

116TH CONGRESS
1ST SESSION

H. R. 3723

To promote desalination project development and drought resilience, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 11, 2019

Mr. LEVIN of California (for himself and Mr. HUFFMAN) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Science, Space, and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To promote desalination project development and drought
resilience, 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 “Desalination Develop-
5 ment Act”.

6 **SEC. 2. DESALINATION PROJECTS AUTHORIZATION.**

7 Section 4(a) of the Water Desalination Act of 1996
8 (42 U.S.C. 10301 note; Public Law 104–298) is amended

1 by striking the second paragraph (1) (relating to projects)
2 and inserting the following:

3 “(2) PROJECTS.—

4 “(A) DEFINITION OF ELIGIBLE DESALINA-
5 TION PROJECT.—In this paragraph, the term
6 ‘eligible desalination project’ means any project
7 located in a Reclamation State that—

8 “(i) involves an ocean or brackish
9 water desalination facility—

10 “(I) constructed, operated, and
11 maintained by a State, Indian Tribe,
12 irrigation district, water district, or
13 other organization with water or
14 power delivery authority; or

15 “(II) sponsored or funded by any
16 State, department of a State, subdivi-
17 sion of a State, or public agency orga-
18 nized pursuant to State law, includ-
19 ing—

20 “(aa) direct sponsorship or
21 funding; or

22 “(bb) indirect sponsorship or
23 funding, such as by paying for
24 the water provided by the facility;

1 “(ii) provides a Federal benefit in ac-
2 cordance with the reclamation laws; and

3 “(iii) is consistent with all applicable
4 State and Federal resource protection laws
5 including the protection of marine pro-
6 tected areas.

7 “(B) FEDERAL SHARE.—Subject to the re-
8 quirements of this paragraph, the Secretary
9 may participate in an eligible desalination
10 project in an amount equal to not more than 25
11 percent of the total cost of the eligible desalina-
12 tion project.

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

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

18 “(II) the participation has been re-
19 quested by the Governor of the State in
20 which the eligible desalination project is lo-
21 cated; and

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

1 “(I) the eligible desalination
2 project—

3 “(aa) is technically and fi-
4 nancially feasible;

5 “(bb) provides a Federal
6 benefit in accordance with the
7 reclamation laws; and

8 “(cc) is consistent with ap-
9 plicable State laws, State regula-
10 tions, State coastal zone manage-
11 ment plans and other State plans
12 such as California’s Water Qual-
13 ity Control Plan for the Ocean
14 Waters in California;

15 “(II) sufficient non-Federal fund-
16 ing is available to complete the eligible
17 desalination project; and

18 “(III) the eligible desalination
19 project sponsors are financially sol-
20 vent; and

21 “(iii) the Secretary submits to Con-
22 gress a written notification of the deter-
23 minations under clause (ii) by not later
24 than 30 days after the date of the deter-
25 minations.

1 “(D) ENVIRONMENTAL LAWS.—In partici-
2 pating in an eligible desalination project under
3 this paragraph, the Secretary shall comply with
4 all applicable environmental laws, including, but
5 not limited to, the National Environmental Pol-
6 icy Act of 1969 (42 U.S.C. 4321 et seq.) and
7 State laws implementing the Coastal Zone Man-
8 agement Act.

9 “(E) INFORMATION.—In participating in
10 an eligible desalination project under this sub-
11 section, the Secretary—

12 “(i) may rely on reports prepared by
13 the sponsor of the eligible desalination
14 project, including feasibility or equivalent
15 studies, environmental analyses, and other
16 pertinent reports and analyses; but

17 “(ii) shall retain responsibility for
18 making the independent determinations de-
19 scribed in subparagraph (C).

20 “(F) FUNDING.—

21 “(i) AUTHORIZATION OF APPROPRIA-
22 TIONS.—There is authorized to be appro-
23 priated to carry out this paragraph
24 \$260,000,000 for the period of fiscal years
25 2020 through 2024.

