

113TH CONGRESS
2D SESSION

H. R. 3981

To direct the Secretary of the Interior to allow for prepayment of repayment contracts between the United States and water users, to provide surface water storage enhancement, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 2014

Mr. HASTINGS of Washington introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To direct the Secretary of the Interior to allow for prepayment of repayment contracts between the United States and water users, to provide surface water storage enhancement, 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 “Accelerated Revenue,
5 Repayment, and Surface Water Storage Enhancement
6 Act”.

1 **SEC. 2. PREPAYMENT OF CERTAIN REPAYMENT CON-**
2 **TRACTS BETWEEN THE UNITED STATES AND**
3 **CONTRACTORS OF FEDERALLY DEVELOPED**
4 **WATER SUPPLIES.**

5 (a) CONVERSION AND PREPAYMENT OF CON-
6 TRACTS.—

7 (1) CONVERSION.—Upon request of the con-
8 tractor, the Secretary of the Interior shall convert
9 any water service contract in effect on the date of
10 enactment of this Act and between the United
11 States and a water users' association to allow for
12 prepayment of the repayment contract pursuant to
13 paragraph (2) under mutually agreeable terms and
14 conditions. The manner of conversion under this
15 paragraph shall be as follows:

16 (A) Water service contracts that were en-
17 tered into under section 9(e) of the Act of Au-
18 gust 4, 1939 (53 Stat. 1196), to be converted
19 under this section shall be converted to repay-
20 ment contracts under section 9(d) of that Act
21 (53 Stat. 1195).

22 (B) Water service contracts that were en-
23 tered under subsection (c)(2) of section 9 of the
24 Act of August 4, 1939 (53 Stat. 1194), to be
25 converted under this section shall be converted

1 to a contract under subsection (c)(1) of section
2 9 of that Act (53 Stat. 1195).

3 (2) PREPAYMENT.—All contracts converted
4 pursuant to paragraph (1)(A) shall—

5 (A) upon request of the contractor, provide
6 for the repayment, either in lump sum or by ac-
7 celerated prepayment, of the remaining net
8 present value of the construction costs identi-
9 fied in water project specific irrigation rate re-
10 payment schedules, as adjusted to reflect pay-
11 ment not reflected in such schedule, and prop-
12 erly assignable for ultimate return by the con-
13 tractor, or if made in approximately equal in-
14 stallments, no later than 3 years after the effec-
15 tive date of the repayment contract; such
16 amount to be discounted by $\frac{1}{2}$ the Treasury
17 rate. An estimate of the remaining net present
18 value of construction costs, as adjusted, shall be
19 provided by the Secretary to the contractor no
20 later than 30 days following receipt of request
21 of the contractor;

22 (B) require that construction costs or
23 other capitalized costs incurred after the effec-
24 tive date of the contract or not reflected in the
25 rate schedule referenced in subparagraph (A),

1 and properly assignable to such contractor shall
2 be repaid in not more than 5 years after notifi-
3 cation of the allocation if such amount is a re-
4 sult of a collective annual allocation of capital
5 costs to the contractors exercising contract con-
6 versation under this subsection of less than
7 \$5,000,000. If such amount is \$5,000,000 or
8 greater, such cost shall be repaid as provided by
9 applicable reclamation law;

10 (C) provide that power revenues will not be
11 available to aid in repayment of construction
12 costs allocated to irrigation under the contract;
13 and

14 (D) continue so long as the contractor
15 pays applicable charges, consistent with section
16 9(c)(1) of the Act of August 4, 1939 (53 Stat.
17 1195), and applicable law.

18 (3) CONTRACT REQUIREMENTS.—The following
19 shall apply with regard to all contracts converted
20 pursuant to paragraph (1)(B):

21 (A) Upon request of the contractor, pro-
22 vide for the repayment in lump sum of the re-
23 maining net present value of construction costs
24 identified in water project specific municipal
25 and industrial rate repayment schedules, as ad-

1 justed to reflect payments not reflected in such
2 schedule, and properly assignable for ultimate
3 return by the contractor. An estimate of the re-
4 maining net present value of construction costs,
5 as adjusted, shall be provided by the Secretary
6 to the contractor no later than 30 days after re-
7 ceipt of request of contractor.

