEPTION.—The Federal share of the cost of a natural water retention and
2 release project provided a grant under this subsection shall not exceed 90 percent of the
3 total cost of the natural water retention and release project.

4 “(8) REIMBURSABILITY OF FUNDS.—

5 “(A) NONREIMBURSABLE FUNDS.—

6 “(i) PUBLIC BENEFITS.—Subject to paragraph (7), any funds provided by the
7 Secretary of the Interior to an eligible entity under this subsection for the value of
8 public benefits described in subparagraphs (A) and (B) of section 2(6) of the
9 Support To Rehydrate the Environment, Agriculture, and Municipalities Act shall
10 be considered nonreimbursable.

11 “(ii) WATER SUPPLY BENEFITS OF EQUAL VALUE TO PUBLIC BENEFITS.—Subject
12 to paragraph (7), any funds provided by the Secretary of the Interior for the value
13 of Federal benefits provided under section 2(6)(D) of the Support To Rehydrate
14 the Environment, Agriculture, and Municipalities Act shall be considered
15 nonreimbursable to the extent that the value of the Federal benefits does not
16 exceed the value of public benefits funded under clause (i) that are fish and
17 wildlife or water quality benefits.

18 “(B) REIMBURSABLE FUNDS.—If any funding provided under subparagraph (A) is
19 less than 25 percent of the total cost of the eligible project, the Secretary may provide
20 reimbursable funds to an eligible entity for any Federal benefits provided under section
21 2(6)(D) of the Support To Rehydrate the Environment, Agriculture, and Municipalities
22 Act for not more than 25 percent of the total cost of the eligible project.

23 “(9) PRIORITY.—In providing grants to eligible entities for eligible projects under this
24 subsection, the Secretary of the Interior shall give funding priority to an eligible project that
25 directly or through watershed restoration plans approved with the project meets 2 or more of
26 the following criteria:

27 “(A) Provides multiple benefits, including substantial quantities of each of the
28 following:

29 “(i) Water supply reliability benefits for States and communities that are
30 frequently drought-stricken.

31 “(ii) Fish and wildlife benefits.

32 “(iii) Water quality improvements.

33 “(B) Reduces impacts on environmental resources from water projects owned or
34 operated by Federal agencies and State agencies, including through measurable
35 reductions in water diversions from imperiled ecosystems.

36 “(C) Advances water management plans across a multi-State area, such as drought
37 contingency plans in the Colorado River Basin.

38 “(D) Is collaboratively developed or supported by multiple stakeholders.

39 “(E) Is located within a watershed for which an integrated, comprehensive
40 watershed management plan has been developed to enhance resilience of ecosystems,

1 agricultural operations, and communities to chronic water scarcity, acute drought, and
2 changing hydrological regimes.”.

3 (3) AUTHORIZATION OF APPROPRIATIONS.—Section 4007(e) of the Water Infrastructure
4 Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322) (as
5 redesignated by paragraph (1)(C)) is amended by striking paragraphs (1) and (2) and
6 inserting the following:

7 “(1) IN GENERAL.—In addition to amounts made available under section 40901(1) of the
8 Infrastructure Investment and Jobs Act (43 U.S.C. 3201(1)), there is authorized to be
9 appropriated to the Secretary of the Interior to carry out this section \$750,000,000 for the
10 period of fiscal years 2025 through 2029, of which \$50,000,000 is authorized to be
11 appropriated during that period to carry out natural water retention and release projects
12 under subsection (b)(5).

13 “(2) ALLOCATION.—Subject to paragraphs (3) and (4), the Secretary of the Interior shall
14 allocate amounts made available under paragraph (1) among—

15 “(A) the design and study of—

16 “(i) non-Federal storage projects, including natural water retention and release
17 projects; and

18 “(ii) storage projects that are eligible for study funding under subsection (a)(1)
19 of section 40902 of the Infrastructure Investment and Jobs Act (43 U.S.C. 3202),
20 if the amounts made available to the storage projects under this clause are
21 provided in accordance with subsections (b) and (c) of that section; and

22 “(B) construction of—

23 “(i) non-Federal storage projects, including natural water retention and release
24 projects; and

25 “(ii) storage projects that have received construction funding in accordance
26 with subsection (a)(2) of section 40902 of the Infrastructure Investment and Jobs
27 Act (43 U.S.C. 3202), if the amounts made available to the storage projects under
28 this clause are provided in accordance with subsections (b) and (c) of that section.

29 “(3) PRELIMINARY STUDIES.—Of the amounts made available under paragraph (1), not
30 more than 25 percent shall be provided for appraisal studies, feasibility studies, or other
31 preliminary studies.

32 “(4) OTHER STORAGE PROJECTS.—The funds appropriated under paragraph (1) may not be
33 used for storage projects other than the storage projects described in paragraph (2) unless
34 authorized by an Act of Congress.

35 “(5) USE OF FUNDING FOR PUBLIC BENEFITS.—

36 “(A) IN GENERAL.—The Federal share of the cost of public benefits provided by a
37 storage project described in paragraph (2) may be used for the capital and operations,
38 maintenance, and replacement costs of public benefits.

39 “(B) EFFECT.—Nothing in this paragraph precludes the Secretary from using other
40 authorities or appropriations for the capital and operations, maintenance, and

1 replacement costs of a non-Federal storage project to provide public benefits.”.

2 (b) Duration.—Section 4013(2) of the Water Infrastructure Improvements for the Nation Act
3 (43 U.S.C. 390b note; Public Law 114–322) is amended by striking “projects under construction
4 in”.

5 (c) Amendment to the Infrastructure Jobs and Investment Act.—Section 40902(a)(2)(C)(i) of
6 the Infrastructure Investment and Jobs Act (43 U.S.C. 3202(a)(2)(C)(i)) is amended by striking
7 “clause (i) or (ii)” and inserting “clause (i), (ii), or (iii)”.

8 (d) Authorization to Complete Storage Projects That Receive Construction Funding.—

9 (1) DEFINITION OF CONSTRUCTION.—In this subsection, the term “construction” has the
10 meaning given the term in section 4011(f) of the Water Infrastructure Improvements for the
11 Nation Act (Public Law 114–322; 130 Stat. 1881).

12 (2) EXTENSION OF EXISTING REQUIREMENTS.—A storage project that has received funding
13 for construction activities in accordance with section 40901(1) of the Infrastructure
14 Investment and Jobs Act (43 U.S.C. 3201(1)) shall be eligible for funding (including
15 funding authorized under this section or an amendment made by this section), to complete
16 construction of the project in accordance with the standards under section 40902 of that Act
17 (43 U.S.C. 3202).

18 (e) Calfed Reauthorization.—The Calfed Bay-Delta Authorization Act (Public Law 108–361;
19 118 Stat. 1681; 136 Stat. 221) is amended by striking “2022” each place it appears and inserting
20 “2028”.

21 SEC. 102. ANNUAL REPORT TO CONGRESS.

22 (a) Annual Reports.—Not later than February 1 of each year, the Secretary shall develop and
23 submit to the authorizing committees of Congress an annual report, to be entitled “Report to
24 Congress on Future Storage Project Development”, that identifies—

25 (1) each Federal storage project that the Secretary—

26 (A) has found to be feasible; and

27 (B) recommends that Congress authorize for construction;

28 (2) each non-Federal storage project that requires congressional authorization for which
29 the Secretary—

30 (A) has approved feasibility determinations; and

31 (B) recommends that Congress authorize the project for construction; and

32 (3) each feasibility report that the Secretary recommends that Congress authorize for
33 proposed Federal storage projects.

34 (b) Publication.—On submission of an annual report to Congress, the Secretary shall make the
35 annual report publicly available, including through publication on the internet.

36 SEC. 103. COMPETITIVE GRANT PROGRAM FOR THE 37 FUNDING OF WATER RECYCLING PROJECTS.

1 (a) Authorization of New Water Recycling Projects.—Section 1602 of the Reclamation
2 Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h) is amended—

3 (1) in subsection (e)(2)(B), by striking “in accordance with the reclamation laws”; and
4 (2) in subsection (f)—

5 (A) in paragraph (1), by striking “, subject to subsection (g)(2)”; and

6 (B) by striking paragraph (2) and all that follows through the end of subsection (g)
7 and inserting the following:

8 “(2) PRIORITIES AND DIVERSITY OF PROJECT TYPES.—In providing grants under paragraph
9 (1), the Secretary shall—

10 “(A) give priority to projects that—

11 “(i) are likely to provide a more-reliable water supply for a unit of State or local
12 government;

13 “(ii) are likely to increase the water management flexibility and reduce impacts
14 on environmental resources; or

15 “(iii) provide multiple benefits, including water supply reliability, ecosystem
16 benefits, system reliability benefits, groundwater management and enhancements,
17 and water quality improvements; and

18 “(B) take into consideration selecting a diversity of project types, including projects
19 that serve—

20 “(i) a region or more than 1 community;

21 “(ii) a rural or small community; or

22 “(iii) an urban community or city.

23 “(g) Authorization of Appropriations.—In addition to amounts made available under section
24 40901(4)(A) of the Infrastructure Investment and Jobs Act (43 U.S.C. 3201(4)(A)), there is
25 authorized to be appropriated to the Secretary to carry out subsections (e) and (f) \$300,000,000
26 for the period of fiscal years 2025 through 2029.”.

27 (b) Limitation on Funding.—Section 1631(d) of the Reclamation Wastewater and
28 Groundwater Study and Facilities Act (43 U.S.C. 390h–13(d)) is amended—

29 (1) in paragraph (1)—

30 (A) by striking “by paragraph (2)” and inserting “in paragraphs (2) and (3)”; and

31 (B) striking “\$20,000,000 (October 1996 prices)” and inserting “\$50,000,000 (in
32 prices as determined for January 2022)”; and

33 (2) in paragraph (2)—

34 (A) in subparagraph (B)—

35 (i) by striking “(B) In the case” and inserting the following:

36 “(B) SAN GABRIEL BASIN.—In the case”; and

1 (ii) by indenting clauses (i) and (ii) appropriately; and

2 (B) by striking “(2)(A) Subject to” and inserting the following:

3 “(2) PROJECTS FUNDED AS OF 2021.—The Federal share of the cost of any single project
4 authorized under this title shall be \$20,000,000 (October 1996 prices) if the project has
5 received that amount as of December 31, 2021.

6 “(3) OLDER PROJECTS.—

7 “(A) IN GENERAL.—Subject to”.

8 SEC. 104. ELIGIBLE DESALINATION PROJECT 9 DEVELOPMENT.

10 (a) Eligible Desalination Projects Authorization.—Section 4(a) of the Water Desalination Act
11 of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended by striking paragraph (2) and
12 inserting the following:

13 “(2) PROJECTS.—

14 “(A) DEFINITIONS.—In this paragraph:

15 “(i) ELIGIBLE DESALINATION PROJECT.—The term ‘eligible desalination project’
16 means any project located in a Reclamation State, or for which the construction,
17 operation, sponsorship, or funding is the responsibility of, and the primary water
18 supply benefit accrues to, 1 or more entities in a Reclamation State, that—

19 “(I) involves an ocean or brackish water desalination facility—

20 “(aa) constructed, operated, and maintained by a State, Indian Tribe,
21 irrigation district, water district, or other organization with water or
22 power delivery authority; or

23 “(bb) sponsored or funded by any combination of a State, department
24 of a State, political subdivision of a State, or public agency organized
25 pursuant to State law, including through—

26 “(AA) direct sponsorship or funding; or

27 “(BB) indirect sponsorship or funding, such as by paying for the
28 water provided by the facility;

29 “(II) provides a Federal benefit; and

30 “(III) is consistent with applicable Federal and State resource protection
31 laws, including any law relating to the protection of marine protected areas.

32 “(ii) AUTHORIZING COMMITTEES OF CONGRESS; FEDERAL BENEFIT;
33 RECLAMATION STATE.—The terms ‘authorizing committees of Congress’, ‘Federal
34 benefit’, and ‘Reclamation State’ have the meaning given the terms in section 2 of
35 the Support To Rehydrate the Environment, Agriculture, and Municipalities Act.

36 “(iii) RURAL DESALINATION PROJECT.—The term ‘rural desalination project’
37 means an eligible desalination project that is designed to serve a community or
38 group of communities, each of which has a population of not more than 25,000

1 inhabitants.

