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SENATE

{ REPORT
109-315

IRRIGATION DISTRICTS REPAYMENT REVISIONS ACT

JULY 31, 2006.—Ordered to be printed

Mr. DOMENICI, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 4000]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 4000) to authorize the Secretary of the Interior to revise certain repayment contracts with the Bostwick Irrigation District in Nebraska, the Kansas Bostwick Irrigation District No. 2, the Frenchman-Cambridge Irrigation District, and the Webster Irrigation District No. 4, all a part of the Pick-Sloan Missouri Basin Program, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE OF THE MEASURE

H.R. 4000 would authorize the Secretary of the Interior to revise distribution works repayment contracts with the Bostwick Irrigation District in Nebraska, the Kansas Bostwick Irrigation District No. 2, the Frenchman-Cambridge Irrigation District, and the Webster Irrigation District No. 4.

BACKGROUND AND NEED

The Bostwick Irrigation District in Nebraska, the Kansas Bostwick Irrigation District No. 2, the Frenchman-Cambridge Irrigation District, and the Webster Irrigation District No. 4 are irrigation districts served by the Pick-Sloan Missouri Basin Program, a Reclamation Project. All of the irrigation districts are located in the Republican River basin except for Webster Irrigation District No. 4, which is located in the Solomon River basin.

The four districts recently renewed a portion of their water supply works repayment contracts to include a repayment term of 40

years. All districts renewed their contract in 2000 except for Webster Irrigation District No. 4, which renewed its contract in 2002. The districts' repayment obligations for construction costs associated with distribution works were not included in the renewal of the water supply works contracts.

Currently, repayment of construction costs associated with distribution works must be completed between 2009 and 2015, depending on the particular district. Within five years of the fulfillment of the districts' distribution works construction cost obligation, deposits into the distribution works reserve fund and the district water supply reserve fund are scheduled to increase significantly. In their testimony before the House Resources Committee on H.R. 4000, both Reclamation and U.S. Congressman Jerry Moran testified that the districts would be unable to meet the current reserve fund obligations.

LEGISLATIVE HISTORY

H.R. 4000 was introduced by Representative Moran for himself and Representative Osborn and referred to the Committee on Resources. The House Resources Committee Water and Power Subcommittee held hearings on the measure on December 7, 2005. H.R. 4000 was discharged from the House Resources Committee, passed the House of Representatives and was received by the Senate on December 19, 2005. A similar measure, S. 1962 was introduced on November 4, 2005, by Senator Roberts for himself and Senators Brownback, Hagel and Nelson and referred to the Committee on Energy and Natural Resources. The Subcommittee on Water and Power held a hearing on March 30, 2006. The Senate Committee on Energy and Natural Resources ordered H.R. 4000 favorably reported on May 24, 2006.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on May 24, 2006, by a unanimous voice vote of a quorum present, recommends that the Senate pass H.R. 4000.

SECTION-BY-SECTION ANALYSIS

Section 1 authorizes the Secretary of the Interior to revise the repayment contract with the Bostwick Irrigation District in Nebraska (009D6B0121) by equalizing the total annual repayment obligation for the distribution works construction charge and the water supply repayment obligation. The section also authorizes the Secretary of the Interior to extend the date for adjusting the annual deposits into the distribution works reserve fund and the district water supply reserve fund for an additional 10 years.

Section 2 authorizes the Secretary of the Interior to revise the repayment contract with the Kansas Bostwick Irrigation District No. 2 (009D6B0120) by equalizing the total annual repayment obligation for the distribution works construction charge and the water supply repayment obligation. The section also authorizes the Secretary of the Interior to extend the date for adjusting the annual deposits into the distribution works reserve fund and the district water supply reserve fund for an additional 10 years.

Section 3 authorizes the Secretary of the Interior to revise the repayment contract with the Frenchman-Cambridge Irrigation District (009D6B0122) by equalizing the total annual repayment obligation for the distribution works construction charge and the water supply repayment obligation. The section also authorizes the Secretary of the Interior to extend the date for adjusting the annual deposits into the distribution works reserve fund and the district water supply reserve fund for an additional 10 years.

