

105TH CONGRESS
1ST SESSION

S. 1230

To amend the Small Reclamation Projects Act of 1956 to provide for Federal cooperation in non-Federal reclamation projects and for participation by non-Federal agencies in Federal projects.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 1997

Mr. CRAIG introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Small Reclamation Projects Act of 1956 to provide for Federal cooperation in non-Federal reclamation projects and for participation by non-Federal agencies in Federal projects.

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 “Small Reclamation
5 Water Resources Project Act of 1997”.

1 **SEC. 2. AMENDMENT OF SMALL RECLAMATION PROJECTS**

2 **ACT OF 1956.**

3 (a) The first section of the Small Reclamation
4 Projects Act of 1956 (70 Stat. 1044; 43 U.S.C. 422a) is
5 amended by striking “under the” and inserting “under
6 this Act and other” and by adding the following at the
7 end thereof: “Such projects may include, but shall not be
8 limited to, irrigation projects. Irrigation shall not be a re-
9 quired purpose for projects receiving assistance under this
10 Act.”.

11 (b) Section 2 of the Small Reclamation Projects Act
12 of 1956 (70 Stat. 1044; 43 U.S.C. 422b) is amended as
13 follows:

14 (1) By amending subsection (d) to read as fol-
15 lows:

16 “(d) The term ‘project’ means a project carried out
17 by a non-Federal organization under the Federal reclama-
18 tion laws in 1 or more of the 17 western reclamation
19 States that is one of the following:

20 “(1) A single or multipurpose water resource
21 development project carried out by a non-Federal or-
22 ganization involving water conservation, energy con-
23 servation, fish and wildlife conservation, protection,
24 or enhancement, public safety, public outdoor recre-
25 ation, environmental education, archaeological sur-
26 veys, integrated resource planning, watershed man-

1 agement, water quality improvements, rural water
2 supply, augmentation and management of local
3 water supplies, supplemental water for existing sup-
4 plies, technology transfer, groundwater management
5 or research, nonstructural flood control activities, or
6 total water resources management.

7 “(2) A project for the rehabilitation, better-
8 ment, or retrofit of any existing Federal or non-Fed-
9 eral water infrastructure for purposes of—

10 “(A) significant preservation, protection,
11 enhancement, or extension of water or energy
12 resources, or

13 “(B) those operational measures, habitat,
14 or physical features associated with the protec-
15 tion, preservation, enhancement, or recovery of
16 those fish and wildlife resources that are con-
17 sidered of importance and interest and which
18 shall include, but not be limited to, migratory
19 species, threatened or endangered species as
20 listed, or proposed for listing, under the Endan-
21 gered species Act, or other species, as deter-
22 mined by the Secretary, to be worthy of consid-
23 eration under these terms.”.

24 (2) By adding the following at the end thereof:

1 “(g) The term ‘water quality improvements’ shall
2 mean and involve those operational measures and physical
3 features associated with—

4 “(1) the reclamation and reuse of irrigation
5 drainage or municipal and industrial return flows,
6 including wastewater flows;

7 “(2) the reclamation, dilution, or control, of
8 brackish, toxic, or hazardous waters for beneficial
9 reuse or protection of other related water, land, or
10 environmental resources; or

11 “(3) flow augmentation from storage to achieve
12 national or State water quality goals.”.

13 (c) Sections 3 through 8 of such Act are amended
14 to read as follows:

15 “TITLE I—STATE AND LOCAL PARTICIPATION
16 IN RECLAMATION PROJECTS

17 “SEC. 101. There is hereby established under this
18 title a program within the Bureau of Reclamation of the
19 Department of the Interior pursuant to which the Sec-
20 retary of the Interior may make grants and loans to orga-
21 nizations to carry out projects as defined in section 2(d).

22 “SEC. 102. (a) Any organization seeking assistance
23 under this title shall submit a proposal to the Secretary
24 in such form and manner as the Secretary may prescribe.
25 Any proposal for a project submitted under this title shall

1 set forth a plan and estimated cost in detail comparable
2 to those included in preauthorization reports required for
3 a Federal reclamation project.

4 “(b) Each proposal submitted under this title shall
5 include a showing that the project sponsor holds or can
6 acquire all lands and interests in land (except public and
7 other lands and interest in land owned by the United
8 States which are within the administrative jurisdiction of
9 the Secretary and subject to disposition by the Secretary)
10 and rights, pursuant to applicable State law, to the use
11 of water necessary for the successful construction, oper-
12 ation, and maintenance of the project and that it is ready,
13 able, and willing to finance otherwise than by loan and
14 grant of Federal funds the non-Federal portion of the
15 costs of the project (which portion shall include all costs
16 of acquiring lands, interests in land, and rights to the use
17 of water except as provided in section 103(b)(2).