2 “(B) COST-SHARING REQUIREMENT.—

3 “(i) IN GENERAL.—Subject to the requirements of this subsection and
4 notwithstanding section 7, the Federal share of an eligible desalination project
5 carried out under this subsection shall be—

6 “(I) not more than 25 percent of the total cost of the eligible desalination
7 project; or

8 “(II) in the case of a rural desalination project, the applicable percentage
9 determined in accordance with clause (ii).

10 “(ii) RURAL DESALINATION PROJECTS.—

11 “(I) COST-SHARING REQUIREMENT FOR APPRAISAL STUDIES.—Subject to
12 subclause (IV), in the case of a rural desalination project carried out under
13 this subsection, the Federal share of the cost of appraisal studies for the rural
14 desalination project shall be—

15 “(aa) 75 percent of the total costs of the appraisal studies, up to
16 \$200,000; and

17 “(bb) if the total costs of the appraisal studies are more than
18 \$200,000, 50 percent of any amounts over \$200,000.

19 “(II) COST-SHARING REQUIREMENT FOR FEASIBILITY STUDIES.—Subject to
20 subclause (IV), in the case of a rural desalination project carried out under
21 this subsection, the Federal share of the cost of feasibility studies for the
22 rural desalination project shall be not more than 50 percent.

23 “(III) COST-SHARING REQUIREMENT FOR CONSTRUCTION COSTS.—Subject
24 to subclause (IV), in the case of a rural desalination project carried out under
25 this subsection, the Federal share of the cost of construction of the rural
26 desalination project shall be not more than 75 percent.

27 “(IV) REDUCTION IN NON-FEDERAL SHARE.—The Secretary may reduce the
28 non-Federal share of a rural desalination project required under subclause (I),
29 (II), or (III) by not more than 10 percent if the Secretary determines, after
30 consultation with the heads of any other Federal agencies that are partners in
31 the rural desalination project and in accordance with applicable Reclamation
32 standards, that the reduction is appropriate due to—

33 “(aa) an overwhelming Federal interest in the rural desalination
34 project; and

35 “(bb) the sponsor of the rural desalination project demonstrating
36 financial hardship.

37 “(iii) LIMITATION.—Funding for a rural desalination project under clause (ii) or
38 the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3901 et
39 seq.) shall not be considered for purposes of the Federal share established under
40 this subparagraph.

1 “(C) STATE ROLE.—Participation by the Secretary in an eligible desalination project
2 under this paragraph shall not occur unless—

3 “(i)(I) the eligible desalination project is included in a State-approved plan; or

4 “(II) the participation has been requested by the Governor of the State in which
5 the eligible desalination project is located;

6 “(ii) the State or local sponsor of the eligible desalination project determines,
7 and the Secretary concurs, that—

8 “(I) the eligible desalination project—

9 “(aa) is technically and financially feasible;

10 “(bb) provides a Federal benefit; and

11 “(cc) is consistent with applicable Federal and State laws (including
12 regulations);

13 “(II) sufficient non-Federal funding is available to complete the eligible
14 desalination project; and

15 “(III) the non-Federal project sponsor is financially capable of funding the
16 non-Federal share of the project costs; and

17 “(iii) the Secretary submits to the authorizing committees of Congress and
18 makes publicly available on the internet a written notification of the
19 determinations under clause (ii) by not later than 30 days after the date of the
20 determinations.

21 “(D) ENVIRONMENTAL LAWS.—To be eligible to receive a grant under this
22 subsection, a desalination project shall comply with—

23 “(i) applicable Federal environmental laws, including the National
24 Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

25 “(ii) applicable State environmental laws.

26 “(E) INFORMATION.—In participating in an eligible desalination project under this
27 subsection, the Secretary—

28 “(i) may rely on reports prepared by the sponsor of the eligible desalination
29 project, including feasibility or equivalent studies, environmental analyses, and
30 other pertinent reports and analyses; but

31 “(ii) shall retain responsibility for making the independent determinations
32 described in subparagraph (C).

33 “(F) FUNDING.—

34 “(i) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made
35 available under section 40901(5) of the Infrastructure Investment and Jobs Act
36 (43 U.S.C. 3201(5)), there is authorized to be appropriated to carry out this
37 paragraph \$150,000,000 for the period of fiscal years 2025 through 2029, of
38 which not less than \$10,000,000 shall be made available during the period for
39 rural desalination projects.

1 “(ii) FUNDING OPPORTUNITY ANNOUNCEMENT.—The Commissioner of
2 Reclamation shall release a funding opportunity announcement for a grant
3 program under this paragraph by not later than 75 days after the date of enactment
4 of an Act that provides funding for the program.”.

5 (b) Prioritization of Projects.—Section 4 of the Water Desalination Act of 1996 (42 U.S.C.
6 10301 note; Public Law 104–298) is amended by striking subsection (c) and inserting the
7 following:

8 “(c) Prioritization.—In carrying out demonstration and development activities under this
9 section, the Secretary shall prioritize projects—

10 “(1) for the benefit of drought-stricken States and communities;

11 “(2) for the benefit of States that have authorized funding for research and development
12 of desalination technologies and projects;

13 “(3) that demonstrably improve self-reliance on local or regional water supplies in the
14 case of any project sponsors that rely on imported water supplies that have an impact on
15 species listed under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

16 “(4) that demonstrably leverage the experience of or partner with—

17 “(A) international entities with considerable expertise in desalination, such as Israel;
18 or

19 “(B) nonprofit water research foundations or institutions with expertise in
20 technology innovation to advance sustainable desalination processes or brine
21 management;

22 “(5) located in a region that—

23 “(A) is impacted by salinity or brackish groundwater; and

24 “(B) has agricultural production of national importance;

25 “(6) that support regional stakeholder-based planning and implementation efforts to
26 manage brine and salinity for sustainability and improvement of groundwater quality within
27 an approved basin plan;

28 “(7) that maximize the use of renewable energy to power desalination facilities;

29 “(8) that maximize energy efficiency so that the lifecycle energy demands of desalination
30 are minimized;

31 “(9) located in a region that has employed strategies to increase water conservation and
32 the capture and recycling of wastewater and stormwater; and

33 “(10) that, in the case of ocean desalination facilities—

34 “(A)(i) use a subsurface intake; or

35 “(ii) if a subsurface intake is not feasible, use an intake that uses the best available
36 site, design, technology, and mitigation measures to minimize the mortality of all
37 forms of marine life and impacts to coastal-dependent resources;

38 “(B) are sited and designed to ensure that the disposal of wastewater (including

1 brine from the desalination process)—

2 “(i) is not discharged in a manner that increases salinity levels in Federal or
3 State marine protected areas; and

4 “(ii) achieves ambient salinity levels within a reasonable distance from the
5 discharge point;

6 “(C) are sited, designed, and operated in a manner that maintains indigenous marine
7 life and a healthy and diverse marine community within a reasonable distance from the
8 discharge point;

9 “(D) do not cause significant unmitigated harm to aquatic life; and

10 “(E) include a construction and operation plan designed to minimize loss of coastal
11 habitat as well as aesthetic, noise, and air quality impacts.”.

12 (c) Priority Scoring System.—As soon as practicable after the date of enactment of this Act,
13 for purposes of making recommendations to Congress for projects to be carried out under section
14 4 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298), the
15 Commissioner of Reclamation shall establish a priority scoring system that provides for the
16 assignment of priority scores for the projects based on the prioritization criteria established under
17 subsection (c) of that section.

18 (d) Other Requirements.—Non-Federal entities that receive Federal assistance for projects or
19 facilities authorized under this Act shall implement the projects or facilities consistent with the
20 standards for activities assisted under section 401 of the Safe Drinking Water Act Amendments
21 of 1996 (42 U.S.C. 300j–3c).

22 (e) Research Authority.—Section 8(a) of the Water Desalination Act of 1996 (42 U.S.C.
23 10301 note; Public Law 104–298) is amended—

24 (1) in the first sentence, by striking “2021” and inserting “2028”; and

25 (2) in the second sentence, by striking “\$1,000,000” and inserting “\$3,000,000”.

26 SEC. 105. DRINKING WATER ASSISTANCE FOR 27 DISADVANTAGED COMMUNITIES.

28 (a) In General.—In addition to any amounts appropriated under section 50231 of Public Law
29 117–169 (commonly known as the “Inflation Reduction Act of 2022”) (136 Stat. 2053) or any
30 amounts made available to carry out that section under any other law, there is authorized to be
31 appropriated to the Secretary to carry out that section \$100,000,000 for the period of fiscal years
32 2025 through 2029.

33 (b) Multiple Benefit Projects.—The Secretary is encouraged to use all or a portion of the funds
34 made available under subsection (a) to incorporate into multiple benefit projects features or
35 facilities to assist in providing domestic water supplies to disadvantaged communities.

36 SEC. 106. EXTRAORDINARY OPERATION AND 37 MAINTENANCE WORK; PROJECT MODIFICATION.

38 (a) Definitions.—Section 9601 of the Omnibus Public Land Management Act of 2009 (43

1 U.S.C. 510) is amended—

2 (1) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (4), (7),
3 (9), (10), (11), (12), and (3), respectively, and moving the paragraphs so as to appear in
4 numerical order;

5 (2) by inserting before paragraph (3) (as so redesignated) the following:

6 “(1) ADVERSE IMPACT.—The term ‘adverse impact’ means, with respect to a project
7 modification, a reduction in water quantity or quality or a change in the timing of water
8 deliveries available to a project beneficiary from the modified project as compared to the
9 water quantity or quality or timing of water deliveries from—

10 “(A) the project with the original capacity restored, if the extraordinary operation
11 and maintenance work under section 9603 is intended to restore lost project capacity;

12 “(B) the project prior to undertaking the planning and design, if the extraordinary
13 operation and maintenance work under section 9603 is for any purpose other than to
14 restore lost project capacity; or

15 “(C) project operations of the modified project without an increase in benefits for a
16 new project beneficiary under section 9603(e)(1)(E).

17 “(2) DISADVANTAGED COMMUNITY.—The term ‘disadvantaged community’ has the
18 meaning given the term ‘low-income community’ in section 45D(e) of the Internal Revenue
19 Code of 1986.”;

20 (3) by inserting after paragraph (4) (as so redesignated) the following:

21 “(5) NEW BENEFIT.—The term ‘new benefit’ means the increase in benefits of the
22 modified project compared to the benefits provided by—

23 “(A) the project with the original capacity restored, if the extraordinary operation
24 and maintenance work under section 9603 is intended to restore lost project capacity;
25 or

26 “(B) the project prior to undertaking the planning and design, if the extraordinary
27 operation and maintenance work under section 9603 is for any purpose other than to
28 restore lost project capacity.

29 “(6) PROJECT BENEFICIARY.—The term ‘project beneficiary’ means any entity that has a
30 repayment, long-term water service, or other form of long-term contract or agreement
31 executed pursuant to the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts
32 supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.), for water supply from
33 the project.”; and

34 (4) by inserting after paragraph (7) (as so redesignated) the following:

35 “(8) PUBLIC BENEFIT.—The term ‘public benefit’ has the meaning given the term in
36 section 2 of the Support To Rehydrate the Environment, Agriculture, and Municipalities
37 Act.”.

38 (b) Reimbursement of Costs.—Section 9603(b) of the Omnibus Public Land Management Act
39 of 2009 (43 U.S.C. 510b(b)) is amended—

40 (1) in paragraph (2), by striking “the costs” and inserting “from the Aging Infrastructure

1 Account established by subsection (d)(1) the costs, including reimbursable and
2 nonreimbursable costs,”; and

3 (2) by adding at the end the following:

4 “(4) DETERMINATION OF NONREIMBURSABLE COSTS.—Any costs advanced under
5 paragraph (2) that are allocated to nonreimbursable purposes of the project, including costs
6 to restore or add a public benefit, shall be considered to be nonreimbursable costs.”.

