

AK-CHIN WATER USE AMENDMENTS ACT OF 1999

MAY 2, 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 H.R. 2647]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2647) to amend the Act entitled “An Act relating to the water rights of the Ak-Chin Indian Community” to clarify certain provisions concerning the leasing of such water rights, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 2647 is to amend the Act entitled “An Act relating to the water rights of the Ak-Chin Indian Community” to clarify certain provisions concerning the leasing of such water rights, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The Ak-Chin Reservation in the State of Arizona consists of approximately 22,000 acres, and was established by Executive Order in 1912 for the Pima and Papago Indians.

Congress passed the Ak-Chin water rights settlement in 1978. However, due to the costs of the initial settlement and a lack of anticipated water, Congress amended the Ak-Chin water settlement in 1984. This amendment provided the tribe a means to be compensated for the lack of water in the original settlement and a way to fund and construct a permanent water supply system. The settlement was again amended in 1992 to allow off-reservation leasing of the Indian community’s water entitlement, but limited the period of lease to 100 years. However, the 1992 amendment did not

allow for an extension of the lease after the 100 year period has ended.

In reference to this bill, the Arizona Department of Water Resources, in a July 28, 1999, correspondence with the Arizona Congressional delegation stated:

Arizona law and the Arizona Assured Water Supply Program require new subdivisions in Active Management Areas (AMAs) to show the continuous physical and legal availability of water supplies that can be used consistent with the management goals of the AMA. One method of establishing such a supply is the execution of a lease of Indian water delivered through the CAP. This is complicated by the fact that Indian water right settlement acts, such as the 1984 Ak-Chin Act, usually limit the term of permissible Indian leases to terms which shall not exceed 100 years. If such a lease is procured in the early stages of development, the term of the lease may have matured as much as five years of more before application is made to the Arizona Department of Water Resources (ADWR) for an Assured Water Supply certificate. Under our statutes and regulations, a lease with a remaining term of less than 100 years does not meet the test of continuous legal and physical availability.

This legislation would provide a legal avenue for the Ak-Chin tribe to extend or renew its existing lease with an Arizona development company that must obtain a State of Arizona Assured Water Supply certificate for municipal water use. No water has been delivered under the existing arrangement.

COMMITTEE ACTION

H.R. 2647 was introduced on July 29, 1999, by Congressman John Shadegg (R-AZ). H.R. 2647 was referred to the Committee on Resources and within the Committee to the Subcommittee on Water and Power. The Subcommittee held a hearing on the bill on February 10, 2000. The Subcommittee on Water and Power held a markup on the bill on March 9, 2000. No amendments were offered and the bill was ordered favorably reported to the full Resources Committee by voice vote. On April 5, 2000, the Full Resources Committee met to consider the bill. No amendments were offered and the bill was ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1. Constitutional authority

This Section provides the Constitutional authority for this Act, which is article I, section 8, authorizing Congress to "regulate Commerce with foreign Nations, and among the several States, and with the Indian tribes".

Section 2. Technical amendments to Ak-Chin Water Use Act of 1984

This Section provides the Ak-Chin tribe an extension to lease water off-reservation after an initial 100 year lease has concluded.

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, April 18, 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 H.R. 2647, the Ak-Chin Water Use Amendment Act of 1999.

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

Sincerely,

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

Enclosure.

H.R. 2647—Ak-Chin Water Use Amendments Act of 1999

H.R. 2647 would allow the Ak-Chin Indian Community in Arizona to extend and renew leases of its settlement water for off-reservation use. Under current law, such leases may not exceed 100 years. In addition, the bill would ratify and approve a lease agreement among the Ak-Chin Indian Community, the United States, and the Del Webb Corporation.

Based on information from the Bureau of Indian Affairs, CBO expects that H.R. 2647 would have no significant effect on the agency's administrative costs. Therefore, we estimate that any impact on discretionary spending as a result of this legislation would be negligible. CBO estimates that implementing H.R. 2647 would have no effect on direct spending or receipts, because any income resulting from additional leases would be paid directly to the Ak-Chin Community. Hence, pay-as-you-go procedures would not apply to the bill.

H.R. 2647 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact is Lanette Keith. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

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 2 OF THE ACT OF OCTOBER 19, 1984

AN ACT Relating to the water rights of the Ak-Chin Indian Community

SEC. 2. (a) * * *

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[(j) The Ak-Chin Indian Community (hereafter in this Act referred to as the "Community") shall have the right to devote the permanent water supply provided for by this Act to any use, including agricultural, municipal, industrial, commercial, mining, recreational or other beneficial use, in the areas initially designated as the Pinal, Phoenix and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1. The community is authorized to lease or enter into an option to lease, extend leases, exchange or temporarily dispose of water to which it is entitled for beneficial use in the areas initially designated as the Pinal,

Phoenix and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1: *Provided*, That the term of any such lease shall not exceed 100 years and the Community may not permanently alienate any water right. In the event the Community leases, extends leases, exchanges or temporarily disposes of water, such action shall be pursuant to a contract that has been accepted and ratified by a resolution of the Ak-Chin Indian Community Council and approved and executed by the Secretary.】

(j)(1) The Ak-Chin Indian Community (hereafter in this Act referred to as the "Community") shall have the right to devote the permanent water supply provided for by this Act to any use, including agricultural, municipal, industrial, commercial, mining, recreational, or other beneficial use, in the areas initially designated as the Pinal, Phoenix, and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1. The Community is authorized to lease or enter into options to lease, to renew options to lease, to extend the initial terms of leases for the same or a lesser term as the initial term of the lease, to renew leases for the same or a lesser term as the initial term of the lease, to exchange or temporarily dispose of water to which it is entitled for the beneficial use in the areas initially designated as the Pinal, Phoenix, and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1.

(2) Notwithstanding paragraph (1), the initial term of any lease entered into under this subsection shall not exceed 100 years and the Community may not permanently alienate any water right. In the event the Community leases, enters into an option to lease, renews an option to lease, extends a lease, renews a lease, or exchanges or temporarily disposes of water, such action shall only be valid pursuant to a contract that has been accepted and ratified by a resolution of the Ak-Chin Indian Community Council and approved and executed by the Secretary.

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