18 “(c) The Secretary shall require each organization to
19 contribute toward the cost of the project (other than by
20 loan or grant of Federal funds) not less than 25 percent
21 nor more than 40 percent of the allowable estimated costs
22 of the project. In determining the amount of such non-
23 Federal contribution for the proposed project, the Sec-
24 retary shall credit toward that amount—

1 “(1) the cost of investigations, surveys, engi-
2 neering, and other services necessary to the prepara-
3 tion of proposals and plans for the proposed project
4 as required by the Secretary;

5 “(2) the costs of lands and rights-of-way acqui-
6 sition required of the proposed project;

7 “(3) amounts spent by the organization for con-
8 struction or acquisition of facilities for the proposed
9 project prior to project approval; and

10 “(4) the filing fee required by this Act. Such
11 proposal shall also include an investigation of soil
12 characteristics which might result in toxic or hazard-
13 ous return flows. The costs of measures to prevent
14 loss of and damage to existing fish and wildlife re-
15 sources shall be considered as non-Federal project
16 costs and allocated as may be appropriate among
17 project functions. The maximum allowable Federal
18 share per project shall be \$30,000,000 plus or minus
19 an adjustment of such amount as may be deter-
20 mined by the Secretary using the Bureau of Rec-
21 lamation composite construction cost index for Janu-
22 ary of the year concerned.

23 “(d) Not later than one year after the time the initial
24 project proposal is submitted to the Secretary, the Sec-
25 retary shall make a determination whether the proposal

1 is financially feasible and constitutes a reasonable risk
2 under the provisions of this title and either approve or
3 disapprove the proposal. The Secretary shall promptly
4 transmit any approved proposals to the Congress. Any Na-
5 tional Environmental Policy Act documentation for the
6 project shall be completed prior to Secretarial transmittal
7 of the proposal to the Congress.

8 “(e) At any time prior to the completion of construc-
9 tion of the project, the Secretary may increase the amount
10 of the requested loan or grant, or both, subject to the limi-
11 tations allowed by subsection (c), using the Bureau of Rec-
12 lamation composite construction cost index to compensate
13 for increases in construction costs due to price escalation.

14 “SEC. 103. (a) Upon approval of any project proposal
15 submitted under this title, the Secretary shall negotiate
16 a contract which shall set out the maximum amount of
17 any loan to be made to the organization and the time and
18 method of making the same available to the organization
19 or the maximum amount of any grant to be accorded the
20 organization.

21 “(b) A grant under this title shall not exceed the sum
22 of the following:

23 “(1) The costs of investigations, surveys, and
24 engineering and other services necessary to the prep-
25 aration of proposals and plans for the project alloca-

1 ble to fish and wildlife enhancement or public recre-
2 ation.

3 “(2) One-half the costs of acquiring lands or in-
4 terests therein to serve exclusively the purposes of
5 fish and wildlife enhancement or public recreation,
6 plus the costs of acquiring joint use lands and inter-
7 ests therein properly allocable to fish and wildlife en-
8 hancement and public recreation.

9 “(3) One-half the costs of basic public outdoor
10 recreation facilities or facilities serving fish and
11 wildlfe enhancement purposes exclusively.

12 “(4) One-half the costs of construction of joint
13 use facilities properly allocable to fish and wildlife
14 enhancement or public recreation.

15 “(5) That portion of the estimated cost of con-
16 structing the project which, if it were constructed as
17 a Federal reclamation project, would be properly al-
18 locable to functions, other than recreation and fish
19 and wildlife enhancement and flood control, which
20 are nonreimbursable under general provisions of law
21 applicable to such projects.

22 “(6) That portion of the estimated cost of con-
23 structing the project which is allocable to flood con-
24 trol and which would be nonreimbursable under gen-

1 eral provisions of law applicable to projects con-
2 structed by the Secretary of the Army.