7 (c) Aging Infrastructure Account Conforming Amendments.—Section 9603(d) of the
8 Omnibus Public Land Management Act of 2009 (43 U.S.C. 510b(d)) is amended—

9 (1) in paragraph (1), in the matter preceding subparagraph (A), by striking “the funds”
10 and inserting “reimbursable funds”;

11 (2) in paragraph (2)—

12 (A) by striking “to fund” and inserting “to fund,”; and

13 (B) by striking “the funds for” and inserting “reimbursable funds for,”;

14 (3) in paragraph (3)(A), by striking “the amounts” and inserting “the reimbursable
15 amounts”; and

16 (4) in paragraph (4)(B)(i), by inserting “, including projects under subsection (e)” after
17 “this section”.

18 (d) Authorization to Modify Transferred Works to Increase Public Benefits and Other Project
19 Benefits as Part of Extraordinary Operation and Maintenance Work.—Section 9603 of the
20 Omnibus Public Land Management Act of 2009 (43 U.S.C. 510b) is amended by adding at the
21 end the following:

22 “(e) Authorization to Modify Transferred Works to Increase Public Benefits and Other Project
23 Benefits as Part of Extraordinary Operation and Maintenance Work.—

24 “(1) AUTHORIZATION; REQUIREMENTS.—

25 “(A) IN GENERAL.—The Secretary, in consultation with any transferred works
26 operating entity and any project beneficiaries and as part of extraordinary operation
27 and maintenance work under this section, may develop and carry out a proposal to
28 modify project features for transferred works to increase public benefits and other
29 project benefits, including carrying out a feasibility study and conducting any
30 applicable environmental analysis required for the proposal, subject to subparagraphs
31 (B) through (F).

32 “(B) MAXIMUM COST.—The maximum amount that may be added to the original
33 project cost as a result of a project modification under subparagraph (A) shall not
34 exceed—

35 “(i) an amount equal to 25 percent of the original cost of the project, in the case
36 of a project for which the original cost of the project exceeds \$100,000,000; or

37 “(ii) \$25,000,000, in the case of a project for which the original cost of the
38 project is not more than \$100,000,000.

39 “(C) PUBLIC BENEFITS.—In the case of a project modification under subparagraph

1 (A), not less than 50 percent of the new benefits provided by the modification of the
2 project shall be public benefits.

3 “(D) WRITTEN CONSENT REQUIRED.—A project modification under subparagraph
4 (A) shall not be constructed until the date on which the Secretary has obtained the
5 written consent of—

6 “(i) the transferred works operating entity; and

7 “(ii) consistent with paragraph (2), any project beneficiary that would
8 experience an adverse impact as a result of the modification of the project.

9 “(E) ADVERSE IMPACT.—Any benefits that accrue to a new project beneficiary
10 resulting from operations of the modified project shall not be increased without the
11 consent of existing project beneficiaries that would experience an adverse impact as a
12 result of the modification of the project.

13 “(F) REIMBURSEMENT OF COSTS.—The costs of planning, design, and environmental
14 compliance for a project modification under subparagraph (A) shall be reimbursed in
15 accordance with subsection (b), except that any of the costs that would otherwise be
16 allocated to a project beneficiary shall be considered nonreimbursable if the project
17 beneficiary does not receive any increase in long-term average annual water deliveries
18 as a result of the modification.

19 “(G) ELIGIBILITY OF CERTAIN PROJECT MODIFICATIONS.—If a project modification
20 that is otherwise eligible under subparagraph (A) was in the planning, design, or
21 construction phase as of December 31, 2022, the project modification shall remain
22 eligible to be developed under that subparagraph.

23 “(2) PROCEDURE FOR OBTAINING CONSENT AND TIME LIMITATION.—

24 “(A) INITIAL DETERMINATION.—The Secretary shall initially determine whether the
25 consent of a project beneficiary is required prior to construction under paragraph
26 (1)(D) based on whether the modification or subsequent operations of the modified
27 project would have any adverse impacts on a project beneficiary.

28 “(B) WRITTEN REQUEST FOR CONSENT.—The Secretary shall provide to the
29 transferred works operating entity and any project beneficiaries, in writing—

30 “(i) a description of the proposed modification and subsequent operations of the
31 project; and

32 “(ii)(I) a request for consent under paragraph (1)(D); or

33 “(II)(aa) an explanation that the Secretary has determined that no consent is
34 required under paragraph (1)(D); and

35 “(bb) a statement that if the project beneficiary believes that the consent of the
36 project beneficiary is required, the project beneficiary shall send to the Secretary a
37 reply not later than 30 days after the date of receipt of the notice that includes an
38 explanation of the reasons that the project beneficiary would experience adverse
39 impacts as a result of the project modification.

40 “(C) FINAL DETERMINATION.—

1 “(i) WRITTEN RESPONSE.—The Secretary shall respond in writing to any reply
2 from a project beneficiary under subparagraph (B)(ii)(II)(bb) stating whether or
3 not the Secretary determines that the project beneficiary would experience
4 adverse impacts as a result of the project modification.

5 “(ii) FINAL AGENCY ACTION.—A written determination by the Secretary under
6 clause (i) shall be considered to be a final agency action for purposes of section
7 704 of title 5, United States Code.

8 “(iii) WRITTEN REQUEST.—If the Secretary determines under clause (i) that the
9 project beneficiary would experience adverse impacts as a result of the project
10 modification, the Secretary shall send to the project beneficiary a written request
11 for consent in accordance with subparagraph (B)(ii).

12 “(D) TIME PERIOD FOR CONSENT.—

13 “(i) IN GENERAL.—If written consent required under paragraph (1)(D) is not
14 obtained by the date that is 1 year after the date on which written consent is
15 requested under subparagraph (B)(ii), the transferred works operating entity shall
16 proceed with extraordinary operation and maintenance work of the project
17 without the modification, unless the Secretary extends the time for consent under
18 clause (ii).

19 “(ii) EXTENSION.—At the discretion of the Secretary, the Secretary may elect to
20 extend the time for obtaining consent under paragraph (1)(D) by 1 year.

21 “(3) REALLOCATION OF COSTS BASED ON PROJECT CHANGES AND INCREASED PUBLIC
22 BENEFITS.—The Secretary shall allocate costs, including capital repayment costs and
23 operation and maintenance costs, for a project modification under paragraph (1), to provide
24 that—

25 “(A) the public benefits provided by the modified project, including associated
26 annual operation and maintenance costs, shall be nonreimbursable; and

27 “(B) the cost allocation of reimbursable costs to each project beneficiary reflects any
28 changes in the benefits that the modified project is providing to the project beneficiary.

29 “(4) INCENTIVE FOR BENEFITTING ENTITIES TO PARTICIPATE IN PROJECTS WITH INCREASED
30 PUBLIC BENEFITS.—The total amount of reimbursable capital costs, as determined under
31 paragraph (3), for a project modification that would increase public benefits without
32 increasing municipal, industrial, or irrigation benefits of a project, shall be reduced by 15
33 percent, with each project beneficiary to be responsible for 85 percent of the reimbursable
34 costs that would otherwise be allocated to the project beneficiary.

35 “(5) REIMBURSABLE FUNDS.—All reimbursable costs under this subsection shall be repaid
36 in accordance with subsection (b).”.

37 SEC. 107. USE OF REVENUE TO IMPROVE DROUGHT 38 RESILIENCE OR DAM SAFETY.

39 (a) Definitions.—In this section:

40 (1) DAM SAFETY INVESTMENT.—The term “dam safety investment” means a project to

1 satisfy dam safety standards —

2 (A) under the Federal Guidelines for Dam Safety issued by the Federal Emergency
3 Management Agency or the Interagency Committee on Dam Safety;

4 (B) under the Bureau of Reclamation Dam Safety Program, including repayment of
5 an obligation for a corrective action taken pursuant to that program; or

6 (C) required by the State in which a Bureau of Reclamation project or facility is
7 located.

8 (2) DROUGHT RESILIENCE INVESTMENT.—The term “drought resilience investment”
9 means—

10 (A) an improvement or addition to an eligible facility that will increase drought
11 resilience in a Reclamation State; or

12 (B) annual payments on repayment obligations incurred under section 9603 of the
13 Omnibus Public Land Management Act of 2009 (43 U.S.C. 510b).

14 (3) ELIGIBLE FACILITY.—The term “eligible facility” means—

15 (A) a project or facility owned by the Bureau of Reclamation; and

16 (B) a non-Federal facility that stores, transports, or delivers water to or from a
17 Bureau of Reclamation project or facility.

18 (4) ELIGIBLE TEMPORARY TRANSFER.—The term “eligible temporary transfer” means the
19 temporary and voluntary selling, leasing, or exchanging of water or water rights among
20 individuals or agencies that is allowable under the reclamation laws and the water law of the
21 applicable State.

22 (5) TRANSFEROR.—The term “transferor” means the holder of a water service, transferred
23 works, water repayment, or other contract that entitles the holder to water from a Bureau of
24 Reclamation project or facility that undertakes an eligible temporary transfer.

25 (b) Use of Revenue for Drought Resilience Investments or Dam Safety Investments.—

26 (1) IN GENERAL.—Notwithstanding the Act of February 25, 1920 (41 Stat. 451, chapter
27 86; 43 U.S.C. 521), or subsection J of section 4 of the Act of December 5, 1924 (43 Stat.
28 703, chapter 4; 43 U.S.C. 526), all amounts derived from an eligible temporary transfer that
29 would otherwise be deposited in the reclamation fund established by the first section of the
30 Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 391), shall remain available to
31 the transferor.

32 (2) USE OF FUNDS.—Any funds retained by a transferor under paragraph (1) may be—

33 (A) used for a drought resilience investment or dam safety investment; or

34 (B) placed in the reserve account of the transferor, to be used for future drought
35 resilience investments or dam safety investments, subject to paragraph (3).

36 (3) TRANSFER OF UNUSED FUNDS TO RECLAMATION FUND.—Any funds placed in the
37 reserve account of the transferor pursuant to paragraph (2)(B) that are not used for drought
38 resilience investments or dam safety investments by the date that is 10 years after the date
39 of the placement shall be transferred to the reclamation fund established by the first section

1 of the Act of June 17, 1902 (32 Stat. 388, chapter 1093).

2 (4) REPORTING.—The transferor shall report to the Commissioner of Reclamation on the
3 use of any uses of funds derived from an eligible temporary transfer.

4 (5) EFFECT OF SECTION.—

5 (A) IN GENERAL.—Nothing in this section—

6 (i) affects any other authority of the Secretary to use amounts derived from
7 revenues from a Bureau of Reclamation project; or

8 (ii) creates, impairs, alters, or supersedes a State water right.

9 (B) APPLICABLE LAW.—Any eligible temporary transfer shall comply with all
10 applicable—

11 (i) State water laws;

12 (ii) Federal laws and policies; and

13 (iii) interstate water compacts.

14 (c) Reclamation Laws.—This section supplements and amends the Act of June 17, 1902 (32
15 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et
16 seq.).

17 TITLE II—IMPROVED TECHNOLOGY AND DATA

18 SEC. 201. REAUTHORIZATION OF THE 19 TRANSBOUNDARY AQUIFER ASSESSMENT PROGRAM.

20 (a) Designation of Priority Transboundary Aquifers.—Section 4(c)(2) of the United States-
21 Mexico Transboundary Aquifer Assessment Act (42 U.S.C. 1962 note; Public Law 109–448) is
22 amended by striking “New Mexico or Texas” and inserting “New Mexico, Texas, or Arizona
23 (other than an aquifer underlying Arizona and Sonora, Mexico, that is partially within the Yuma
24 groundwater basin designated by the order of the Director of the Arizona Department of Water
25 Resources dated June 21, 1984)”.

26 (b) Reauthorization.—

27 (1) AUTHORIZATION OF APPROPRIATIONS.—Section 8(a) of the United States-Mexico
28 Transboundary Aquifer Assessment Act (42 U.S.C. 1962 note; Public Law 109–448) is
29 amended by striking “\$50,000,000 for the period of fiscal years 2007 through 2016” and
30 inserting “\$50,000,000 for the period of fiscal years 2025 through 2029”.

31 (2) SUNSET OF AUTHORITY.—Section 9 of the United States-Mexico Transboundary
32 Aquifer Assessment Act (42 U.S.C. 1962 note; Public Law 109–448) is amended by
33 striking “enactment of this Act” and inserting “enactment of the Support To Rehydrate the
34 Environment, Agriculture, and Municipalities Act”.

