

# Union Calendar No. 552

116<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3723

**[Report No. 116–668, Part I]**

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

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## 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

DECEMBER 18, 2020

Reported from the Committee on Natural Resources with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

DECEMBER 18, 2020

Committee on Science, Space, and Technology discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on July 11, 2019]

# **A BILL**

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

1 **SECTION 1. SHORT TITLE.**

2       *This Act may be cited as the “Desalination Develop-*  
3 *ment Act”.*

4 **SEC. 2. DESALINATION PROJECTS AUTHORIZATION.**

5       *Section 4(a) of the Water Desalination Act of 1996 (42*  
6 *U.S.C. 10301 note; Public Law 104–298) is amended by*  
7 *striking the second paragraph (1) (relating to projects) and*  
8 *inserting the following:*

9               “(2) **PROJECTS.**—

10                       “(A) **DEFINITIONS.**—*In this paragraph:*

11                               “(i)       **ELIGIBLE       DESALINATION**  
12                       **PROJECT.**—*The term ‘eligible desalination*  
13 *project’ means any project located in a Rec-*  
14 *lamation State that—*

15                                       “(I) *involves an ocean or brackish*  
16 *water desalination facility—*

17   “(aa) *constructed, operated,*  
18 *and maintained by a State, In-*  
19 *Indian Tribe, irrigation district,*  
20 *water district, or other organiza-*  
21 *tion with water or power delivery*  
22 *authority; or*

23   “(bb) *sponsored or funded by*  
24 *a State, department of a State,*  
25 *political subdivision of a State, or*

1 public agency organized pursuant  
2 to State law, including through—

3 “(AA) direct sponsor-  
4 ship or funding; or

5 “(BB) indirect sponsor-  
6 ship or funding, such as by  
7 paying for the water pro-  
8 vided by the facility; and

9 “(II) provides a Federal benefit in  
10 accordance with the reclamation laws.

11 “(ii) RURAL DESALINATION  
12 PROJECT.—The term ‘rural desalination  
13 project’ means an eligible desalination  
14 project that is designed to serve a commu-  
15 nity or group of communities, each of which  
16 has a population of not more than 40,000  
17 inhabitants.

18 “(B) COST-SHARING REQUIREMENT.—

19 “(i) IN GENERAL.—Subject to the re-  
20 quirements of this subsection and notwith-  
21 standing section 7, the Federal share of an  
22 eligible desalination project carried out  
23 under this subsection shall be—

1           “(I) not more than 25 percent of  
2           the total cost of the eligible desalina-  
3           tion project; or

4           “(II) in the case of a rural desali-  
5           nation project, the applicable percent-  
6           age determined in accordance with  
7           clause (ii).

8           “(ii)       RURAL       DESALINATION  
9           PROJECTS.—

10           “(I)   COST-SHARING   REQUIRE-  
11           MENT FOR APPRAISAL STUDIES.—In  
12           the case of a rural desalination project  
13           carried out under this subsection, the  
14           Federal share of the cost of appraisal  
15           studies for the rural desalination  
16           project shall be—

17           “(aa) 100 percent of the total  
18           costs of the appraisal studies, up  
19           to \$200,000; and

20           “(bb) if the total costs of the  
21           appraisal studies are more than  
22           \$200,000, 50 percent of any  
23           amounts over \$200,000.

24           “(II)   COST-SHARING   REQUIRE-  
25           MENT FOR FEASIBILITY STUDIES.—In

1           *the case of a rural desalination project*  
2           *carried out under this subsection, the*  
3           *Federal share of the cost of feasibility*  
4           *studies for the rural desalination*  
5           *project shall be not more than 50 per-*  
6           *cent.*

7                   “(III) *COST-SHARING REQUIRE-*  
8                   *MENT FOR CONSTRUCTION COSTS.—In*  
9                   *the case of a rural desalination project*  
10                   *carried out under this subsection, the*  
11                   *Federal share of the cost of construc-*  
12                   *tion of the rural desalination project*  
13                   *shall not exceed the greater of —*

14                           “(aa) *35 percent of the total*  
15                           *cost of construction, up to a Fed-*  
16                           *eral cost of \$20,000,000; or*

17                           “(bb) *25 percent of the total*  
18                           *cost of construction.*

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

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

24                           “(II) *the participation has been re-*  
25                           *quested by the Governor of the State in*

1                   *which the eligible desalination project is lo-*  
2                   *cated; and*

3                   *“(ii) the State or local sponsor of the*  
4                   *eligible desalination project determines, and*  
5                   *the Secretary concurs, that—*

6                   *“(I) the eligible desalination*  
7                   *project—*

8                   *“(aa) is technically and fi-*  
9                   *nancially feasible;*

10                  *“(bb) provides a Federal ben-*  
11                  *efit in accordance with the rec-*  
12                  *lamation laws; and*

13                  *“(cc) is consistent with ap-*  
14                  *licable State laws, State regula-*  
15                  *tions, State coastal zone manage-*  
16                  *ment plans and other State plans*  
17                  *such as California’s Water Qual-*  
18                  *ity Control Plan for the Ocean*  
19                  *Waters in California;*

20                  *“(II) sufficient non-Federal fund-*  
21                  *ing is available to complete the eligible*  
22                  *desalination project; and*

23                  *“(III) the eligible desalination*  
24                  *project sponsors are financially solvent;*  
25                  *and*

1           “(iii) the Secretary submits to Con-  
2           gress a written notification of the deter-  
3           minations under clause (ii) by not later  
4           than 30 days after the date of the deter-  
5           minations.

