

110TH CONGRESS
1ST SESSION

H. R. 3452

To amend the Internal Revenue Code of 1986 to allow a credit with respect to clean renewable water supply bonds.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 2007

Mr. BECERRA (for himself, Mr. PORTER, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. DOOLITTLE, Mr. COSTA, Ms. GINNY BROWN-WAITE of Florida, Mr. PUTNAM, Ms. ROS-LEHTINEN, and Mr. KAGEN) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow a credit with respect to clean renewable water supply bonds.

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. CLEAN RENEWABLE WATER SUPPLY BONDS.**

4 (a) IN GENERAL.—Part IV of subchapter A of chap-
5 ter 1 of the Internal Revenue Code of 1986 (relating to
6 credits against tax) is amended by inserting after section
7 54 the following new section:

1 **“SEC. 54A. CREDIT TO HOLDERS OF CLEAN RENEWABLE**
2 **WATER SUPPLY BONDS.**

3 “(a) ALLOWANCE OF CREDIT.—If a taxpayer holds
4 a clean renewable water supply bond on 1 or more credit
5 allowance dates of the bond occurring during any taxable
6 year, there shall be allowed as a credit against the tax
7 imposed by this chapter for the taxable year an amount
8 equal to the sum of the credits determined under sub-
9 section (b) with respect to such dates.

10 “(b) AMOUNT OF CREDIT.—

11 “(1) IN GENERAL.—The amount of the credit
12 determined under this subsection with respect to any
13 credit allowance date for a clean renewable water
14 supply bond is 25 percent of the annual credit deter-
15 mined with respect to such bond.

16 “(2) ANNUAL CREDIT.—The annual credit de-
17 termined with respect to any clean renewable water
18 supply bond is the product of—

19 “(A) the credit rate determined by the Sec-
20 retary under paragraph (3) for the day on
21 which such bond was sold, multiplied by

22 “(B) the outstanding face amount of the
23 bond.

24 “(3) DETERMINATION.—For purposes of para-
25 graph (2), with respect to any clean renewable water
26 supply bond, the Secretary shall determine daily or

1 cause to be determined daily a credit rate which
2 shall apply to the first day on which there is a bind-
3 ing, written contract for the sale or exchange of the
4 bond. The credit rate for any day is the credit rate
5 which the Secretary or the Secretary's designee esti-
6 mates will permit the issuance of clean renewable
7 water supply bonds with a specified maturity or re-
8 demption date without discount and without interest
9 cost to the qualified issuer.

10 “(4) CREDIT ALLOWANCE DATE.—For purposes
11 of this section, the term ‘credit allowance date’
12 means—

13 “(A) March 15,

14 “(B) June 15,

15 “(C) September 15, and

16 “(D) December 15.

17 Such term also includes the last day on which the
18 bond is outstanding.

19 “(5) SPECIAL RULE FOR ISSUANCE AND RE-
20 DEMPTION.—In the case of a bond which is issued
21 during the 3-month period ending on a credit allow-
22 ance date, the amount of the credit determined
23 under this subsection with respect to such credit al-
24 lowance date shall be a ratable portion of the credit
25 otherwise determined based on the portion of the 3-

1 month period during which the bond is outstanding.

2 A similar rule shall apply when the bond is redeemed
3 or matures.

4 “(c) LIMITATION BASED ON AMOUNT OF TAX.—The
5 credit allowed under subsection (a) for any taxable year
6 shall not exceed the excess of—

7 “(1) the sum of the regular tax liability (as de-
8 fined in section 26(b)) plus the tax imposed by sec-
9 tion 55, over

10 “(2) the sum of the credits allowable under this
11 part (other than subpart C, section 54, section
12 1400N(l), and this section).

13 “(d) CLEAN RENEWABLE WATER SUPPLY BOND.—
14 For purposes of this section—

15 “(1) IN GENERAL.—The term ‘clean renewable
16 water supply bond’ means any bond issued as part
17 of an issue if—

18 “(A) the bond is issued by a qualified
19 issuer,

20 “(B) 95 percent or more of the proceeds of
21 such issue are to be used for capital expendi-
22 tures incurred by qualified borrowers for 1 or
23 more qualified projects,

1 “(C) the qualified issuer designates such
2 bond for purposes of this section and the bond
3 is in registered form, and

4 “(D) the issue meets the requirements of
5 subsection (g).