35 TITLE III—ECOSYSTEM RESTORATION AND 36 PROTECTION

SEC. 301. ECOSYSTEM RESTORATION.

(a) Definitions.—Section 40907 of the Infrastructure Investment and Jobs Act (43 U.S.C. 3207) is amended by striking subsection (a) and inserting the following:

“(a) Definitions.—In this section:

“(1) COMMITTEE.—The term ‘Committee’ means the Integrated Water Management Federal Leadership Committee established under subsection (f)(1).

“(2) ELIGIBLE APPLICANT.—The term ‘eligible applicant’ means—

“(A) a State;

“(B) a Tribal or local government;

“(C) an organization with power, water delivery, or water storage authority;

“(D) a regional authority; or

“(E) a nonprofit conservation organization.

“(3) PROJECT.—The term ‘project’ includes—

“(A) planning, design, permitting, and preconstruction activities;

“(B) construction, construction management, replacement, and other similar activities;

“(C) management activities, including the acquisition of an interest in land or water, including the acquisition of a conservation easement;

“(D) research, development, demonstration (including the demonstration of the scalability of a project or activity), and monitoring; and

“(E) project administration activities, including the payment of fees associated with implementing the project or activity.”.

(b) Requirements.—Section 40907(c)(1) of the Infrastructure Investment and Jobs Act (43 U.S.C. 3207(c)(1)) is amended by striking subparagraph (B) and inserting the following:

“(B) may not provide a grant to carry out a habitat restoration project the purpose of which is to meet existing environmental mitigation or compliance obligations that are express requirements of a permit or order issued under Federal or State law, unless such requirements expressly contemplate reliance on Federal funding in performance of the requirements.”; and

(c) Other Amendments.—Section 40907 of the Infrastructure Investment and Jobs Act (43 U.S.C. 3207) is amended by adding at the end the following:

“(e) Other Actions.—

“(1) IN GENERAL.—In addition to other activities authorized under this section, the Secretary may undertake actions and enter into contracts and agreements to implement projects that implement watershed health, including projects described in subsection (b)(3), that—

“(A) accomplish 1 or more of the purposes described in subsection (b); and

1 “(B) are consistent with the requirements described in subsection (c).

2 “(2) REIMBURSABILITY.—The expenditures of the Secretary under this subsection and
3 subsection (f) shall be nonreimbursable.

4 “(f) ‘Leave Behind’ Water Transfers.—

5 “(1) PURPOSE.—The purpose of this subsection is to authorize the Secretary to address
6 habitat needs and promote collaborative, multi-benefit water management through water
7 sharing arrangements that incorporate habitat and other public benefits into voluntary crop
8 idling water transfers.

9 “(2) AUTHORIZATION OF ACQUISITION.—In approving a water transfer within a Federal
10 reclamation project that results in voluntary fallowing of crop land in the Sacramento
11 Valley or Sacramento-San Joaquin River Delta, the Secretary may acquire a portion of the
12 volume of water made available for transfer if the Secretary determines that crop land idled
13 because of the transfer would create temporary wildlife habitat with the application of the
14 acquired water, subject to paragraph (3).

15 “(3) REQUIREMENTS.—In acquiring water pursuant to paragraph (2), the Secretary shall—

16 “(A) develop implementation guidelines in consultation with relevant stakeholders;

17 “(B) only acquire a portion of the volume of water made available for transfer if the
18 transferor and the transferee agree to the acquisition;

19 “(C) negotiate a mutually agreeable volume of water for acquisition with the
20 transferor and the transferee;

21 “(D) pay not more per volume of water than the price negotiated between the
22 transferor and transferee for the water to be transferred;

23 “(E) compensate the transferor for any reasonable incremental costs associated with
24 managing the water acquired to create temporary wildlife habitat; and

25 “(F) apply the acquired water to idled crop land to create temporary wildlife habitat.

26 “(4) PRIORITIZATION.—The Secretary shall give priority to approving and facilitating
27 transfers under this subsection that incorporate voluntary habitat and other public benefits
28 that exceed the benefits provided under regulatory requirements.

29 “(5) TREATMENT.—Water acquired by the Secretary under paragraph (2) shall be in
30 addition to, and not a substitute for, actions required to meet obligations under existing law,
31 including—

32 “(A) the Central Valley Project Improvement Act (title XXXIV of Public Law 102–
33 575; 106 Stat. 4706); and

34 “(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

35 “(6) REPORTING.—The Secretary shall annually submit to the authorizing committees of
36 Congress (as defined in section 2 of the Support To Rehydrate the Environment,
37 Agriculture, and Municipalities Act) a report that describes, for the period covered by the
38 report—

39 “(A) the volume of water acquired under paragraph (2); and

1 “(B) the extent and duration of temporary wildlife habitat created under that
2 paragraph.

3 “(g) Integrated Water Management Federal Leadership Committee for Assisting Projects at
4 the Request of a Sponsor.—

5 “(1) ESTABLISHMENT.—Not later than 180 days after the date on which an eligible entity
6 or qualified partner sponsoring a habitat restoration project that receives a grant under this
7 section submits to the Secretary a request for the establishment of the Integrated Water
8 Management Federal Leadership Committee, the Secretary shall establish the Integrated
9 Water Management Federal Leadership Committee.

10 “(2) CHAIRPERSON.—The Assistant Secretary for Water and Science of the Department
11 of the Interior shall—

12 “(A) serve as the chairperson of the Committee; and

13 “(B) coordinate the activities of, and communication among, members of the
14 Committee.

15 “(3) MEMBERSHIP.—The Committee shall include representatives of Federal agencies
16 with responsibility for water and natural resource issues, including representatives of—

17 “(A) the Bureau of Reclamation;

18 “(B) the United States Fish and Wildlife Service;

19 “(C) the National Marine Fisheries Service;

20 “(D) the Corps of Engineers;

21 “(E) the Environmental Protection Agency; and

22 “(F) the Department of Agriculture.

23 “(4) DUTIES AND RESPONSIBILITIES.—The members of the Committee shall establish the
24 duties and responsibilities of the Committee, including—

25 “(A) facilitating communication and collaboration among Federal agencies to
26 support and advance any projects for which an eligible entity or qualified partner
27 requests the assistance of the Committee;

28 “(B) ensuring the effective coordination among relevant Federal agencies and
29 departments to ensure accelerated implementation of any projects for which an eligible
30 entity or qualified partner requests the assistance of the Committee; and

31 “(C) making policy and budgetary recommendations, if determined to be appropriate
32 by the Committee, to support the implementation of projects.

33 “(5) PROJECT ASSISTANCE.—On request of an eligible entity or a qualified partner for a
34 habitat restoration project, the Committee shall assist that project with permit processing
35 and interagency coordination.

36 “(h) Authorization of Appropriations.—In addition to amounts made available under section
37 40901(11), there is authorized to be appropriated to the Secretary \$250,000,000 to carry out this
38 section for the period of fiscal years 2025 through 2029, of which—

1 “(1) \$150,000,000 shall be made available for the competitive grant program described in
2 subsection (b); and

3 “(2) \$100,000,000 shall be made available for other actions described in subsection (e)
4 and to carry out subsection (f).

5 “(i) Applicable Law.—Nothing in this section affects or modifies—

6 “(1) the obligations of the Secretary under—

7 “(A) the reclamation laws; or

8 “(B) Federal environmental laws, including—

9 “(i) the Central Valley Project Improvement Act (title XXXIV of Public Law
10 102–575; 106 Stat. 4706); and

11 “(ii) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or

12 “(2) the obligations of a non-Federal party to comply with applicable Federal and State
13 laws.”.

14 SEC. 302. PERFORMANCE-BASED RESTORATION 15 AUTHORITY.

16 (a) Definitions.—In this section:

17 (1) ELIGIBLE PROJECT.—The term “eligible project” means a habitat or ecosystem
18 restoration, mitigation, or enhancement project or activity authorized individually or
19 through an existing Federal program.

20 (2) ELIGIBLE RESTORATION PROVIDER.—The term “eligible restoration provider” means a
21 non-Federal for-profit or nonprofit organization, company, or corporation, or a State, Tribal,
22 or local government, that is bonded, insured, and experienced in financing and completing
23 successful habitat and restoration, mitigation, and enhancement activities.

24 (3) PERFORMANCE-BASED.—The term “performance-based” means, with respect to a
25 contract, grant agreement, cooperative agreement, or fixed amount award, a pay-for-
26 performance, pay-for-success, pay-for-results, or similar model by which the restoration
27 provider agrees to finance and complete habitat or ecosystem restoration, mitigation, or
28 enhancement activities, with payment to the restoration provider linked to delivery of
29 verifiable and successful ecological performance, based on metrics and the timeframe
30 established in advance by the Secretary.

31 (4) RESTORATION PROVIDER.—The term “restoration provider” means a non-Federal
32 organization that performs restoration services contracted for, agreed to, or awarded under a
33 contract or agreement entered into under subsection (b)(1).

34 (b) Authorization.—

35 (1) IN GENERAL.—Subject to subsection (j), in implementing existing authorities under
36 Federal law related to habitat and ecosystem restoration, mitigation, or enhancement, the
37 Secretary may enter into performance-based contracts, grant agreements, and cooperative
38 agreements, including providing funding through fixed amount awards, with eligible
39 restoration providers for the conduct of eligible projects for which ecological targets and

1 outcomes are—

2 (A) clearly defined;

3 (B) agreed to in advance; and

4 (C) capable of being successfully achieved.

5 (2) PERFORMANCE-BASED CONTRACTS.—For purposes of paragraph (1), the Secretary
6 may enter into performance-based contracts with eligible restoration providers experienced
7 in financing and completing successful ecological habitat and restoration, mitigation, and
8 enhancement activities.

9 (3) GRANTS AND AWARDS.—For purposes of paragraph (1), the Secretary—

10 (A) may provide funding through grant agreements and cooperative agreements,
11 including fixed amount awards, for eligible projects; and

12 (B) shall allow for the use of performance-based tools in the agreements and awards
13 described in subparagraph (A).

14 (4) PASS-THROUGH GRANTS AND AWARDS.—For purposes of paragraph (1), the
15 Secretary—

16 (A) may allow funding provided to States, local governments, Indian Tribes, and
17 nonprofit organizations to be passed through to third-party eligible restoration
18 providers under a contract or agreement entered into under that paragraph; and

19 (B) shall allow for the use of performance-based tools in grant and cooperative
20 agreements entered into with eligible restoration providers under that paragraph.

21 (5) MULTI-YEAR AGREEMENTS.—The Secretary may use performance-based contracts,
22 grant agreements, and cooperative agreements, including fixed amount awards, issued under
23 this section for multi-year agreements, including capacity for multi-year payment schedules
24 for professional services, subject to appropriations prior to obligation.

25 (c) Guidelines.—

26 (1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the
27 Secretary shall develop programmatic guidelines for the use of performance-based
28 contracts, grant agreements, and cooperative agreements for eligible projects authorized
29 under subsection (b)(1).

30 (2) CONSULTATION REQUIRED.—

31 (A) IN GENERAL.—In developing the guidelines under paragraph (1), the Secretary
32 shall consult with external organizations and other appropriate entities with experience
33 in performance-based contracts, agreements, or awards, consistent with sections 6302
34 through 6305 of title 31, United States Code.

35 (B) LIMITATION.—Consultation with the organizations and entities described in
36 subparagraph (A) shall not constitute or necessitate establishment of an advisory
37 committee under the Federal Advisory Committee Act (5 U.S.C. App.).

38 (3) REQUIREMENTS.—At a minimum, guidelines developed under paragraph (1) shall
39 include guidance on—

- 1 (A) appropriate proposal and evaluation criteria for eligible projects;
- 2 (B) eligibility criteria for restoration providers;
- 3 (C) criteria for defining achievable ecological outcomes; and
- 4 (D) determination of restoration provider financial assurances sufficient to ensure
- 5 ecological outcomes will be successfully achieved.

6 (d) Identification of Eligible Projects.—The Secretary shall—

7 (1) identify eligible projects for the use of contracts and agreements under subsection
8 (b)(1); and

9 (2) issue a request for proposals from eligible restoration providers to meet the ecological
10 requirements of habitat and ecosystem restoration, mitigation, and enhancement for the
11 eligible projects identified under paragraph (1).