3 “(c) The contract for each loan under this title shall
4 contain such terms and conditions as the Secretary deems
5 necessary or proper to provide assurance of and security
6 for prompt repayment and to ensure achievement of the
7 purposes for which the loan was made. The contract shall
8 include a plan for repayment by the organization within
9 not less than 15 years nor more than 25 years, except
10 that the organization shall have the right to repay the loan
11 without penalty. The contract for each loan under this title
12 shall require repayment of the principal of each loan, to-
13 gether with interest on those features required to bear in-
14 terest under Federal Reclamation laws at a rate deter-
15 mined by the Secretary of the Treasury as of the begin-
16 ning of the fiscal year in which the contract is executed
17 on the basis of the average market yields on outstanding
18 marketable obligations of the United States with remain-
19 ing periods to maturity comparable to the applicable re-
20 payment period of the project. The Secretary, at his dis-
21 cretion, may reduce the interest on any loan under this
22 title to not less than one-half the average market rate as
23 so determined, or to the extent that he determines that
24 the organization is unable to secure financing from other
25 sources under reasonable terms and conditions, and shall

1 include letters from lenders or other written evidence in
2 support of any finding of an applicant's inability to secure
3 such financing in any project proposal transmitted to the
4 Congress.

5 "TITLE II—PARTNERSHIP PROGRAM

6 "SEC. 201. There is hereby established within the De-
7 partment of the Interior's Bureau of Reclamation the
8 Small Reclamation Water Resources Management Part-
9 nership Program for a small grant and loan program to
10 be carried out under this title. Grants under this title shall
11 not exceed \$5,000,000 for any one project under such pro-
12 gram and shall be matched on a 50–50 basis. Loans under
13 this title shall not exceed \$1,500,000 per project. The Sec-
14 retary is authorized to use up to \$50,000,000 of the
15 amounts available under this Act for the purposes of this
16 title.

17 "SEC. 202. Once work is certified complete by the
18 Secretary, each loan made under this title shall be repaid
19 within a 5-year period and deposited in a revolving loan
20 fund that shall be established in the Department of the
21 Treasury. Money from the repayment of the loans shall
22 be available from the revolving loan program fund without
23 further appropriation to carry out the purposes of this
24 title.

1 “SEC. 203. (a) The following types of activities shall
2 be eligible for grants or loans under this title:

3 “(1) WATER CONSERVATION.—

4 “(A) Rehabilitation of existing structures;

5 “(B) wastewater reuse systems;

6 “(C) groundwater recharge and develop-
7 ment systems;

8 “(D) watershed management programs;

9 “(E) water quality improvement projects;

10 “(F) conjunctive use projects;

11 “(G) metering of systems; and

12 “(H) public environmental education.

13 “(2) FISH AND WILDLIFE ENHANCEMENT.—

14 “(A) Fish and wildlife habitat improve-
15 ment and protection programs;

16 “(B) grassland/water/wetland areas;

17 “(C) stabilization of instream flows; and

18 “(D) Federal or State endangered species
19 habitat protection and enhancement where im-
20 provement or enhancement activities are within
21 normal operating criteria.

22 “(3) PUBLIC SAFETY.—

23 “(A) Downstream warning system projects;

24 “(B) canal fencing or canal modification
25 for public safety; and

1 “(C) public access facilities.

2 “(4) PUBLIC OUTDOOR RECREATION.—

3 “(A) Replacement, repair, or improvement
4 of boat ramps, hiking and biking trails, bench-
5 es, picnic areas, parking facilities associated
6 with Federal reclamation projects; and

7 “(B) addition of public access facilities.

8 “(5) ARCHEOLOGICAL SURVEYS.—Site clear-
9 ances.

10 “(b) The Secretary may add to the list referred to
11 in subsection (a) as he deems appropriate, except that any
12 such addition shall not take effect until 60 days after the
13 Secretary publishes a notice of the proposed addition in
14 the Federal Register and has notified the Committee on
15 Resources of the House of Representatives and the Com-
16 mittee on Energy and Natural Resources of the United
17 States Senate in writing of the proposed addition and the
18 reasons therefor.

19 “SEC. 204. (a) Each applicant for a grant or loan
20 under this title shall submit a Notice of Intent to the Sec-
21 retary outlining the proposed project and the public bene-
22 fits thereof. The Secretary shall provide a written response
23 to the applicant within 30 days of receiving the application
24 either affirming or rejecting Bureau of Reclamation inter-
25 est in participating in the project. Upon notification of

1 Bureau of Reclamation interest, the applicant shall submit
2 a project proposal for an appropriate loan or grant giving
3 details of the project and the associated public benefits.
4 The contents of any policy proposal under this title shall
5 include, but need not be limited to, each of the following:

6 “(1) A resolution by the board of directors of
7 the qualifying organization stating—

8 “(A) the total estimated cost;

9 “(B) the amount of the grant or loan re-
10 quested;

11 “(C) the amount of the local contribution
12 for the grant;

13 “(D) the sponsor’s ability to finance and
14 construct the project; and

15 “(E) the project objectives.