6 “(2) QUALIFIED PROJECT; SPECIAL USE
7 RULES.—

8 “(A) IN GENERAL.—The term ‘qualified
9 project’ means any—

10 “(i) qualified desalination facility,

11 “(ii) qualified recycled water facility,

12 “(iii) qualified groundwater remedi-
13 ation facility, or

14 “(iv) facility that is functionally re-
15 lated and subordinate to a facility de-
16 scribed in clause (i), (ii), or (iii),

17 in each case, owned by a qualified borrower.

18 “(B) REFINANCING RULES.—For purposes
19 of paragraph (1)(B), a qualified project may be
20 refinanced with proceeds of a clean renewable
21 water supply bond only if the indebtedness
22 being refinanced (including any obligation di-
23 rectly or indirectly refinanced by such indebted-
24 ness) was originally incurred by a qualified bor-

1 rower after the date of the enactment of this
2 section.

3 “(C) REIMBURSEMENT.—For purposes of
4 paragraph (1)(B), a clean renewable water sup-
5 ply bond may be issued to reimburse a qualified
6 borrower for amounts paid after the date of the
7 enactment of this section with respect to a
8 qualified project, but only if—

9 “(i) prior to the payment of the origi-
10 nal expenditure, the qualified borrower de-
11 clared its intent to reimburse such expendi-
12 ture with the proceeds of a clean renewable
13 water supply bond,

14 “(ii) not later than 60 days after pay-
15 ment of the original expenditure, the quali-
16 fied issuer adopts an official intent to re-
17 imburse the original expenditure with such
18 proceeds, and

19 “(iii) the reimbursement is made not
20 later than 18 months after the date the
21 original expenditure is paid.

22 “(D) TREATMENT OF CHANGES IN USE.—
23 For purposes of paragraph (1)(B), the proceeds
24 of an issue shall not be treated as used for a
25 qualified project to the extent that a qualified

1 borrower or qualified issuer takes any action
2 within its control which causes such proceeds
3 not to be used for a qualified project. The Sec-
4 retary shall prescribe regulations specifying re-
5 medial actions that may be taken (including
6 conditions to taking such remedial actions) to
7 prevent an action described in the preceding
8 sentence from causing a bond to fail to be a
9 clean renewable water supply bond.

10 “(E) ENVIRONMENTAL IMPACT.—A project
11 shall not be treated as a qualified project under
12 subparagraph (A) unless such project is de-
13 signed to comply with regulations issued under
14 subsection (m) relating to the minimization of
15 the environmental impact of the project.

16 “(e) MATURITY LIMITATION.—A bond shall not be
17 treated as a clean renewable water supply bond if the ma-
18 turity of such bond exceeds 20 years.

19 “(f) CREDIT INCLUDED IN GROSS INCOME.—Gross
20 income includes the amount of the credit allowed to the
21 taxpayer under this section (determined without regard to
22 subsection (c)) and the amount so included shall be treat-
23 ed as interest income.

24 “(g) SPECIAL RULES RELATING TO EXPENDI-
25 TURES.—

1 “(1) IN GENERAL.—An issue shall be treated as
2 meeting the requirements of this subsection if, as of
3 the date of issuance, the qualified issuer reasonably
4 expects—

5 “(A) at least 95 percent of the proceeds of
6 such issue are to be spent for 1 or more quali-
7 fied projects within the 5-year period beginning
8 on the date of issuance of the clean renewable
9 water supply bond,

10 “(B) a binding commitment with a third
11 party to spend at least 10 percent of the pro-
12 ceeds of such issue will be incurred within the
13 6-month period beginning on the date of
14 issuance of the clean renewable water supply
15 bond or, in the case of a clean renewable water
16 supply bond the proceeds of which are to be
17 loaned to 2 or more qualified borrowers, such
18 binding commitment will be incurred within the
19 6-month period beginning on the date of the
20 loan of such proceeds to a qualified borrower,
21 and

22 “(C) such projects will be completed with
23 due diligence and the proceeds of such issue will
24 be spent with due diligence.

1 “(2) EXTENSION OF PERIOD.—Upon submis-
2 sion of a request prior to the expiration of the period
3 described in paragraph (1)(A), the Secretary may
4 extend such period if the qualified issuer establishes
5 that the failure to satisfy the 5-year requirement is
6 due to reasonable cause and the related projects will
7 continue to proceed with due diligence.

