

HAWAII WATER RESOURCES ACT OF 2000

SEPTEMBER 18, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany S. 1694]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (S. 1694) to direct the Secretary of the Interior to conduct a study on the reclamation and reuse of water and wastewater in the State of Hawaii, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Hawaii Water Resources Act of 2000”.

SEC. 2. DEFINITIONS.

In this Act:

- (1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.
- (2) STATE.—The term “State” means the State of Hawaii.

SEC. 3. HAWAII WATER RESOURCES STUDY.

(a) IN GENERAL.—The Secretary, acting through the Commissioner of Reclamation and in accordance with the provisions of this Act and existing legislative authorities as may be pertinent to the provisions of this Act, including: the Act of August 23, 1954 (68 Stat. 773, chapter 838), authorizing the Secretary to investigate the use of irrigation and reclamation resource needs for areas of the islands of Oahu, Hawaii, and Molokai in the State of Hawaii; section 31 of the Hawaii Omnibus Act (43 U.S.C. 422*l*) authorizing the Secretary to develop reclamation projects in the State under the Act of August 6, 1956 (70 Stat. 1044, chapter 972; 42 U.S.C. 422a et seq.) (commonly known as the “Small Reclamation Projects Act”); and the amendment made by section 207 of the Hawaiian Home Lands Recovery Act (109 Stat. 364; 25 U.S.C. 386a) authorizing the Secretary to assess charges against Native Hawaiians for reclamation cost recovery in the same manner as charges are assessed against Indians or Indian tribes; is authorized and directed to conduct a study that includes—

- (1) a survey of the irrigation and other agricultural water delivery systems in the State;

(2) an estimation of the cost of repair and rehabilitation of the irrigation and other agricultural water delivery systems;

(3) an evaluation of options and alternatives for future use of the irrigation and other agricultural water delivery systems (including alternatives that would improve the use and conservation of water resources and would contribute to agricultural diversification, economic development, and improvements to environmental quality); and

(4) the identification and investigation of opportunities for recycling, reclamation, and reuse of water and wastewater for agricultural and nonagricultural purposes.

(b) REPORTS.—

(1) IN GENERAL.—Not later than 2 years after appropriation of funds authorized by this Act, the Secretary shall submit a report that describes the findings and recommendations of the study described in subsection (a) to—

- (A) the Committee on Energy and Natural Resources of the Senate; and
- (B) the Committee on Resources of the House of Representatives.

(2) ADDITIONAL REPORTS.—The Secretary shall submit to the committees described in paragraph (1) any additional reports concerning the study described in subsection (a) that the Secretary considers to be necessary.

(c) COST SHARING.—Costs of conducting the study and preparing the reports described in subsections (a) and (b) of this section shall be shared between the Secretary and the State. The Federal share of the costs of the study and reports shall not exceed 50 percent of the total cost, and shall be nonreimbursable. The Secretary shall enter into a written agreement with the State, describing the arrangements for payment of the non-Federal share.

(d) USE OF OUTSIDE CONTRACTORS.—The Secretary is authorized to employ the services and expertise of the State and/or the services and expertise of a private consultant employed under contract with the State to conduct the study and prepare the reports described in this section if the State requests such an arrangement and if it can be demonstrated to the satisfaction of the Secretary that such an arrangement will result in the satisfactory completion of the work authorized by this section in a timely manner and at a reduced cost.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$300,000 for the Federal share of the activities authorized under this Act.

SEC. 4. WATER RECLAMATION AND REUSE.

(a) Section 1602(b) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h(b)) is amended by inserting before the period at the end the following: “, and the State of Hawaii”.

(b) The Secretary is authorized to use the authorities available pursuant to section 1602(b) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h(b)) to conduct the relevant portion of the study and preparation of the reports authorized by this Act if the use of such authorities is found by the Secretary to be appropriate and cost-effective, and provided that the total Federal share of costs for the study and reports does not exceed the amount authorized in section 3 of this Act.

SEC. 5. DROUGHT RELIEF.

Section 104 of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2214) is amended—

(1) in subsection (a), by inserting after “Reclamation State” the following: “and in the State of Hawaii”; and

(2) in subsection (c), by striking “ten years after the date of enactment of this Act” and inserting “on September 30, 2005”.

PURPOSE OF THE BILL

The purpose of S. 1694 is to direct the Secretary of the Interior to conduct a study on the reclamation and reuse of water and wastewater in the State of Hawaii.

BACKGROUND AND NEED FOR LEGISLATION

S. 1694 would amend Title XVI of the Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575) to include Hawaii as a state eligible to participate in the Bureau of Reclamation’s Title XVI Program.

Hawaii's relationship with the Bureau of Reclamation dates from 1939, when the agency proposed developing an aqueduct on Molokai to serve 16,000 acres of federally-managed Hawaiian Home Lands. While this project did not proceed, in 1954 Congress directed the Bureau to investigate irrigation and reclamation needs for three of the islands: Oahu, Hawaii, and Molokai. A federal reclamation project on the Island of Molokai was eventually constructed in response to this investigation. The project continues in operation today.