16 “(2) A summary of the proposal.

17 “(3) A brief description of the anticipated ef-
18 fects of the project on the natural, as well as man-
19 made environment.

20 “(4) Evidence that the applicant has all lands
21 and water rights needed for the project, or can ob-
22 tain them.

23 “(5) A description of the project plan, including
24 a general map showing the location of proposed
25 physical features, sufficient engineering drawings of

1 major and typical structures, and general standards
2 for design.

3 “(6) A construction schedule, if applicable, with
4 dates and schedule of funding requirements under
5 this title, in sufficient detail to permit analysis of
6 the proposed construction program.

7 “(7) A determination of those portions of the
8 project costs which constitute the Federal grant/loan
9 amounts and the applicant’s local contribution.

10 “(b) The Secretary shall examine the proposal sub-
11 mitted under this title to determine if the project can rea-
12 sonably be expected to accomplish its purpose. Once ap-
13 proved by the Secretary, funding, subject to the availabil-
14 ity of appropriations or funds from repayments, shall be
15 provided within 60 days for the schedule of work within
16 that fiscal year. The cost of any investigations and prepa-
17 ration of any environmental documentation shall be borne
18 by the project applicant and any such costs shall be cred-
19 ited as part of the local cost share for grant funding. The
20 Secretary shall publish on a quarterly basis in the Federal
21 Register a listing of the activities and total funding re-
22 quired for work committed under this title.

23 “TITLE III—LOAN GUARANTEES

24 “SEC. 301. There is hereby established within the De-
25 partment of the Interior’s Bureau of Reclamation a dem-

1 onstration program under this title to guarantee loans for
2 projects receiving, or eligible to receive, loans or grants
3 under title I or II of this Act.

4 “SEC. 302. (a) The Secretary may provide support
5 under the demonstration program to organizations
6 through the provision of loan guarantees to such pro-
7 grammatic needs as authorized under titles I and II of
8 this Act under such terms and conditions specified in this
9 section and under applicable laws. Any proposal for a
10 project submitted under this title shall set forth a plan
11 and estimated cost in detail comparable to those included
12 in preauthorization reports required for a Federal rec-
13 lamation project.

14 “(b) The Secretary is authorized to use up to 10 per-
15 cent of the amounts available under this Act for the loan
16 guarantee demonstration program under this title over the
17 6 fiscal years commencing after the enactment of this title.

18 “(c) The Secretary shall use competitive procedures
19 in the selection of entities to receive loan guarantees under
20 this section. The criteria used for the selection of the enti-
21 ties to receive the loan guarantee under this section shall
22 include, at a minimum, the following:

23 “(1) The extent to which the loan guarantees
24 would support new water supplies or more efficient
25 use of existing supplies.

1 “(2) The extent to which the loan guarantees
2 are necessary as a result of no other financing mech-
3 anism being available to the requesting entity.

4 “(3) The extent to which the loan guarantee
5 can be repaid in the shortest period possible.

6 “(4) The extent to which the loan guarantee
7 would provide for a project of wide public purpose.

8 “(5) The extent to which the loan guarantee
9 would alleviate a problem with a Federal or State
10 environmental statute or mandate.

11 “(6) The ability of the program to assist other
12 local water purveyors.

13 “(7) The extent to which the program would
14 supplement, rather than duplicate, other available
15 water resource programs.

16 “(8) The likelihood that, within 10 years after
17 the commencement of assistance for a program
18 under this section that assistance from the Bureau
19 of Reclamation will not be necessary to sustain the
20 program.

21 “(9) The extent to which the annual use of loan
22 guarantee ceiling authority has not created an undue
23 fiscal burden on the reclamation program.

24 “(d) The total amount available for request by the
25 Administration for a fiscal year to cover the costs of loan

1 guarantees under this section shall be divided between
2 projects receiving or eligible to receive loans under titles
3 I and II with title I projects receiving 75 percent and title
4 II projects receiving 25 percent. The maximum allowable
5 guarantee percentage for loans guaranteed under this sec-
6 tion may not exceed 75 percent of the total project cost:
7 *Provided, That, as the project sponsor repays such guar-*
8 *anteed loan, the ceiling authority used under this section*
9 *for such guarantee shall revert back to the 10 percent ceil-*
10 *ing authorized under this section to serve as the basis for*
11 *future loan guarantees. Applicable report and document*
12 *requirements authorized under amendments contained in*
13 *titles I and II shall similarly apply to loan guarantee*
14 *projects. For purposes of this Act, any bonds issued under*
15 *this section by an entity receiving loan guarantees under*
16 *this section shall be considered federally guaranteed tax-*
17 *exempt bonds under applicable State law.*

18 “(e) FULL FAITH AND CREDIT.—Any loan guarantee
19 issued pursuant to this section shall constitute an obliga-
20 tion, in accordance with the terms of such guarantee, of
21 the United States Government, and the full faith and cred-
22 it of the United States is hereby pledged to the full per-
23 formance of the obligations.