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

14          “(E) INFORMATION.—In participating in  
15          an eligible desalination project under this sub-  
16          section, the Secretary—

17                 “(i) may rely on reports prepared by  
18                 the sponsor of the eligible desalination  
19                 project, including feasibility or equivalent  
20                 studies, environmental analyses, and other  
21                 pertinent reports and analyses; but

22                 “(ii) shall retain responsibility for  
23                 making the independent determinations de-  
24                 scribed in subparagraph (C).

25          “(F) FUNDING.—



1           “(i) *AUTHORIZATION OF APPROPRIA-*  
2           *TIONS.—There is authorized to be appro-*  
3           *priated to carry out this paragraph*  
4           *\$260,000,000 for the period of fiscal years*  
5           *2021 through 2025, of which not less than*  
6           *\$15,000,000 shall be made available during*  
7           *that period for rural desalination projects.*

8           “(ii) *CONGRESSIONAL APPROVAL INI-*  
9           *TIALLY REQUIRED.—*

10           “(I) *IN GENERAL.—Each initial*  
11           *award under this paragraph for design*  
12           *and study or for construction of an eli-*  
13           *gible desalination project shall be ap-*  
14           *proved by an Act of Congress.*

15           “(II)     *RECLAMATION     REC-*  
16           *COMMENDATIONS.—The Commissioner*  
17           *of Reclamation shall submit rec-*  
18           *ommendations regarding the initial*  
19           *award of preconstruction and construc-*  
20           *tion funding for consideration under*  
21           *subclause (I) to—*

22                     “(aa) *the Committee on Ap-*  
23                     *propriations of the Senate;*

1                   “(bb) the Committee on En-  
2                   ergy and Natural Resources of the  
3                   Senate;

4                   “(cc) the Committee on Ap-  
5                   propriations of the House of Rep-  
6                   resentatives; and

7                   “(dd) the Committee on Nat-  
8                   ural Resources of the House of  
9                   Representatives.

10                   “(iii)        SUBSEQUENT        FUNDING  
11                   AWARDS.—After approval by Congress of an  
12                   initial award of preconstruction or con-  
13                   struction funding for an eligible desalina-  
14                   tion project under clause (ii), the Commis-  
15                   sioner of Reclamation may award addi-  
16                   tional preconstruction or construction fund-  
17                   ing, respectively, for the eligible desalina-  
18                   tion project without further congressional  
19                   approval.

20                   “(G) TOTAL DOLLAR CAP.—The Secretary  
21                   shall not impose a total dollar cap on Federal  
22                   contributions for individual desalination projects  
23                   receiving funding under this paragraph.”.

1 **SEC. 3. PRIORITIZATION FOR PROJECTS.**

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

5 “(c) *PRIORITIZATION.—In carrying out demonstration*  
6 *and development activities under this section, the Secretary*  
7 *and the Commissioner of Reclamation shall each prioritize*  
8 *projects—*

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

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

14 *“(3) that demonstrably reduce a reliance on im-*  
15 *ported water supplies that have an impact on species*  
16 *listed under the Endangered Species Act of 1973 (16*  
17 *U.S.C. 1531 et seq.);*

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

22 *“(5) that demonstrably leverage the experience of*  
23 *international partners with considerable expertise in*  
24 *desalination, such as the state of Israel;*

25 *“(6) that maximize use of renewable energy to*  
26 *power desalination facilities;*

1           “(7) that maximize energy efficiency so that the  
2           lifecycle energy demands of desalination are mini-  
3           mized;

4           “(8) located in regions that have employed strat-  
5           egies to increase water conservation and the capture  
6           and recycling of wastewater and stormwater; and

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

9                   “(A) utilize a subsurface intake or, if a sub-  
10                   surface intake is not technologically feasible, an  
11                   intake that uses the best available site, design,  
12                   technology, and mitigation measures to minimize  
13                   the mortality of all forms of marine life and im-  
14                   pacts to coastal dependent resources;

15                   “(B) are sited and designed to ensure that  
16                   the disposal of wastewaters including brine from  
17                   the desalination process—

18                           “(i) are not discharged to impaired  
19                           bodies of water, or State or Federal Marine  
20                           Protected Areas; and

21                           “(ii) achieve ambient salinity levels  
22                           within a reasonable distance from the dis-  
23                           charge point;

1           “(C) are sited, designed, and operated in a  
2           manner that maintains indigenous marine life  
3           and a healthy and diverse marine community;

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

6           “(E) include a construction and operation  
7           plan designed to minimize loss of coastal habitat  
8           as well as aesthetic, noise, and air quality im-  
9           pacts.”.

10 **SEC. 4. RECOMMENDATIONS TO CONGRESS.**

11           *In determining project recommendations to Congress*  
12 *under section 4(a)(2)(F)(ii)(II) of the Water Desalination*  
13 *Act of 1996, the Commissioner of Reclamation shall estab-*  
14 *lish a priority scoring system that assigns priority scores*  
15 *to each project evaluated based on the prioritization criteria*  
16 *of section 4(c) of the Water Desalination Act of 1996 (42*  
17 *U.S.C. 10301 note; Public Law 104–298).*

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116<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 3723**

[Report No. 116-668, Part I]

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## **A BILL**

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

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DECEMBER 18, 2020

Reported from the Committee on Natural Resources with an amendment

DECEMBER 18, 2020

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