Under S. 1694, the Bureau of Reclamation may survey irrigation and water delivery systems in Hawaii, identify the cost of rehabilitating the systems, and evaluate demand for their future use. The bill also instructs the Bureau to identify new opportunities for reclamation and reuse of water and wastewater for agricultural and non-agricultural purposes. Finally, the bill authorizes the Bureau to conduct emergency drought relief in Hawaii.

For additional information, see Senate Report 106-234.

COMMITTEE ACTION

S. 1694 was introduced on October 6, 1999, by Senator Daniel Akaka (D-HI). On April 13, 2000, the Senate passed S. 1694 with an amendment by unanimous consent. In the House of Representatives, the bill was referred to the House Committee on Resources, and within the Committee to the Subcommittee on Water and Power. On July 26, 2000, the Resources Committee met and discharged the Subcommittee on Water and Power from further consideration of the bill by unanimous consent. Congressman Neil Abercrombie (D-HI) offered an amendment in the nature of a substitute to the bill which passed by unanimous consent. The bill was then ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section designates that the short title of this bill as the "Hawaii Water Resources Act of 2000".

Section 2. Definitions

This section defines two terms used in the bill.

Section 3. Hawaii water resources study

This section directs the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a study that includes a survey and repair cost estimate of irrigation and other agricultural water delivery systems; an evaluation of options for future use of irrigation and other water delivery systems; and an identification and investigation of opportunities for recycling, reclamation and reuse of water. This section also authorizes appropriations of \$300,000 for the federal costs of the study.

Section 4. Water reclamation and reuse

This section amends the Reclamation Wastewater and Groundwater Study and Facilities Act to include the State of Hawaii.

Section 5. Drought relief

This section amends the Reclamation States Emergency Drought Relief Act of 1991 to extend drought relief programs to include Hawaii.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. Government Reform Oversight Findings. Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 9, 2000.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1694, the Hawaii Water Resources Reclamation Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Rachel Applebaum.

Sincerely,

BARRY B. ANDERSON
(for Dan L. Crippen, Director).

Enclosure.

S. 1694—Hawaii Water Resources Reclamation Act of 2000

CBO estimates that implementing S. 1694 would have no significant impact on the federal budget. Because the act would not affect direct spending or receipts, pay-as-you-go procedures would not apply. S. 1694 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates the cost would not be significant and would not meet the threshold established in UMRA (\$55 million in 2000, adjusted annually for inflation). The legislation contains no new private-sector mandates.

S. 1694 would authorize the appropriation of the sums necessary for the Secretary of the Interior to conduct a study of water resources in the state of Hawaii and report to the Congress within two years from the time when such sums are provided. Based on information from the Bureau of Reclamation, CBO estimates that those activities would cost a total of \$400,000 over two years, assuming appropriation of the necessary amounts.

The act also would permit the state of Hawaii to request emergency assistance from the bureau under the Reclamation States Emergency Drought Relief Act. Any such assistance provided to the state would be subject to the availability of appropriations. The 17 states currently eligible for such assistance received a total appropriations of \$3 million in fiscal year 2000. CBO estimates that making Hawaii eligible for this type of assistance would not significantly affect federal costs.

S. 1694 contains an intergovernmental mandate as defined in UMRA because it would require the state of Hawaii to share the cost of the water resources study. We estimate that Hawaii's share of the cost would be approximately \$200,000 over two years. Overall, however, this legislation could benefit the state of Hawaii by enabling it to participate in the emergency drought relief program.

On February 22, 2000, CBO transmitted a cost estimate for S. 1694 as ordered reported by the Senate Committee on Energy and Natural Resources on February 10, 2000. That version of the legislation did not require Hawaii to share the cost of the water resources study and therefore did not contain an intergovernmental mandate. Otherwise, the two versions of this legislation are nearly identical, and the estimated costs are the same.

The CBO staff contact for this estimate is Rachel Applebaum. The estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates, as defined by Public Law 104-4.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 1602 OF THE RECLAMATION WASTEWATER AND GROUNDWATER STUDY AND FACILITIES ACT

SEC. 1602. GENERAL AUTHORITY.

(a) * * *

(b) Such program shall be limited to the States and areas referred to in section 1 of the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) as amended, *and the State of Hawaii*.

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SECTION 104 OF THE RECLAMATION STATES EMERGENCY DROUGHT RELIEF ACT OF 1991

SEC. 104. APPLICABLE PERIOD OF DROUGHT PROGRAM.

(a) IN GENERAL.—The programs and authorities established under this title shall become operative in any Reclamation State *and in the State of Hawaii* only after the Governor or Governors of the affected State or States, or on a reservation, when the governing body of the affected tribe has made a request for temporary drought assistance and the Secretary has determined that such temporary assistance is merited, or upon the approval of a drought contingency plan as provided in title II of this Act.

* * * * *

(c) TERMINATION OF AUTHORITY.—The authorities established under this title shall terminate [ten years after the date of enactment of this Act] *on September 13, 2005*.