1 “(ii) CONGRESSIONAL APPROVAL INI-
2 Tially REQUIRED.—

3 “(I) IN GENERAL.—Each initial
4 award under this paragraph for de-
5 sign and study or for construction of
6 an eligible desalination project shall
7 be approved by an Act of Congress.

8 “(II) RECLAMATION REC-
9 OMMENDATIONS.—The Commissioner
10 of Reclamation shall submit rec-
11 ommendations regarding the initial
12 award of preconstruction and con-
13 struction funding for consideration
14 under subclause (I) to—

15 “(aa) the Committee on Ap-
16 propriations of the Senate;

17 “(bb) the Committee on En-
18 ergy and Natural Resources of
19 the Senate;

20 “(cc) the Committee on Ap-
21 propriations of the House of Rep-
22 resentatives; and

23 “(dd) the Committee on
24 Natural Resources of the House
25 of Representatives.

1 “(iii) SUBSEQUENT FUNDING
2 AWARDS.—After approval by Congress of
3 an initial award of preconstruction or con-
4 struction funding for an eligible desalina-
5 tion project under clause (ii), the Commis-
6 sioner of Reclamation may award addi-
7 tional preconstruction or construction
8 funding, respectively, for the eligible desali-
9 nation project without further congres-
10 sional approval.”.

11 **SEC. 3. PRIORITIZATION FOR PROJECTS.**

12 Section 4 of the Water Desalination Act of 1996 (42
13 U.S.C. 10301 note; Public Law 104–298) is amended by
14 striking subsection (c) and inserting the following:

15 “(c) PRIORITIZATION.—In carrying out demonstra-
16 tion and development activities under this section, the Sec-
17 retary and the Commissioner of Reclamation shall each
18 prioritize projects—

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

21 “(2) for the benefit of States that have author-
22 ized funding for research and development of desali-
23 nation technologies and projects;

24 “(3) that demonstrably reduce a reliance on im-
25 ported water supplies that have an impact on species

1 listed under the Endangered Species Act of 1973
2 (16 U.S.C. 1531 et seq.);

3 “(4) that, in a measurable and verifiable man-
4 ner, reduce a reliance on imported water supplies
5 from imperiled ecosystems such as the Sacramento-
6 San Joaquin River Delta;

7 “(5) that demonstrably leverage the experience
8 of international partners with considerable expertise
9 in desalination, such as the state of Israel;

10 “(6) that maximize use of renewable energy to
11 power desalination facilities;

12 “(7) that maximize energy efficiency so that the
13 lifecycle energy demands of desalination are mini-
14 mized;

15 “(8) located in regions that have employed
16 strategies to increase water conservation and the
17 capture and recycling of wastewater and stormwater;
18 and

19 “(9) that meet the following criteria if they are
20 ocean desalination facilities—

21 “(A) utilize a subsurface intake or, if a
22 subsurface intake is not technologically feasible,
23 an intake that uses the best available site, de-
24 sign, technology, and mitigation measures to

1 minimize the mortality of all forms of marine
2 life and impacts to coastal dependent resources;

3 “(B) are sited and designed to ensure that
4 the disposal of wastewaters including brine
5 from the desalination process—

6 “(i) are not discharged to impaired
7 bodies of water, or State or Federal Ma-
8 rine Protected Areas; and

9 “(ii) achieve ambient salinity levels
10 within a reasonable distance from the dis-
11 charge point;

12 “(C) are sited, designed, and operated in a
13 manner that maintains indigenous marine life
14 and a healthy and diverse marine community;

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

17 “(E) include a construction and operation
18 plan designed to minimize loss of coastal habi-
19 tat as well as aesthetic, noise, and air quality
20 impacts.”.

21 **SEC. 4. RECOMMENDATIONS TO CONGRESS.**

22 In determining project recommendations to Congress
23 under section 4(a)(2)(F)(ii)(II) of the Water Desalination
24 Act of 1996, the Commissioner of Reclamation shall estab-
25 lish a priority scoring system that assigns priority scores

1 to each project evaluated based on the prioritization cri-
2 teria of section 4(c) of the Water Desalination Act of 1996
3 (42 U.S.C. 10301 note; Public Law 104–298).

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