Section 4 authorizes the Secretary of the Interior to revise the repayment contract with the Webster Irrigation District (009D6B0002) by equalizing the total annual repayment obligation for the distribution works construction charge and the water supply repayment obligation. The section also authorizes the Secretary of the Interior to extend the date for adjusting the annual deposits into the distribution works reserve fund and the district water supply reserve fund for an additional 10 years.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

H.R. 4000—An act to authorize the Secretary of the Interior to revise certain repayment contracts with the Bostwick Irrigation District in Nebraska, the Kansas Bostwick Irrigation District No. 2, the Frenchman-Cambridge Irrigation District, and the Webster Irrigation District No. 4, all a part of the Pick-Sloan Missouri Basin Program, and for other purposes.

Summary: H.R. 4000 would authorize the Secretary of the Interior to revise certain repayment contracts with several irrigation districts that are a part of the Pick-Sloan Missouri Basin Program. The repayment contracts are for reimbursable construction costs. This act would amend the current schedule of repayments by equalizing the amount of annual payments over the remaining life of the contracts.

Under the legislation, the irrigation districts would make smaller payments to the federal government during the first 10 years after enactment and larger payments in the later years of their contracts, compared with the payments due under current law. Those payments are recorded in the budget as offsetting receipts (that is, offsets to outlays). Because the act would reduce the amount of offsetting receipts collected by the government over the next 10 years, CBO estimates that enacting H.R. 4000 would increase direct spending by almost \$35 million over the 2006–2016 period. Over the next 35 years, aggregate receipts to the government would be unchanged, assuming H.R. 4000 is enacted before the end of 2006.

H.R. 4000 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandate Reform Act.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4000 is shown in the following table. The costs of this legislation fall within budget function 300 (water resources). For this estimate, CBO assumes that H.R. 4000 will be enacted before the end of fiscal year 2006.

| | By fiscal year, in millions of dollars— | | | | | | | | | | |
|----------------------------|---|------|------|------|------|------|------|------|------|------|------|
| | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 |
| CHANGES IN DIRECT SPENDING | | | | | | | | | | | |
| Estimated Budget Au- | | | | | | | | | | | |
| thority | 1 | 1 | 1 | 1 | * | * | * | * | * | * | * |
| Estimated Outlays | 1 | 1 | 1 | 1 | * | * | * | * | * | * | * |

Note: * = less than \$500,000.

Intergovernmental and private-sector impact: H.R. 4000 contains no intergovernmental or private-sector mandates. The act would benefit some water districts by authorizing the Secretary of the Interior to revise their repayment contracts for construction and water supply projects, shifting some payments into later years.

Estimate prepared by: Federal spending: Gregory Waring; Impact on state, local, and tribal governments: Lisa Ramirez-Branum; Impact on the private sector: Fatimot Ladipo.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 4000. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 4000.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Bureau of Reclamation at the Water and Power Subcommittee hearing on S. 1962, the Senate counterpart to H.R. 4000, in the 109th Congress follows:

STATEMENT OF JOHN KEYS III, COMMISSIONER OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Madam. Chairman and Members of the Subcommittee, I am John Keys, Commissioner of the Bureau of Reclamation. I am pleased to be here today to give the Administration's view on S. 1962, a bill to revise certain repayment contracts of four irrigation districts that are part of the Pick-Sloan Missouri Basin Program.

The Irrigation Projects Reauthorization Council (IPRC) represents four member irrigation districts in support of this legislation. The districts—the Kansas Bostwick Irrigation District No. 2 and the Webster Irrigation District No. 4, both in Kansas, and the Bostwick Irrigation District in Nebraska and the Frenchman-Cambridge Irrigation District (also in Nebraska), are served by Reclamation projects built as part of the Pick-Sloan Missouri Basin Program. Webster Irrigation District No. 4 is located in the Solomon River basin; the others are in the Republican River basin, both tributaries to the Kansas River.

The districts recently renewed their contracts with Reclamation. The contract renewal addressed repayment of a portion of the water supply works construction cost over a 40 year term. Webster Irrigation District No. 4 renewed its contract in 2002; the others renewed their contracts in 2000. However, each District's repayment of the distribution works construction cost obligation remained unchanged during contract renewal. Thus, the remaining term for repayment of the distribution works is, in each case, significantly less than that remaining for the water supply works. Under Reclamation law, the irrigation districts repay irrigation capital costs without interest charges.