8 (B) The contract shall require that con-
9 struction costs or other capitalized costs in-
10 curred after the effective date of the contract or
11 not reflected in the rate schedule referenced in
12 subparagraph (A), and properly assignable to
13 such contractor, shall be repaid in not more
14 than 5 years after notification of the allocation
15 if such amount is a result of a collective annual
16 allocation of capital costs to the contractors ex-
17 ercising contract conversion under this sub-
18 section of less than \$5,000,000. If such amount
19 is \$5,000,000 or greater, such cost shall be re-
20 paid as provided by applicable reclamation law;
21 and

22 (C) Continue so long as the contractor
23 pays applicable charges, consistent with section
24 9(c)(1) of the Act of August 4, 1939 (53 Stat.
25 1195), and applicable law.

1 (4) CONDITIONS.—All contracts entered into
2 pursuant to paragraphs (1), (2), and (3) shall—

3 (A) not be adjusted on the basis of the
4 type of prepayment financing used by the water
5 users' association;

6 (B) conform to any other agreements, such
7 as applicable settlement agreements and new
8 constructed appurtenant facilities; and

9 (C) not modify other water service, repay-
10 ment, exchange and transfer contractual rights
11 between the water users' association, and the
12 Bureau of Reclamation, or any rights, obliga-
13 tions, or relationships of the water users' asso-
14 ciation and their landowners as provided under
15 State law.

16 (b) ACCOUNTING.—The amounts paid pursuant to
17 subsection (a) shall be subject to adjustment following a
18 final cost allocation by the Secretary of the Interior. In
19 the event that the final cost allocation indicates that the
20 costs properly assignable to the contractor are greater
21 than what has been paid by the contractor, the contractor
22 shall be obligated to pay the remaining allocated costs.
23 The term of such additional repayment contract shall be
24 not less than one year and not more than 10 years, how-
25 ever, mutually agreeable provisions regarding the rate of

1 repayment of such amount may be developed by the par-
2 ties. In the event that the final cost allocation indicates
3 that the costs properly assignable to the contractor are
4 less than what the contractor has paid, the Secretary shall
5 credit such overpayment as an offset against any out-
6 standing or future obligation of the contractor.

7 (c) APPLICABILITY OF CERTAIN PROVISIONS.—

8 (1) EFFECT OF EXISTING LAW.—Upon a con-
9 tractor's compliance with and discharge of the obli-
10 gation of repayment of the construction costs pursu-
11 ant to a contract entered into pursuant to subsection
12 (a)(2)(A), sections 213 (a) and (b) of the Reclama-
13 tion Reform Act of 1982 (96 Stat. 1269) shall apply
14 to affected lands.

15 (2) EFFECT OF OTHER OBLIGATIONS.—The ob-
16 ligation of a contractor to repay construction costs
17 or other capitalized costs described in subsections
18 (a)(2)(B), (a)(3)(B) or (b) shall not affect a contrac-
19 tor's status as having repaid all of the construction
20 costs assignable to the contractor or the applicability
21 of sections 213 (a) and (b) of the Reclamation Re-
22 form Act of 1982 (96 Stat. 1269) once the amount
23 required to be paid by the contractor under the re-
24 payment contract entered into pursuant to sub-
25 section (a)(2)(A) have been paid.

1 (d) EFFECT ON EXISTING LAW NOT ALTERED.—Im-
2 plementation of the provisions of this Act shall not alter
3 the repayment obligation of any water service or repay-
4 ment contractor receiving water from the same water
5 project, or shift any costs that would otherwise have been
6 properly assignable to the water users’ association identi-
7 fied in subsections (a)(1), (a)(2), and (a)(3) absent this
8 section, including operation and maintenance costs, con-
9 struction costs, or other capitalized costs incurred after
10 the date of the enactment of this Act, or to other contrac-
11 tors.