12 (e) Certification.—After the date on which an eligible project identified under subsection
13 (d)(1) is completed, the Secretary shall certify that the work on the eligible project was
14 completed in accordance with the ecological requirements and outcomes defined in advance in
15 the applicable contract or agreement.

16 (f) Technical Assistance.—At the request of an eligible restoration provider entering into a
17 contract or agreement with the Secretary under subsection (b)(1), the Secretary may provide to
18 the eligible restoration provider technical assistance with respect to—

19 (1) conducting a study, engineering activity, or design activity related to an eligible
20 project carried out by the eligible restoration provider under this section; and

21 (2) obtaining permits necessary for the eligible project.

22 (g) Effect.—Nothing in this section authorizes the Secretary to waive—

23 (1) the obligations of the Secretary under—

24 (A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

25 (B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

26 (C) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); or

27 (D) any other provision of Federal environmental law; or

28 (2) the obligations of a non-Federal party to comply with applicable Federal and State
29 laws.

30 (h) Non-Federal Funding.—The restoration provider may finance the applicable non-Federal
31 share of an eligible project carried out under the authority provided under subsection (b)(1), on
32 the condition that the non-Federal cost-share responsibility remains with the non-Federal party.

33 (i) Cost Share.—Nothing in this section affects a cost-sharing requirement under Federal law
34 that is applicable to an eligible project carried out under the authority provided under subsection
35 (b)(1).

36 (j) Mitigation.—Nothing in this section authorizes Federal funding to meet existing
37 environmental mitigation or compliance obligations that are express requirements of a permit or
38 order issued under Federal or State law, unless the requirements expressly contemplate reliance

1 on Federal funding for the performance of the requirements.

2 (k) Report.—

3 (1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the
4 Secretary shall—

5 (A) submit to the authorizing committees of Congress and make publicly available a
6 report describing the results of activities carried out under the authority established
7 under subsection (b)(1), including any recommendations of the Secretary on whether
8 the authority or any component of the authorized activities should be implemented on a
9 national basis; and

10 (B) except as provided in subsection (g), identify any procedural requirements that
11 impede the use of performance-based contracts, grants, and cooperative agreements,
12 including fixed amount awards, for the development and completion of eligible
13 projects.

14 (2) ADDRESSING IMPEDIMENTS.—Not later than 1 year after the date on which the
15 Secretary identifies impediments, if any, under paragraph (1)(B), the Secretary shall
16 develop and implement programmatic procedures and approaches, including
17 recommendations to the authorizing committees of Congress on legislation, that would—

18 (A) to the extent practicable, address the impediments; and

19 (B) protect the public interest and any public investment in eligible projects carried
20 out under this section.

21 TITLE IV—MISCELLANEOUS

22 SEC. 401. MODIFICATIONS TO DROUGHT PROGRAM 23 UNDER THE RECLAMATION STATES EMERGENCY 24 DROUGHT RELIEF ACT OF 1991.

25 (a) Assistance During Drought; Water Purchases.—Section 101 of the Reclamation States
26 Emergency Drought Relief Act of 1991 (43 U.S.C. 2211) is amended—

27 (1) in subsection (a)—

28 (A) in the first sentence, by striking “Consistent” and inserting the following:

29 “(1) IN GENERAL.—Subject to paragraph (2) and consistent”;

30 (B) in paragraph (1) (as so designated), in the second sentence, by striking “Any
31 construction activities” and inserting the following:

32 “(2) LIMITATION.—Any construction activities”; and

33 (C) in paragraph (2) (as so designated), by striking “except that” and all that follows
34 through the period at the end and inserting the following: “except that the following
35 may be permanent facilities:

36 “(A) A construction project—

37 “(i) for which Federal expenditures are not more than \$30,000,000; and

1 “(ii) that is supported by—
2 “(I) the Governor or the relevant agency head of the affected State; or
3 “(II) if the construction project is on a reservation, by the affected Indian
4 Tribe.
5 “(B) A well drilled to minimize losses and damages from drought conditions that—
6 “(i) aligns with applicable local, State, or regional groundwater sustainability
7 goals; or
8 “(ii) supports drinking water supplies for a disadvantaged community (as
9 defined in section 2 of the Support To Rehydrate the Environment, Agriculture,
10 and Municipalities Act) or Indian Tribe.”; and

11 (2) by adding at the end the following:

12 “(e) Funding for Fee-based Environmental Programs.—

13 “(1) IN GENERAL.—For any fiscal year for which, due to a drought, as determined by the
14 Secretary, there are insufficient funds to carry out any environmental program that is funded
15 in whole or in part by fees based on the water volume of water delivered by a Federal
16 reclamation project (including fees collected under section 3407(c) of the Reclamation
17 Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4726)),
18 the Secretary may use other unobligated amounts made available to the Secretary to carry
19 out the environmental program for the fiscal year.

20 “(2) NONREIMBURSABLE FUNDS.—Notwithstanding any other provision of law, amounts
21 made available under paragraph (1) shall be nonreimbursable.

22 “(3) EFFECT.—Nothing in this subsection affects—

23 “(A) the authority of the Secretary to address insufficient funding for an
24 environmental program described in paragraph (1) that is not a result of a drought; or

25 “(B) the obligations of the Secretary to the environment under Federal law.”.

26 (b) Applicable Period of Drought Program.—Section 104 of the Reclamation States
27 Emergency Drought Relief Act of 1991 (43 U.S.C. 2214) is amended—

28 (1) by striking subsection (a) and inserting the following:

29 “(a) In General.—The programs and authorities established under this title shall not become
30 operative in any Reclamation State or in the State of Hawaii until the date on which—

31 “(1)(A) the Governor of the affected State, and the governing body of the affected Indian
32 Tribe with respect to a reservation, has made a request for temporary drought assistance;
33 and

34 “(B) the Secretary has determined that the temporary assistance is merited;

35 “(2) a drought emergency has been declared for a State or portion of a State by the
36 Governor of each affected State; or

37 “(3) a drought contingency plan is approved in accordance with title II.”; and

38 (2) in subsection (c), by striking “2021” and inserting “2031”.

1 (c) Municipal Wells; Funding Under the Infrastructure Investment and Jobs Act.—Section
2 9504(a)(3) of the Omnibus Public Land Management Act of 2009 (42 U.S.C. 10364(a)(3)) is
3 amended by adding at the end the following:

4 “(G) MUNICIPAL WELLS.—A grant or agreement entered into by the Secretary with
5 any eligible applicant under paragraph (1) to drill a groundwater well for municipal
6 supply to minimize losses and damages from drought conditions, including
7 construction activities to transport or otherwise convey groundwater pumped from the
8 well, shall not contribute to an increase in the net water use of the eligible applicant
9 beyond the period of any drought emergency, except if—

10 “(i) the groundwater well is for the purpose of supplying drinking water for a
11 disadvantaged community (as defined in section 2 of the Support To Rehydrate
12 the Environment, Agriculture, and Municipalities Act) or Indian Tribe; or

13 “(ii) the new groundwater use is partially offset by aquatic habitat
14 enhancement—

15 “(I) during the drought period; or

16 “(II) over the long-term, including a future drought period.

17 “(H) FUNDING UNDER THE INFRASTRUCTURE INVESTMENT AND JOBS ACT.—For
18 purposes of amounts made available to carry out this section under paragraph (7) of
19 section 40901 of the Infrastructure Investment and Jobs Act (43 U.S.C. 3201) for each
20 of fiscal years 2025 and 2026, projects or activities eligible for funding under that
21 paragraph may include a combination of proposed planning activities, actions, or
22 projects within a basin, with the maximum amount of the combined activities not to
23 exceed the maximum amount established under subparagraph (E)(iii).”.

24 SEC. 402. ENVIRONMENTAL COMPLIANCE.

25 No water recycling project, non-Federal storage project, eligible desalination project, or a
26 project eligible for amounts made available under section 105 shall receive Federal funding
27 under this Act unless the applicable project complies with—

28 (1) applicable Federal environmental laws; and

29 (2) applicable State environmental laws.

30 SEC. 403. EFFECT.

31 Nothing in this Act or an amendment made by this Act shall be interpreted or implemented in
32 a manner that interferes with any obligation of a State under the Rio Grande Compact or any
33 other compact approved by Congress under the Act of May 31, 1939 (53 Stat. 785, chapter 155),
34 or any litigation relating to the Rio Grande Compact or other compact.

1 Title: To amend the Omnibus Public Land Management Act of 2009 to authorize the
2 modification of transferred works to increase public benefits and other project benefits as part of
3 extraordinary operation and maintenance work, and for other purposes.
4
5

6 Be it enacted by the Senate and House of Representatives of the United States of America in
7 Congress assembled,

8 SECTION 1. SHORT TITLE.

9 This Act may be cited as the “Restore Aging Infrastructure Now Act” or the “RAIN Act”.

10 SEC. 2. EXTRAORDINARY OPERATION AND 11 MAINTENANCE WORK; PROJECT MODIFICATION.

12 (a) Definitions.—Section 9601 of the Omnibus Public Land Management Act of 2009 (43
13 U.S.C. 510) is amended—

14 (1) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (4), (7),
15 (9), (10), (11), (12), and (3), respectively, and moving the paragraphs so as to appear in
16 numerical order;

17 (2) by inserting before paragraph (3) (as so redesignated) the following:

18 “(1) ADVERSE IMPACT.—The term ‘adverse impact’ means, with respect to a project
19 modification, a reduction in water quantity or quality or a change in the timing of water
20 deliveries available to a project beneficiary from the modified project as compared to the
21 water quantity or quality or timing of water deliveries from—

22 “(A) the project with the original capacity restored, if the extraordinary operation
23 and maintenance work under section 9603 is intended to restore lost project capacity;

24 “(B) the project prior to undertaking the planning and design, if the extraordinary
25 operation and maintenance work under section 9603 is for any purpose other than to
26 restore lost project capacity; or

27 “(C) project operations of the modified project without an increase in benefits for a
28 new project beneficiary under section 9603(e)(1)(E).

29 “(2) DISADVANTAGED COMMUNITY.—The term ‘disadvantaged community’ has the
30 meaning given the term ‘low-income community’ in section 45D(e) of the Internal Revenue
31 Code of 1986.”;

32 (3) by inserting after paragraph (4) (as so redesignated) the following:

33 “(5) NEW BENEFIT.—The term ‘new benefit’ means the increase in benefits of the
34 modified project compared to the benefits provided by—

35 “(A) the project with the original capacity restored, if the extraordinary operation
36 and maintenance work under section 9603 is intended to restore lost project capacity;
37 or

38 “(B) the project prior to undertaking the planning and design, if the extraordinary

1 operation and maintenance work under section 9603 is for any purpose other than to
2 restore lost project capacity.

3 “(6) PROJECT BENEFICIARY.—The term ‘project beneficiary’ means any entity that has a
4 repayment, long-term water service, or other form of long-term contract or agreement
5 executed pursuant to the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts
6 supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.), for water supply from
7 the project.”; and

8 (4) by inserting after paragraph (7) (as so redesignated) the following:

9 “(8) PUBLIC BENEFIT.—The term ‘public benefit’, with respect to a modified project,
10 means—

11 “(A) a public benefit identified under the reclamation laws; or

12 “(B) a drinking water benefit for 1 or more disadvantaged communities, including
13 through groundwater recharge, if—

14 “(i) the drinking water meets applicable regulatory standards;

15 “(ii) the drinking water benefit exceeds express mitigation or compliance
16 requirements under Federal or State law;

17 “(iii) the modified project reduces the unit cost per volume, improves water
18 quality, or increases the reliability or quantity of the drinking water supply of the
19 disadvantaged community as compared to the condition of the drinking water or
20 other sources of drinking water available before the modification of the project;

21 “(iv) the drinking water benefit is quantified in a public process, including
22 outreach to representatives of the affected disadvantaged community at the
23 earliest practicable opportunity, to determine the scope of funding; and

24 “(v) negative impacts on water quality for other communities are not caused as
25 part of the modified project.”.