8 “(3) FAILURE TO SPEND REQUIRED AMOUNT
9 OF BOND PROCEEDS WITHIN 5 YEARS.—To the ex-
10 tent that less than 95 percent of the proceeds of
11 such issue are expended by the close of the 5-year
12 period beginning on the date of issuance (or if an
13 extension has been obtained under paragraph (2), by
14 the close of the extended period), the qualified issuer
15 shall redeem all of the nonqualified bonds within 90
16 days after the end of such period. For purposes of
17 this paragraph, the amount of the nonqualified
18 bonds required to be redeemed shall be determined
19 in the same manner as under section 142.

20 “(h) SPECIAL RULES RELATING TO ARBITRAGE.—

21 “(1) IN GENERAL.—Except as provided in para-
22 graph (2), a bond which is part of an issue shall not
23 be treated as a clean renewable water supply bond
24 unless, with respect to the issue of which the bond
25 is a part, the qualified issuer satisfies the arbitrage

1 requirements of section 148 with respect to proceeds
2 of the issue.

3 “(2) EXCEPTIONS.—

4 “(A) IN GENERAL.—For purposes of para-
5 graph (1)—

6 “(i) the proceeds of an issue qualify
7 for a temporary period of 5 years begin-
8 ning on the date of issuance of the issue
9 (or, if a longer period is approved by the
10 Secretary under subsection (g)(2), such
11 longer period),

12 “(ii) the credit allowed under sub-
13 section (a) shall be disregarded for pur-
14 poses of computing the yield on the issue,

15 “(iii) section 148(b)(3) (relating to ex-
16 ception to definition of ‘investment prop-
17 erty’ for certain tax-exempt bonds) shall
18 not apply,

19 “(iv) the bonds shall not be treated as
20 private activity bonds for purposes of sec-
21 tion 148(f)(4)(A) (relating to rebate excep-
22 tion for amounts in a bona fide debt serv-
23 ice fund),

24 “(v) section 148(f)(4)(C) (relating to
25 exception from rebate for certain proceeds

1 to be used to finance construction expendi-
2 tures) shall apply to the available construc-
3 tion proceeds of an issue, and

4 “(vi) section 148(f)(4)(D) (relating to
5 exception from rebate for certain small
6 issuers) shall not apply.

7 “(B) ADDITIONAL REBATE SPENDING EX-
8 CEPTION.—For purposes of paragraph (1), an
9 issue of clean renewable water supply bonds
10 shall be treated as meeting the requirements of
11 section 148(f)(2) (relating to payment of rebate
12 amounts) if the proceeds of the issue are used
13 to pay capital expenditures for one or more
14 qualified projects in accordance with the fol-
15 lowing schedule—

16 “(i) 10 percent within 6 months,

17 “(ii) 30 percent within 1 year,

18 “(iii) 60 percent within 2 years, and

19 “(iv) 100 percent within 3 years.

20 “(3) REGULATORY AUTHORITY.—The Secretary
21 may prescribe such regulations as are necessary or
22 appropriate to carry out the purposes of this sub-
23 section, including regulations which specify addi-
24 tional exceptions to the requirements of section 148
25 for clean renewable water supply bonds.

1 “(i) DEFINITIONS.—For purposes of this section—

2 “(1) BOND.—The term ‘bond’ includes any ob-
3 ligation.

4 “(2) GOVERNMENTAL BODY.—The term ‘gov-
5 ernmental body’ means any State, territory, posses-
6 sion of the United States, the District of Columbia,
7 Indian tribal government, and any political subdivi-
8 sion thereof.

9 “(3) LOCAL WATER COMPANY.—The term ‘local
10 water company’ means any entity responsible for
11 providing water service to the general public (includ-
12 ing electric utility, industrial, agricultural, commer-
13 cial, or residential users) pursuant to State or tribal
14 law.

15 “(4) POOLED FINANCING BOND.—The term
16 ‘pooled financing bond’ shall have the meaning given
17 such term by section 149(f)(6)(A).

18 “(5) QUALIFIED BORROWER.—The term ‘quali-
19 fied borrower’ means a governmental body or a local
20 water company.