As discussed above, currently each of these districts' contracts has two different repayment periods: a water supply works repayment term which extends until 2040 or 2042 (40 years from when the respective district's contract was renewed) and a distribution works repayment period which extends 40 years from their first payment for the distribution works (to sometime between 2009 and 2015 depending on the particular district). This legislation would allow the repayment periods for the distribution works to be extended to match the repayment period for the water supply works, and allow for equal annual payments over that period. Additionally, reserve fund payments were slated to increase significantly in about 5 years, following scheduled completion of repayment of the distribution works construction costs obligation. Anticipating that this time horizon is too short for the districts to ensure financial recovery sufficient to make the increased reserve fund payments, this bill delays these increases for an additional 10 years.

Drought conditions in southwest Nebraska and northwest Kansas have significantly impacted inflows to reservoirs providing a water supply to Kansas Bostwick Irrigation District, Bostwick Irrigation District in Nebraska, Frenchman-Cambridge Irrigation District and Webster Irrigation District. Annual inflow into reservoirs providing these districts' water supplies has reached new historical lows in the last three years. Four of the five canals in the Bostwick Irrigation District in Nebraska did not divert water the past two years. The Kansas Bostwick Irrigation District has not delivered a substantial amount of water to acres above Lovewell Reservoir the past two years. Three of the four canals in the Frenchman-Cambridge Irrigation District have not diverted any water the past three years. The Webster Irrigation District did not divert water into Osborne Canal this past year.

Despite the declining water supply available to these Projects, the districts' contracts require that they pay a portion of annual operation and maintenance costs for the water supply works and repay construction cost obligations to the United States. This payment obligation to Reclamation is in addition to the districts' responsibility for 100 percent of the operation and maintenance costs of the dis-

tribution works and those water supply works that have been transferred to the districts. Even with no water or a diminished supply, the need for maintenance of these facilities continues.

The districts assess their irrigators in order to pay the districts' annual expenses and repayment obligations. These irrigators have received a diminished or no supply in recent years. For the last couple of years most of these districts have sought and been granted annual deferments to their payments under Reclamation law (the Act of September 21, 1959, 73 Stat. 584). In order to grant a deferment, Reclamation requires a determination that payment of the installments will cause an undue burden on the water users and that there is no alternative source of funds available to pay the installments. When an annual payment is deferred, it is rescheduled to be repaid as quickly as possible within the remaining term of the contract. The deferments have helped the districts to weather the drought in the short run, but have also caused the annual distribution works payments to be substantially larger over their remaining repayment period, because deferments do not extend the total time period allowed for repayment.

For example, Kansas-Bostwick Irrigation District #2 would, after execution of the annual deferment currently being processed, have annual distribution works payments of \$421,353 due through 2015, with annual water supply works payments of \$21,841 through 2015, increasing to \$96,512 for 2016 and 2017, then decreasing to \$85,591 from 2018 through 2040. This results in an annual repayment total for this district of \$443,194 through 2015 when the distribution works are scheduled to pay out in the absence of this legislation. If S. 1962 becomes law, the district will have consistent annual payments of \$188,387 from 2006 through 2040, thus providing relief to help the district through the current financial crisis.

The total repayment obligation for the distribution works and water supply works for all four districts together is \$12,442,447. This legislation does not change the dollar amount of this repayment obligation. However, because Reclamation law provides that irrigators do not pay interest on capital costs, this bill would reduce the present value of expected Treasury receipts. The difference between the present value of the payout stream of the contracts as they currently exist and as they would be amended by this bill is \$1,620,637. This assumes that, in the absence of this legislation, the districts would pay the minimum payments due on time over the life of these contracts.

The IPRC and the participating districts have done an exemplary job of communicating with Reclamation as they sought this legislation. They contacted us in early 2005 to explore what opportunities were available to them under existing law to address their financial concerns. Other than the deferments discussed above, none existed. Rec-

lamation also very much appreciates the manner by which IPRC has kept us informed and worked with us to identify issues. They addressed the possible effect to power repayments through “aid to irrigation” early on by working closely with Midwest Electric Consumers Association and with Reclamation. It is our understanding that “aid to irrigation” is not affected by this legislation.

The legislation would provide needed financial relief to the districts by rescheduling their financial obligations to the United States. Extension of the repayment period will not be a permanent solution to the water scarcity facing these districts. However, taking this action will provide needed relief for the districts and increase the likelihood that they will be able to attain long-term financial viability and fulfill their repayment obligation to the United States. Therefore, the Department supports this legislation.

I am happy to respond to any questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act H.R. 4000, as ordered reported.