26 (b) Reimbursement of Costs.—Section 9603(b) of the Omnibus Public Land Management Act
27 of 2009 (43 U.S.C. 510b(b)) is amended—

28 (1) in paragraph (2), by striking “the costs” and inserting “from the Aging Infrastructure
29 Account established by subsection (d)(1) the costs, including reimbursable costs and
30 nonreimbursable costs,”; and

31 (2) by adding at the end the following:

32 “(4) DETERMINATION OF NONREIMBURSABLE COSTS.—Any costs advanced under
33 paragraph (2) that are allocated to nonreimbursable purposes of the project, including costs
34 to restore or add a public benefit, shall be considered to be nonreimbursable costs.”.

35 (c) Aging Infrastructure Account Conforming Amendments.—Section 9603(d) of the
36 Omnibus Public Land Management Act of 2009 (43 U.S.C. 510b(d)) is amended—

37 (1) in paragraph (1), in the matter preceding subparagraph (A), by striking “the funds”
38 and inserting “reimbursable funds”;

39 (2) in paragraph (2)—

1 (A) by striking “to fund” and inserting “to fund,”; and

2 (B) by striking “the funds for” and inserting “reimbursable funds for,”;

3 (3) in paragraph (3)(A), by striking “the amounts” and inserting “the reimbursable
4 amounts”; and

5 (4) in paragraph (4)(B)(i), by inserting “, including projects under subsection (e)” after
6 “this section”.

7 (d) Authorization to Modify Transferred Works to Increase Public Benefits and Other Project
8 Benefits as Part of Extraordinary Operation and Maintenance Work.—Section 9603 of the
9 Omnibus Public Land Management Act of 2009 (43 U.S.C. 510b) is amended by adding at the
10 end the following:

11 “(e) Authorization to Modify Transferred Works to Increase Public Benefits and Other Project
12 Benefits as Part of Extraordinary Operation and Maintenance Work.—

13 “(1) AUTHORIZATION; REQUIREMENTS.—

14 “(A) IN GENERAL.—The Secretary, in consultation with any transferred works
15 operating entity and any project beneficiaries and as part of extraordinary operation
16 and maintenance work under this section, may develop and carry out a proposal to
17 modify project features for transferred works to increase public benefits and other
18 project benefits, including carrying out a feasibility study and conducting any
19 applicable environmental analysis required for the proposal, subject to subparagraphs
20 (B) through (G).

21 “(B) MAXIMUM COST.—The maximum amount that may be added to the original
22 project cost as a result of a project modification under subparagraph (A) shall not
23 exceed—

24 “(i) an amount equal to 25 percent of the original cost of the project, in the case
25 of a project for which the original cost of the project exceeds \$100,000,000; or

26 “(ii) \$25,000,000, in the case of a project for which the original cost of the
27 project is not more than \$100,000,000.

28 “(C) PUBLIC BENEFITS.—In the case of a project modification under subparagraph
29 (A), not less than 50 percent of the new benefits provided by the modification of the
30 project shall be public benefits.

31 “(D) WRITTEN CONSENT REQUIRED.—A project modification under subparagraph
32 (A) shall not be constructed until the date on which the Secretary has obtained the
33 written consent of—

34 “(i) the transferred works operating entity; and

35 “(ii) consistent with paragraph (2), any project beneficiary that would
36 experience an adverse impact as a result of the modification of the project.

37 “(E) ADVERSE IMPACT.—Any benefits that accrue to a new project beneficiary
38 resulting from operations of the modified project shall not be increased without the
39 consent of existing project beneficiaries that would experience an adverse impact as a
40 result of the modification of the project.

1 “(F) REIMBURSEMENT OF COSTS.—The costs of planning, design, and environmental
2 compliance for a project modification under subparagraph (A) shall be reimbursed in
3 accordance with subsection (b), except that any of the costs that would otherwise be
4 allocated to a project beneficiary shall be considered nonreimbursable if the project
5 beneficiary does not receive any increase in long-term average annual water deliveries
6 as a result of the modification.

7 “(G) ELIGIBILITY OF CERTAIN PROJECT MODIFICATIONS.—If a project modification
8 that is otherwise eligible under subparagraph (A) is in the planning, design, or
9 construction phase as of December 31, 2022, the project modification shall remain
10 eligible to be developed under that subparagraph.

11 “(2) PROCEDURE FOR OBTAINING CONSENT AND TIME LIMITATION.—

12 “(A) INITIAL DETERMINATION.—The Secretary shall initially determine whether the
13 consent of a project beneficiary is required prior to construction under paragraph
14 (1)(D) based on whether the modification or subsequent operations of the modified
15 project would have any adverse impacts on a project beneficiary.

16 “(B) WRITTEN REQUEST FOR CONSENT.—The Secretary shall provide to the
17 transferred works operating entity, and any project beneficiaries, in writing—

18 “(i) a description of the proposed modification and subsequent operations of the
19 project; and

20 “(ii)(I) a request for consent under paragraph (1)(D); or

21 “(II)(aa) an explanation that the Secretary has determined that no consent is
22 required under paragraph (1)(D); and

23 “(bb) a statement that if the project beneficiary believes that the consent of the
24 project beneficiary is required, the project beneficiary shall send to the Secretary a
25 reply not later than 30 days after the date of receipt of the notice that includes an
26 explanation of the reasons that the project beneficiary would experience adverse
27 impacts as a result of the project modification.

28 “(C) FINAL DETERMINATION.—

29 “(i) WRITTEN RESPONSE.—The Secretary shall respond in writing to any reply
30 from a project beneficiary under subparagraph (B)(ii)(II)(bb) stating whether or
31 not the Secretary determines that the project beneficiary would experience
32 adverse impacts as a result of the project modification.

33 “(ii) FINAL AGENCY ACTION.—A written determination by the Secretary under
34 clause (i) shall be considered to be a final agency action for purposes of section
35 704 of title 5, United States Code.

36 “(iii) WRITTEN REQUEST.—If the Secretary determines under clause (i) that the
37 project beneficiary would experience adverse impacts as a result of the project
38 modification, the Secretary shall send to the project beneficiary a written request
39 for consent in accordance with subparagraph (B)(ii).

40 “(D) TIME PERIOD FOR CONSENT.—

1 “(i) IN GENERAL.—If written consent required under paragraph (1)(D) is not
2 obtained by the date that is 1 year after the date on which written consent is
3 requested under subparagraph (B)(ii), the transferred works operating entity shall
4 proceed with extraordinary operation and maintenance work of the project
5 without the modification, unless the Secretary extends the time for consent under
6 clause (ii).

7 “(ii) EXTENSION.—At the discretion of the Secretary, the Secretary may elect to
8 extend the time for obtaining consent under paragraph (1)(D) by 1 year.

9 “(3) REALLOCATION OF COSTS BASED ON PROJECT CHANGES AND INCREASED PUBLIC
10 BENEFITS.—The Secretary shall allocate costs, including capital repayment costs and
11 operation and maintenance costs, for a project modification under paragraph (1), to provide
12 that—

13 “(A) the public benefits provided by the modified project, including associated
14 annual operation and maintenance costs, shall be nonreimbursable; and

15 “(B) the cost allocation of reimbursable costs to each project beneficiary reflects any
16 changes in the benefits that the modified project is providing to the project beneficiary.

17 “(4) INCENTIVE FOR BENEFITTING ENTITIES TO PARTICIPATE IN PROJECTS WITH INCREASED
18 PUBLIC BENEFITS.—The total amount of reimbursable capital costs, as determined under
19 paragraph (3), for a project modification that would increase public benefits without
20 increasing municipal, industrial, or irrigation benefits of a project, shall be reduced by 15
21 percent, with each project beneficiary to be responsible for 85 percent of the reimbursable
22 costs that would otherwise be allocated to the project beneficiary.

23 “(5) REIMBURSABLE FUNDS.—All reimbursable costs under this subsection shall be repaid
24 in accordance with subsection (b).”.

25 SEC. 3. URBAN CANALS OF CONCERN.

26 (a) Definitions.—Section 9601 of the Omnibus Public Land Management Act of 2009 (43
27 U.S.C. 510) (as amended by section 2(a)) is amended by adding at the end the following:

28 “(13) URBAN CANAL OF CONCERN.—The term ‘urban canal of concern’ means a
29 transferred works or segment of a transferred works—

30 “(A) that conveys water through an urban area; and

31 “(B) with respect to which the Secretary determines that the failure or malfunction
32 of the canal would place at risk the public or property, pursuant to the guidelines and
33 criteria developed under section 9602(a).”.

34 (b) Extraordinary Maintenance and Operation Work on Urban Canals of Concern.—Section
35 9603 of the Omnibus Public Land Management Act of 2009 (43 U.S.C. 510b) (as amended by
36 section 2(d)) is amended by adding at the end the following:

37 “(f) Extraordinary Operation and Maintenance Work on Urban Canals of Concern.—

38 “(1) IN GENERAL.—The Secretary or the transferred works operating entity shall carry out
39 any extraordinary operation and maintenance work on an urban canal of concern that the
40 transferred works operating entity, with the concurrence of the Secretary, determines to be

1 necessary.

2 “(2) FUNDING.—In the case of extraordinary operation and maintenance work on an
3 urban canal of concern authorized under paragraph (1) or if the Secretary determines that a
4 project facility inspected and maintained pursuant to the guidelines and criteria set forth in
5 section 9602(a) requires extraordinary operation and maintenance work pursuant to
6 paragraph (1), the Secretary shall provide Federal funds on a nonreimbursable basis
7 sufficient to cover 35 percent of the portion of total cost of the extraordinary operation and
8 maintenance work allocable to the transferred works operating entity that is needed to carry
9 out the extraordinary operation and maintenance work on the urban canal of concern, with
10 the remaining share of any additional Federal funds advanced by the Secretary for the
11 extraordinary operation and maintenance work to be repaid under subsection (b).

12 “(g) Reimbursable Funds.—Any reimbursable funds provided under this section shall be
13 considered to be a non-Federal source of funds for purposes of any cost-sharing requirement for
14 a Federal grant.”.

118TH CONGRESS
1ST SESSION

S. 658

To amend the Food Security Act of 1985 to make adjustments to the environmental quality incentives program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 6, 2023

Mr. BOOKER (for himself and Mr. LEE) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Food Security Act of 1985 to make adjustments to the environmental quality incentives program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “EQIP Improvement
5 Act of 2023”.

6 **SEC. 2. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM**
7 **REFORMS.**

8 (a) IN GENERAL.—Section 1240B of the Food Secu-
9 rity Act of 1985 (16 U.S.C. 3839aa–2) is amended—

1 (1) in subsection (d), by striking paragraph (2)
2 and inserting the following:

3 “(2) LIMITATION ON PAYMENTS.—A payment
4 to a producer for performing a practice may not ex-
5 ceed, as determined by the Secretary—

6 “(A) except as provided in subparagraphs
7 (B) through (D), 75 percent of the costs associ-
8 ated with planning, design, materials, equip-
9 ment, installation, labor, management, mainte-
10 nance, or training;

11 “(B) 40 percent of the costs associated
12 with planning, design, materials, equipment, in-
13 stallation, labor, management, maintenance, or
14 training for—

15 “(i) an access road;

16 “(ii) an animal mortality facility;

17 “(iii) an aquaculture pond;

18 “(iv) clearing and snagging;

19 “(v) a dam;

20 “(vi) a dam using a diversion;

21 “(vii) a dike;

22 “(viii) a diversion;

23 “(ix) a fish raceway or tank;

24 “(x) an irrigation pipeline;

25 “(xi) an irrigation reservoir;

- 1 “(xii) land clearing;
- 2 “(xiii) land smoothing;
- 3 “(xiv) a livestock pipeline;
- 4 “(xv) obstruction removal;
- 5 “(xvi) a pond;
- 6 “(xvii) a pumping plant;
- 7 “(xviii) spoil spreading;
- 8 “(xix) a surface drain using a field
- 9 ditch;
- 10 “(xx) a main or lateral surface drain;
- 11 “(xxi) a vertical drain;
- 12 “(xxii) a waste facility closure;
- 13 “(xxiii) a waste storage facility;
- 14 “(xxiv) waste transfer; or
- 15 “(xxv) a waste treatment lagoon;
- 16 “(C) 100 percent of income foregone by
- 17 the producer; or
- 18 “(D) in the case of a practice that includes
- 19 1 or more elements described in subparagraphs
- 20 (A) through (C)—
- 21 “(i) 75 percent of the costs incurred
- 22 with respect to any elements described in
- 23 subparagraph (A);

1 “(ii) 40 percent of the costs incurred
2 with respect to any elements described in
3 subparagraph (B); and

4 “(iii) 100 percent of the income for-
5 gone with respect to any elements de-
6 scribed in subparagraph (C).”; and

7 (2) in subsection (f), by striking the subsection
8 designation and heading and all that follows through
9 “*For each*” in paragraph (2)(B) and inserting the
10 following:

11 “(f) ALLOCATION OF FUNDING FOR WILDLIFE HABITAT.—*For each*”.