21 “(6) QUALIFIED DESALINATION FACILITY.—
22 The term ‘qualified desalination facility’ means any
23 facility that is used to produce new water supplies
24 by desalinating seawater, groundwater, or surface
25 water if the facility’s source water includes chlorides

1 or total dissolved solids that, either continuously or
2 seasonally, exceed maximum permitted levels for pri-
3 mary or secondary drinking water under Federal or
4 State law (as in effect on the date of issuance of the
5 issue).

6 “(7) QUALIFIED GROUNDWATER REMEDIATION
7 FACILITY.—The term ‘qualified groundwater remedi-
8 ation facility’ means any facility that is used to re-
9 claim contaminated or naturally impaired ground-
10 water for potable use if the facility’s source water in-
11 cludes constituents that exceed maximum contami-
12 nant levels regulated under the Safe Drinking Water
13 Act (as in effect on the date of enactment of this
14 Act).

15 “(8) QUALIFIED ISSUER.—The term ‘qualified
16 issuer’ means—

17 “(A) a governmental body, or

18 “(B) in the case of a State or political sub-
19 division thereof (as defined for purposes of sec-
20 tion 103), any entity qualified to issue tax-ex-
21 empt bonds under section 103 on behalf of such
22 State or political subdivision.

23 “(9) QUALIFIED RECYCLED WATER FACILITY.—
24 The term ‘qualified recycled water facility’ means
25 any facility that is used to reclaim wastewater pro-

1 duced by the general public (including electric util-
2 ity, industrial, agricultural, commercial, or residen-
3 tial users) to the extent such reclaimed wastewater
4 is re-used for a beneficial use.

5 “(j) SPECIAL RULES RELATING TO POOL BONDS.—
6 No portion of a pooled financing bond may be allocable
7 to any loan unless the borrower has entered into a written
8 loan commitment for such portion prior to the issue date
9 of such bond.

10 “(k) BONDS HELD BY REGULATED INVESTMENT
11 COMPANIES.—If any clean renewable water supply bond
12 is held by a regulated investment company, the credit de-
13 termined under subsection (a) shall be allowed to share-
14 holders of such company under procedures prescribed by
15 the Secretary.

16 “(l) INFORMATION REPORTING.—Issuers of clean re-
17 newable water supply bonds shall submit reports similar
18 to the reports required under section 149(e).

19 “(m) REGULATIONS.—The Secretary shall prescribe
20 regulations to carryout this section, including regulations
21 promulgated in consultation with Director of the Environ-
22 mental Protection Agency to ensure the environmental im-
23 pact of qualified facilities is minimized.”.

24 (b) REPORTING.—Subsection (d) of section 6049 of
25 such Code (relating to returns regarding payments of in-

1 terest) is amended by adding at the end the following new
2 paragraph:

3 “(9) REPORTING OF CREDIT ON CLEAN RENEW-
4 ABLE WATER SUPPLY BONDS.—

5 “(A) IN GENERAL.—For purposes of sub-
6 section (a), the term ‘interest’ includes amounts
7 includible in gross income under section 54A(f)
8 and such amounts shall be treated as paid on
9 the credit allowance date (as defined in section
10 54A(b)(4)).

11 “(B) REPORTING TO CORPORATIONS,
12 ETC.—Except as otherwise provided in regula-
13 tions, in the case of any interest described in
14 subparagraph (A), subsection (b)(4) shall be
15 applied without regard to subparagraphs (A),
16 (H), (I), (J), (K), and (L)(i) of such subsection.

17 “(C) REGULATORY AUTHORITY.—The Sec-
18 retary may prescribe such regulations as are
19 necessary or appropriate to carry out the pur-
20 poses of this paragraph, including regulations
21 which require more frequent or more detailed
22 reporting.”.

23 (c) CLERICAL AMENDMENTS.—The table of sections
24 for part IV of subchapter A of chapter 1, as amended by

1 this Act, is amended by inserting after section 54 the fol-
2 lowing new item:

“Sec. 54A. Credit to holders of clean renewable water supply bonds.”.

3 (d) ISSUANCE OF REGULATIONS.—The Secretary of
4 Treasury shall issue regulations required under section
5 54A of the Internal Revenue Code of 1986 (as added by
6 this section) not later than 120 days after the date of the
7 enactment of this Act.

8 (e) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to bonds issued after the date of
10 the enactment of this Act.

○