12 (e) SURFACE WATER STORAGE ENHANCEMENT PRO-
13 GRAM.—

14 (1) IN GENERAL.—Three years following the
15 date of enactment of this Act, all receipts generated
16 from prepayment of contracts under this section be-
17 yond amounts necessary to cover the amount of re-
18 cepts forgone from scheduled payments under cur-
19 rent law for the 10-year period following the date of
20 enactment of this Act shall be directed to the Rec-
21 lamation Surface Water Storage Account under
22 paragraph (2).

23 (2) SURFACE STORAGE ACCOUNT.—The Sec-
24 retary shall allocate amounts collected under para-
25 graph (1) into the “Reclamation Surface Storage

1 Account'' to fund or provide loans for the construc-
2 tion of surface water storage. The Secretary may
3 also enter into cooperative agreements with water
4 users' associations for the construction of surface
5 water storage and amounts within the Surface Stor-
6 age Account may be used to fund such construction.
7 Surface water storage projects that are otherwise
8 not federally authorized shall not be considered Fed-
9 eral facilities as a result of any amounts allocated
10 from the Surface Storage Account for part or all of
11 such facilities.

12 (3) REPAYMENT.—Amounts used for surface
13 water storage construction from the Account shall be
14 fully reimbursed to the Account consistent with the
15 requirements under Federal reclamation law (the
16 law (the Act of June 17, 1902 (32 Stat. 388, chap-
17 ter 1093))), and Acts supplemental to and amend-
18 atory of that Act (43 U.S.C. 371 et seq.) except that
19 all funds reimbursed shall be deposited in the Ac-
20 count established under paragraph (1).

21 (4) AVAILABILITY OF AMOUNTS.—Amounts de-
22 posited in the Account under this subsection shall—
23 (A) be made available in accordance with
24 this section, without further appropriation; and

1 (B) be in addition to amounts appropriated
2 for such purposes under any other provision of
3 law.

4 (5) PURPOSES OF SURFACE WATER STORAGE.—
5 Construction of surface water storage under this sec-
6 tion shall be made for the following purposes:

7 (A) Increased municipal and industrial
8 water supply.

9 (B) Agricultural floodwater, erosion, and
10 sedimentation reduction.

11 (C) Agricultural drainage improvements.

12 (D) Agricultural irrigation.

13 (E) Increased recreation opportunities.

14 (F) Reduced adverse impacts to fish and
15 wildlife from water storage or diversion projects
16 within watersheds associated with water storage
17 projects funded under this section.

18 (G) Any other purposes consistent with
19 reclamation laws or other Federal law.

20 (f) DEFINITIONS.—For the purposes of this Act, the
21 following definitions apply:

22 (1) ACCOUNT.—The term “Account” means the
23 Reclamation Surface Water Storage Account estab-
24 lished under subsection (e)(2).

1 (2) CONSTRUCTION.—The term “construction”
2 means the designing, materials engineering and test-
3 ing, surveying, and building of surface water storage
4 including additions to existing surface water storage
5 and construction of new surface water storage facili-
6 ties, exclusive of any Federal statutory or regulatory
7 obligations relating to any permit, review, approval,
8 or other such requirement.

9 (3) SURFACE WATER STORAGE.—The term
10 “surface water storage” means any federally owned
11 facility under the jurisdiction of the Bureau of Rec-
12 lamation or any non-Federal facility used for the
13 surface storage and supply of water resources.

14 (4) TREASURY RATE.—The term “Treasury
15 rate” means the 20-year Constant Maturity Treas-
16 ury (CMT) rate published by the United States De-
17 partment of the Treasury existing on the effective
18 date of the contract.

19 (5) WATER USERS’ ASSOCIATION.—The term
20 “water users’ association” means—

21 (A) an entity organized and recognized
22 under State laws that is eligible to enter into
23 contracts with reclamation to receive contract
24 water for delivery to and users of the water and
25 to pay applicable charges; and

1 (B) includes a variety of entities with dif-
2 ferent names and differing functions, such as
3 associations, conservatory district, irrigation
4 district, municipality, and water project con-
5 tract unit.

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