12 (b) LIMITATION ON PAYMENTS.—Section 1240G of
13 the Food Security Act of 1985 (16 U.S.C. 3839aa–7) is
14 amended by striking “\$450,000” and inserting
15 “\$150,000”.

16 (c) REPORT TO CONGRESS.—Section 1240B of the
17 Food Security Act of 1985 (16 U.S.C. 3839aa–2) is
18 amended by adding at the end the following:

19 “(k) ANNUAL REPORT TO CONGRESS.—Not less fre-
20 quently than once each year, the Secretary shall submit
21 to Congress a report describing—

22 “(1) the amount obligated under the program
23 with respect to each category of practice, with infor-
24 mation categorized by fiscal year and State; and
25

1 “(2) the amount obligated under the program
2 in each State, with information categorized by fiscal
3 year and the size of the operation of each pro-
4 ducer.”.

○

AMENDED IN ASSEMBLY MARCH 9, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 754

Introduced by Assembly Member Papan

February 13, 2023

An act to amend ~~Section 1020~~ Sections 10620, 10631, and 10826 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 754, as amended, Papan. Water ~~leases~~: *management planning: automatic conservation plan.*

(1) Existing law, the Urban Water Management Planning Act, requires every public and private urban water supplier that directly or indirectly provides water for municipal purposes to prepare and adopt an urban water management plan. Existing law requires an urban water management plan to quantify past, current, and projected water use, identifying the uses among water use sectors, including, among others, commercial, agricultural, and industrial. Existing law requires an urban water management plan to identify and quantify, to the extent practicable, the existing and planned sources of water available to the supplier over a specified period of time, providing supporting and related information, including, among other things, a description of the management of each supply in correlation with the other identified supplies when multiple sources of water supply are identified.

This bill would additionally require an urban water management plan, if a reservoir is identified as an existing or planned source of water available to the supplier, to include specified information related to water storage and conservation, including, among other things, a target water supply storage curve, calculated as provided, and an

automatic conservation plan that would be implemented when the reservoir storage level falls below the target water supply storage curve. The bill would require the automatic conservation plan to contain specified information regarding, among other things, response actions to be taken when water storage falls to specified storage levels.

(2) Existing law requires an agricultural water supplier to prepare and adopt an agricultural water management plan with specified components on or before December 31, 2012, and to update those plans on or before December 31, 2015, and on or before April 1, 2021, and thereafter on or before April 1 in the years ending in 6 and one. Existing law requires an agricultural water supplier to submit its plan to the Department of Water Resources no later than 30 days after the adoption of the plan and requires the department to review an agricultural water management plan and notify an agricultural water supplier if the department determines that it is noncompliant, as provided. Existing law requires an agricultural water supplier to submit copies of its plan to specified entities no later than 30 days after the department's review of the plan and requires the department to submit its report summarizing the status of the plans to the Legislature on or before April 30 in the years ending in 7 and 2.

This bill would additionally require an agricultural water management plan, if a reservoir is identified as an existing or planned source of water available to the supplier, to include specified information related to water storage and conservation, including, among other things, a target water supply storage curve, calculated as provided, and an automatic conservation plan that is implemented when the reservoir storage level falls below the target water supply storage curve. The bill would require the automatic conservation plan to contain specified information regarding, among other things, response actions to be taken when water storage falls to specified storage levels.

~~Existing law authorizes surface water to be leased for a period not to exceed 5 years to assist water conservation efforts pursuant to specified terms and conditions.~~

~~This bill would make a nonsubstantive change in these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 **SECTION 1.** *Section 10620 of the Water Code is amended to*
2 *read:*

3 10620. (a) Every urban water supplier shall prepare and adopt
4 an urban water management plan in the manner set forth in Article
5 3 (commencing with Section 10640).

6 (b) Every person that becomes an urban water supplier shall
7 adopt an urban water management plan within one year after it
8 has become an urban water supplier.

9 (c) An urban water supplier indirectly providing water shall not
10 include planning elements in its water management plan as
11 provided in Article 2 (commencing with Section 10630) that would
12 be applicable to urban water suppliers or public agencies directly
13 providing water, or to their customers, without the consent of those
14 suppliers or public agencies.

15 (d) (1) An urban water supplier may satisfy the requirements
16 of this part by participation in areawide, regional, watershed, or
17 basinwide urban water management planning where those plans
18 will reduce preparation costs and contribute to the achievement of
19 conservation, efficient water use, and improved local drought
20 resilience.

21 (2) Notwithstanding paragraph (1), each urban water supplier
22 shall develop its own water shortage contingency ~~plan~~, *plan and*
23 *automatic conservation plan*, but an urban water supplier may
24 incorporate, collaborate, and otherwise share information with
25 other urban water suppliers or other governing entities participating
26 in an areawide, regional, watershed, or basinwide urban water
27 management plan, an agricultural management plan, or
28 groundwater sustainability plan development.

29 (3) Each urban water supplier shall coordinate the preparation
30 of its plan with other appropriate agencies in the area, including
31 other water suppliers that share a common source, water
32 management agencies, and relevant public agencies, to the extent
33 practicable.

34 (e) The urban water supplier may prepare the plan with its own
35 staff, by contract, or in cooperation with other governmental
36 agencies.

37 (f) An urban water supplier shall describe in the plan water
38 management tools and options used by that entity that will

1 maximize resources and minimize the need to import water from
2 other regions.

3 *SEC. 2. Section 10631 of the Water Code is amended to read:*
4 10631. A plan shall be adopted in accordance with this chapter
5 that shall do all of the following:

6 (a) Describe the service area of the supplier, including current
7 and projected population, climate, and other social, economic, and
8 demographic factors affecting the supplier's water management
9 planning. The projected population estimates shall be based upon
10 data from the state, regional, or local service agency population
11 projections within the service area of the urban water supplier and
12 shall be in five-year increments to 20 years or as far as data is
13 available. The description shall include the current and projected
14 land uses within the existing or anticipated service area affecting
15 the supplier's water management planning. Urban water suppliers
16 shall coordinate with local or regional land use authorities to
17 determine the most appropriate land use information, including,
18 where appropriate, land use information obtained from local or
19 regional land use authorities, as developed pursuant to Article 5
20 (commencing with Section 65300) of Chapter 3 of Division 1 of
21 Title 7 of the Government Code.

22 (b) Identify and quantify, to the extent practicable, the existing
23 and planned sources of water available to the supplier over the
24 same five-year increments described in subdivision (a), providing
25 supporting and related information, including all of the following:

26 (1) A detailed discussion of anticipated supply availability under
27 a normal water year, single dry year, and droughts lasting at least
28 five years, as well as more frequent and severe periods of drought,
29 as described in the drought risk assessment. For each source of
30 water supply, consider any information pertinent to the reliability
31 analysis conducted pursuant to Section 10635, including changes
32 in supply due to climate change.

33 (2) When multiple sources of water supply are identified, a
34 description of the management of each supply in correlation with
35 the other identified supplies.

36 (3) For any planned sources of water supply, a description of
37 the measures that are being undertaken to acquire and develop
38 those water supplies.

39 (4) If groundwater is identified as an existing or planned source
40 of water available to the supplier, all of the following information:

1 (A) The current version of any groundwater sustainability plan
2 or alternative adopted pursuant to Part 2.74 (commencing with
3 Section 10720), any groundwater management plan adopted by
4 the urban water supplier, including plans adopted pursuant to Part
5 2.75 (commencing with Section 10750), or any other specific
6 authorization for groundwater management for basins underlying
7 the urban water supplier's service area.

8 (B) A description of any groundwater basin or basins from
9 which the urban water supplier pumps groundwater. For basins
10 that a court or the board has adjudicated the rights to pump
11 groundwater, a copy of the order or decree adopted by the court
12 or the board and a description of the amount of groundwater the
13 urban water supplier has the legal right to pump under the order
14 or decree. For a basin that has not been adjudicated, information
15 as to whether the department has identified the basin as a high- or
16 medium-priority basin in the most current official departmental
17 bulletin that characterizes the condition of the groundwater basin,
18 and a detailed description of the efforts being undertaken by the
19 urban water supplier to coordinate with groundwater sustainability
20 agencies or groundwater management agencies listed in subdivision
21 (c) of Section 10723 to maintain or achieve sustainable
22 groundwater conditions in accordance with a groundwater
23 sustainability plan or alternative adopted pursuant to Part 2.74
24 (commencing with Section 10720).

25 (C) A detailed description and analysis of the location, amount,
26 and sufficiency of groundwater pumped by the urban water supplier
27 for the past five years. The description and analysis shall be based
28 on information that is reasonably available, including, but not
29 limited to, historic use records.

30 (D) A detailed description and analysis of the amount and
31 location of groundwater that is projected to be pumped by the
32 urban water supplier. The description and analysis shall be based
33 on information that is reasonably available, including, but not
34 limited to, historic use records.

35 *(5) If a reservoir is identified as an existing or planned source*
36 *of water available to the supplier, all the following information:*

37 (A) (i) *A target water supply storage curve based on target*
38 *carryover levels sufficient to satisfy water users and ecological*
39 *stream flow needs for at least five years, with reasonably predicted*

1 *inflow calculations considering local conditions and climate*
2 *change.*

3 *(ii) The reservoir storage level shall be calculated each month*
4 *based on reservoir capacity, projected inflows, evaporation, water*
5 *demands from all users, and streamflow requirements. The*
6 *reservoir storage level shall be plotted against the target water*
7 *supply storage curve on a calendar to ensure that target storage*
8 *levels are met.*

9 *(B) An automatic conservation plan that is implemented when*
10 *the reservoir storage level falls below the target water supply*
11 *storage curve determined in subparagraph (A). When both an*
12 *automatic conservation plan and a water shortage contingency*
13 *plan pursuant to Section 10632 are in effect, the more restrictive*
14 *of the two plans shall govern. An automatic conservation plan*
15 *shall include all of the following:*

16 *(i) Six standard water shortage levels corresponding to*
17 *progressive ranges of up to 10, 20, 30, 40, and 50 percent*
18 *shortages below the target water supply curve and greater than*
19 *50 percent shortage.*

20 *(ii) At each water shortage level, urban water suppliers shall*
21 *initiate conservation response actions that align with the defined*
22 *shortage levels and include, at a minimum, all of the following:*

23 *(I) Locally appropriate water supply augmentation actions.*

24 *(II) Locally appropriate water demand reduction actions to*
25 *adequately respond to shortages.*

26 *(III) Locally appropriate operational changes.*

27 *(IV) Mandatory prohibitions against specific water use practices*
28 *that are in addition to state-mandated prohibitions and appropriate*
29 *to the local conditions.*

30 *(iii) For each action, an estimate of the extent that the gap*
31 *between target reservoir storage level and the actual reservoir*
32 *storage level will be reduced by implementation of the action.*

33 *(iv) For each action, an estimate of impacts to other water*
34 *resources, including any increase in groundwater extraction.*

35 *(v) Water demand reduction actions shall be applied to all*
36 *customer classes, and may include any of the following:*

37 *(I) Water waste prevention ordinances.*

38 *(II) Metering.*

39 *(III) Conservation pricing.*

40 *(IV) Public education and outreach.*

- 1 (V) *Programs to assess and manage distribution system real*
2 *loss.*
- 3 (VI) *Water conservation program coordination and staffing*
4 *support.*
- 5 (vi) *Other demand management measures that have a significant*
6 *impact on water use as measured in gallons per capita per day,*
7 *including innovative measures, if implemented.*
- 8 (vii) *Other demand management measures that have a*
9 *significant impact on water used by downstream water rights*
10 *holders.*
- 11 (c) Describe the opportunities for exchanges or transfers of
12 water on a short-term or long-term basis.
- 13 (d) (1) For an urban retail water supplier, quantify, to the extent
14 records are available, past and current water use, over the same
15 five-year increments described in subdivision (a), and projected
16 water use, based upon information developed pursuant to
17 subdivision (a), identifying the uses among water use sectors,
18 including, but not necessarily limited to, all of the following:
- 19 (A) Single-family residential.
20 (B) Multifamily.
21 (C) Commercial.
22 (D) Industrial.
23 (E) Institutional and governmental.
24 (F) Landscape.
25 (G) Sales to other agencies.
26 (H) Saline water intrusion barriers, groundwater recharge, or
27 conjunctive use, or any combination thereof.
28 (I) Agricultural.
29 (J) Distribution system water loss.
- 30 (2) The water use projections shall be in the same five-year
31 increments described in subdivision (a).
- 32 (3) (A) The distribution system water loss shall be quantified
33 for each of the five years preceding the plan update, in accordance
34 with rules adopted pursuant to Section 10608.34.
- 35 (B) The distribution system water loss quantification shall be
36 reported in accordance with a worksheet approved or developed
37 by the department through a public process. The water loss
38 quantification worksheet shall be based on the water system
39 balance methodology developed by the American Water Works
40 Association.