24 “(f) REPORT.—At the end of the third fiscal year
25 after the enactment of this Act, the Secretary shall submit

1 a report to Congress on the beneficial use and suggested
2 improvements associated with the use of loan guarantees
3 as a mechanism for project construction.

4 “TITLE IV—GENERAL PROVISIONS

5 “SEC. 401. Each proposal for a loan, grant, or loan
6 guarantee under this Act shall be accompanied by a pay-
7 ment of \$5,000 plus \$1,000 for each \$1,000,000 of the
8 estimated Federal share of project costs, or portion there-
9 of to defray in part the costs of examining the proposal.
10 Fifty percent of the payment shall accompany the applica-
11 tion and the remaining 50 percent shall be due upon ap-
12 proval of the project by the Secretary, if approved.

13 “SEC. 402. Title of all project works and facilities
14 constructed with assistance under this Act shall remain
15 in the name of the organization. Nothing contained in this
16 Act shall preclude the making of more than one loan or
17 grant or guarantee, or any combination thereof, to an or-
18 ganization so long as no two such loans or grants or guar-
19 antees, or combinations thereof, are for the same project,
20 as herein defined. In providing assistance under this Act,
21 the Secretary shall give priority to approved proposals
22 which are related to presently authorized Reclamation
23 projects that will benefit from the work carried out under
24 the proposal. The recipient of each loan, grant, or loan
25 guarantee under this Act shall be solely responsible for

1 planning, constructing, operating, and maintaining any
2 project receiving a loan or grant under this title.

3 “SEC. 403. Upon request of an organization which
4 has made or intends to make a proposal under this Act,
5 the head of any Federal department or agency may make
6 available to the organization any existing engineering, eco-
7 nomic, hydrologic, or other appropriate information and
8 printed material that it may have and that will be useful
9 in connection with the planning, design, construction, or
10 operation and maintenance of the project concerned. The
11 reasonable cost of any plans, specifications, and other
12 unpublished material furnished by the Secretary pursuant
13 to this section and the cost of making and administering
14 any provision under this Act shall, to the extent that they
15 would not be nonreimbursable in the case of a project con-
16 structed under the Federal Reclamation Laws, be treated
17 as a loan and covered in the provisions of the contract
18 entered into under title I unless they are otherwise paid
19 for by the organization.

20 “SEC. 404. For those projects where the planning
21 and construction of projects undertaken pursuant to this
22 Act is subject to the provisions of the Fish and Wildlife
23 Coordination Act, the cost of such provisions shall be a
24 Federal expense and the Secretary is authorized, as may
25 be provided in Appropriation Acts, to transfer to the Fish

1 and Wildlife Service or to the National Marine Fisheries
2 Service, such funds as may be necessary to conduct the
3 investigations required to carry out the purposes of this
4 Act, except that the Secretary may not use any funds ap-
5 propriated for the purposes of projects or programs under
6 the Bureau of Reclamation. No grant, loan, guarantee, or
7 other assistance provided under this Act shall be consid-
8 ered to be a new or supplemental benefit under Reclama-
9 tion law.”.

10 SEC. 3. (a) Sections 9 through 13 of such Act are
11 redesignated as sections 405 through 499 respectively.

12 (b) Section 406 of such Act, as redesignated by para-
13 graph (1) of this subsection, is amended by striking “sec-
14 tion 3” and inserting “title I”.

15 (c) Section 402 of such Act, as redesignated by para-
16 graph (1) of this subsection, is amended by striking “sec-
17 tion 4(e)” and inserting “title I”.

18 (d) Within 120 days after the enactment of this Act,
19 the Secretary of the Interior shall promulgate such regula-
20 tions as may be necessary to carry out the amendments
21 made by this Act.

22 (e) The amendments made by this Act shall take ef-
23 fect on the date of the enactment of this Act. Nothing
24 in this Act or in any amendment made by this Act shall

- 1 affect any loan or grant that has been approved before
- 2 the date of the enactment of this Act.

○