1 (C) In the plan due July 1, 2021, and in each update thereafter,
2 data shall be included to show whether the urban retail water
3 supplier met the distribution loss standards enacted by the board
4 pursuant to Section 10608.34.

5 (4) (A) Water use projections, where available, shall display
6 and account for the water savings estimated to result from adopted
7 codes, standards, ordinances, or transportation and land use plans
8 identified by the urban water supplier, as applicable to the service
9 area.

10 (B) To the extent that an urban water supplier reports the
11 information described in subparagraph (A), an urban water supplier
12 shall do both of the following:

13 (i) Provide citations of the various codes, standards, ordinances,
14 or transportation and land use plans utilized in making the
15 projections.

16 (ii) Indicate the extent that the water use projections consider
17 savings from codes, standards, ordinances, or transportation and
18 land use plans. Water use projections that do not account for these
19 water savings shall be noted of that fact.

20 (e) Provide a description of the supplier's water demand
21 management measures. This description shall include all of the
22 following:

23 (1) (A) For an urban retail water supplier, as defined in Section
24 10608.12, a narrative description that addresses the nature and
25 extent of each water demand management measure implemented
26 over the past five years. The narrative shall describe the water
27 demand management measures that the supplier plans to implement
28 to achieve its water use targets pursuant to Section 10608.20.

29 (B) The narrative pursuant to this paragraph shall include
30 descriptions of the following water demand management measures:

31 (i) Water waste prevention ordinances.

32 (ii) Metering.

33 (iii) Conservation pricing.

34 (iv) Public education and outreach.

35 (v) Programs to assess and manage distribution system real loss.

36 (vi) Water conservation program coordination and staffing
37 support.

38 (vii) Other demand management measures that have a significant
39 impact on water use as measured in gallons per capita per day,
40 including innovative measures, if implemented.

1 (2) For an urban wholesale water supplier, as defined in Section
2 10608.12, a narrative description of the items in clauses (ii), (iv),
3 (vi), and (vii) of subparagraph (B) of paragraph (1), and a narrative
4 description of its distribution system asset management and
5 wholesale supplier assistance programs.

6 (f) Include a description of all water supply projects and water
7 supply programs that may be undertaken by the urban water
8 supplier to meet the total projected water use, as established
9 pursuant to subdivision (a) of Section 10635. The urban water
10 supplier shall include a detailed description of expected future
11 projects and programs that the urban water supplier may implement
12 to increase the amount of the water supply available to the urban
13 water supplier in normal and single-dry water years and for a period
14 of drought lasting five consecutive water years. The description
15 shall identify specific projects and include a description of the
16 increase in water supply that is expected to be available from each
17 project. The description shall include an estimate with regard to
18 the implementation timeline for each project or program.

19 (g) Describe the opportunities for development of desalinated
20 water, including, but not limited to, ocean water, brackish water,
21 and groundwater, as a long-term supply.

22 (h) An urban water supplier that relies upon a wholesale agency
23 for a source of water shall provide the wholesale agency with water
24 use projections from that agency for that source of water in
25 five-year increments to 20 years or as far as data is available. The
26 wholesale agency shall provide information to the urban water
27 supplier for inclusion in the urban water supplier's plan that
28 identifies and quantifies, to the extent practicable, the existing and
29 planned sources of water as required by subdivision (b), available
30 from the wholesale agency to the urban water supplier over the
31 same five-year increments, and during various water-year types
32 in accordance with subdivision (f). An urban water supplier may
33 rely upon water supply information provided by the wholesale
34 agency in fulfilling the plan informational requirements of
35 subdivisions (b) and (f).

36 *SEC. 3. Section 10826 of the Water Code is amended to read:*
37 10826. An agricultural water management plan shall be adopted
38 in accordance with this chapter. The plan shall do all of the
39 following:

- 1 (a) Describe the agricultural water supplier and the service area,
- 2 including all of the following:
 - 3 (1) Size of the service area.
 - 4 (2) Location of the service area and its water management
 - 5 facilities.
 - 6 (3) Terrain and soils.
 - 7 (4) Climate.
 - 8 (5) Operating rules and regulations.
 - 9 (6) Water delivery measurements or calculations.
 - 10 (7) Water rate schedules and billing.
 - 11 (8) Water shortage allocation policies.
- 12 (b) Describe the quantity and quality of water resources of the
- 13 agricultural water supplier, including all of the following:
 - 14 (1) Surface water supply.
 - 15 (2) Groundwater supply.
 - 16 (3) Other water supplies, including recycled water.
 - 17 (4) Source water quality monitoring practices.
 - 18 (5) Water uses within the agricultural water supplier's service
 - 19 area, including all of the following:
 - 20 (A) Agricultural.
 - 21 (B) Environmental.
 - 22 (C) Recreational.
 - 23 (D) Municipal and industrial.
 - 24 (E) Groundwater recharge, including estimated flows from deep
 - 25 percolation from irrigation and seepage.
- 26 (c) Include an annual water budget based on the quantification
- 27 of all inflow and outflow components for the service area of the
- 28 agricultural water supplier. Components of inflow shall include
- 29 surface inflow, groundwater pumping in the service area, and
- 30 effective precipitation. Components of outflow shall include surface
- 31 outflow, deep percolation, and evapotranspiration. An agricultural
- 32 water supplier shall report the annual water budget on a water-year
- 33 basis. The department shall provide tools and resources to assist
- 34 agricultural water suppliers in developing and quantifying
- 35 components necessary to develop a water budget.
- 36 (d) Include an analysis, based on available information, of the
- 37 effect of climate change on future water supplies.
- 38 (e) Describe previous water management activities.
- 39 (f) Identify water management objectives based on the water
- 40 budget to improve water system efficiency or to meet other water

1 management objectives. The agricultural water supplier shall
2 identify, prioritize, and implement actions to reduce water loss,
3 improve water system management, and meet other water
4 management objectives identified in the plan.

5 (g) Include in the plan information regarding efficient water
6 management practices required pursuant to Section 10608.48.

7 (h) Quantify the efficiency of agricultural water use within the
8 service area of the agricultural water supplier using the appropriate
9 method or methods from among the four water use efficiency
10 quantification methods developed by the department in the May
11 8, 2012, report to the Legislature entitled “A Proposed
12 Methodology for Quantifying the Efficiency of Agricultural Water
13 Use.” The agricultural water supplier shall account for all water
14 uses, including crop water use, agronomic water use, environmental
15 water use, and recoverable surface flows.

16 (i) *If a reservoir is identified as an existing or planned source
17 of water available to the supplier, all of the following information
18 shall be contained in the plan:*

19 (1) (A) *A target water supply storage curve based on target
20 carryover levels sufficient to satisfy water users and ecological
21 stream flow needs for at least five years, with reasonably predicted
22 inflow calculations considering local conditions and climate
23 change.*

24 (B) *The reservoir storage level shall be calculated each month
25 based on reservoir capacity, projected inflows, evaporation, water
26 demands from all users, and streamflow requirements. The
27 reservoir storage level shall be plotted against the target water
28 supply storage curve on a calendar to ensure that target storage
29 levels are being met.*

30 (2) *An automatic conservation plan that is implemented when
31 the reservoir storage level falls below the target water supply
32 storage curve determined in subparagraph (A). When both an
33 automatic conservation plan and a drought plan pursuant to
34 Section 10826.2 are in effect, the more restrictive of the two plans
35 shall govern. An automatic conservation plan shall include all of
36 the following:*

37 (A) *Six standard water shortage levels corresponding to
38 progressive ranges of up to 10, 20, 30, 40, and 50 percent
39 shortages below the target water supply curve and greater than
40 50 percent shortage.*

1 (B) At each water shortage level, agricultural water suppliers
2 shall initiate conservation response actions that align with the
3 defined shortage levels and include, at a minimum, all of the
4 following:

5 (i) Locally appropriate supply augmentation actions.

6 (ii) Locally appropriate demand reduction actions to adequately
7 respond to shortages.

8 (iii) Locally appropriate operational changes.

9 (iv) Additional, mandatory prohibitions against specific water
10 use practices that are in addition to state-mandated prohibitions
11 and appropriate to the local conditions.

12 (C) For each action, an estimate of the extent that the gap
13 between the target reservoir storage level and the actual reservoir
14 storage level will be reduced by implementation of the action.

15 (D) For each action, an estimate of impacts to other water
16 resources, including any increase in groundwater extraction.

17 ~~SECTION 1. Section 1020 of the Water Code is amended to~~
18 ~~read:~~

19 ~~1020. Water may be leased for a period not to exceed five years~~
20 ~~to assist water conservation efforts pursuant to the terms and~~
21 ~~conditions of this chapter. The terms and conditions of this chapter~~
22 ~~are not applicable to water leases or transfers governed by other~~
23 ~~law.~~

AMENDED IN ASSEMBLY MARCH 23, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 1205

Introduced by Assembly Member Bauer-Kahan

February 16, 2023

An act to ~~amend Section 1737 of~~ *add Section 100.1* to the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 1205, as amended, Bauer-Kahan. ~~Water: permits and licenses: temporary changes: water or water rights transfers. Water rights: sale, transfer, or lease: agricultural lands.~~

Existing law declares that, because of the conditions prevailing in this state, the general welfare requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable, that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of the water is to be exercised with a view to the reasonable and beneficial use of the water in the interest of the people and for the public welfare.

This bill would declare that the sale, transfer, or lease of an interest in any water right for profit, on or below agricultural lands within the state by an investment fund, shall not be considered a reasonable or beneficial use of water.

~~Existing law authorizes the State Water Resources Control Board to consider a petition for a long-term water or water rights transfer involving a change of point of diversion, place of use, or purpose of use. Existing law requires a long-term transfer to be for a period over one year. Existing law requires, after the expiration of that long-term~~

transfer period, all rights to automatically revert to the original holders of the right without any action by the board.

~~This bill would make a nonsubstantive change to that later provision.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 100.1 is added to the Water Code, to read:
2 100.1. (a) For the purposes of this section, the following
3 definitions apply:

4 (1) "Agricultural land" has the same meaning as defined in
5 Section 3508 of Title 7 of the United States Code.

6 (2) "Investment fund" means a private equity fund, public equity
7 fund, venture capital fund, hedge fund, fixed income fund, real
8 estate fund, infrastructure fund, or similar pooled investment entity
9 that is, or holds itself out as being, engaged primarily, or proposes
10 to engage primarily, in the business of investing, reinvesting,
11 owning, holding, or trading securities or other assets.

12 (b) It is hereby declared that the sale, transfer, or lease of an
13 interest in any water right for profit, on or below agricultural
14 lands within the state by an investment fund, shall not be
15 considered a reasonable or beneficial use of water.

16 ~~SECTION 1. Section 1737 of the Water Code is amended to~~
17 ~~read:~~

18 ~~1737. Following the expiration of the period of the long-term~~
19 ~~transfer, all rights shall automatically revert to the original holders~~
20 ~~of the right without any action by the board.~~