Calendar No. 450

106TH CONGRESS, 2d Session | SENATE | REPORT 106–234

HAWAII WATER RESOURCES RECLAMATION ACT OF 1999

MARCH 9, 2000.—Ordered to be printed

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

REPORT

[To accompany S. 1694]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1694) to direct the Secretary of the Interior to conduct a study on the reclamation and reuse of water and wastewater in the State of Hawaii, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

On page 3, line 23, delete "1 year after the date of enactment of this Act," and replace with "2 years after appropriation of funds authorized by this Act,".

PURPOSE OF THE MEASURE

S. 1694, the Hawaii Water Resources Reclamation Act, authorizes the Bureau of Reclamation to survey irrigation and water delivery systems in Hawaii, identify the cost of rehabilitating the systems, and evaluate demand for their future use. The bill also instructs the Bureau to identify new opportunities for reclamation and reuse of water and wastewater for agricultural and non-agricultural purposes. Finally, the bill authorizes the Bureau to conduct emergency drought relief in Hawaii.

BACKGROUND AND NEED

S. 1694 would amend Title XVI of the Reclamation Wastewater and Groundwater Study and Facilities Act (P.L. 102–575) to include Hawaii as one of the states eligible to participate in the Bureau of Reclamation's Title XVI program, to help alleviate some of the economic distress facing rural Hawaii as a result of the decline

79–010

of sugar production. In the past decade, acreage in production has declined from 180,000 acres of cane in 1989 to 60,000 acres today.

As Carol Wilcox, author of the definitive history of irrigation in Hawaii noted in her recent book *Sugar Water*, the cultivation of sugarcane dominated Hawaii's agricultural landscape for the last 25 years of the 19th century and for most of this century as well. "Sugar was the greatest single force at work in Hawaii," she wrote, and water was essential to this development.

The face of Hawaii agriculture is changing, however, and diversified agriculture is beginning to fill some of the void left by the decline of the sugar industry. Farm receipts from diversified crops rose an average of 5.5 percent annually for the past three years, surpassing the $300 million mark for the first time. Hawaii still grows sugarcane, but many believe diversified farming represents the future of Hawaii agriculture. This restructuring of agriculture has prompted new and shifting demands for agricultural water and a broad reevaluation of the use of Hawaii's fresh water resources.

While the Bureau of Reclamation played a modest role in Hawaii water resource development, sugar plantations and private irrigation companies were responsible for constructing, operating, and maintaining nearly all of Hawaii's agricultural irrigation systems. Over a period of 90 years, beginning in 1856, more than 75 ditches, reservoirs, and groundwater systems were constructed.

Although Hawaii's irrigation systems are called ditches, the use of this term misrepresents their magnitude. Hawaii's largest ditch system, the East Maui Irrigation Company, operates a network of six ditches on the north flank of Haleakala Crater. The broad scope of East Maui Irrigation (EMI) is extensively chronicled in *Sugar Water:*

> Among the water entities, none compares to EMI. It is the largest privately owned water company in the United States, perhaps in the world. The total delivery capacity is 445 mgd. The average daily water delivery under median weather conditions is 160 mgd * * * Its largest ditch, the Wailoa Canal, has a greater median flow (170 mgd) than any river in Hawaii * * * The [EMI] replacement cost is estimated to be at $200 million.

Most of Hawaii's irrigation systems are in disrepair. Some have been abandoned. Those that no longer irrigate cane lands may not effectively serve the new generation of Hawaii farmers, either because little or no water reaches new farms or because the ditches have not been repaired or maintained.

Hawaii's relationship with the Bureau of Reclamation dates from 1939, when the agency proposed developing an aqueduct on Molokai to serve 16,000 acres of federally managed Hawaiian Home Lands. While this project did not proceed, in 1954 Congress directed the Bureau to investigate irrigation and reclamation needs for three of our islands: Oahu, Hawaii, and Molokai. A Federal reclamation project on the Island of Molokai was eventually constructed in response to this investigation. The project continues in operation today.

In the first session of Congress following Hawaii's statehood, legislation authorizing the Secretary of the Interior to develop rec-

lamation projects in Hawaii under the Small Reclamation Projects Act was signed into law. The most recent interaction with the Bureau occurred in 1995 when Congress authorized the Secretary to allow Native Hawaiians the same favorable cost recovery for reclamation projects as Indians or Indian tribes.

LEGISLATIVE HISTORY

S. 1694 was introduced by Senator Akaka on October 6, 1999. A hearing was held in the Water and Power Subcommittee on October 20, 1999. At the business meeting on February 10, 2000, the Committee on Energy and Natural Resources ordered S. 1694, as amended, favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on February 10, 2000, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 1694, if amended as described herein.

COMMITTEE AMENDMENTS

During the consideration of S. 1694, the Committee adopted an amendment to provide the Secretary with two years, instead of one year, to submit the report called for by the legislation. The amendment also starts the clock running on the report when funds become available rather than after enactment. This amendment was made at the request of the Administration.

SECTION-BY-SECTION ANALYSIS

Section 1 designates the short title.

Section 2 contains findings.

Section 3 defines terms used in the bill.

Section 4(a) directs the Secretary of the Interior, acting through the Bureau of Reclamation to conduct a study that includes: (1) a survey of irrigation and water delivery systems in the State of Hawaii; (2) estimates of cost of repair and rehabilitation of such systems; (3) an evaluation of options for future use of irrigation and water delivery systems in Hawaii; and (4) the identification and investigation of other opportunities for reclamation and reuse of water and wastewater for agriculture and nonagricultural purposes.

Section 4(b) provides that two years after funds become available, the Secretary is required to submit a report on the findings of the study to the Senate Energy and Natural Resources Committee and the House Resources Committee.

Section 5 amends the Reclamation Wastewater and Groundwater Study and Facilities Act to include Hawaii in the Bureau of Reclamation's wastewater reclamation program.

Section 6 amends the Reclamation States Emergency Drought Relief Act of 1991 to extend drought relief programs and include Hawaii.

COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 22, 2000.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1694, the Hawaii Water Resources Reclamation Act of 1999.

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

Sincerely,

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

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 1694—Hawaii Water Resources Reclamation Act of 1999

CBO estimates that implementing S. 1694 would have no significant impact on the federal budget. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply. S. 1694 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.

S. 1694 would authorize the appropriation of necessary sums for the Secretary of the Interior to conduct a study of water resources in the state of Hawaii and report to the Congress within two years from the time when such sums are provided. Based on information from the Bureau of Reclamation, CBO estimates that these activities would cost a total of $400,000 over two years, assuming appropriation of the necessary amounts.

The bill also would permit the state of Hawaii to request emergency assistance from the bureau under the Reclamation states Emergency Drought Relief Act. Any such assistance provided to the State would be subject to the availability of appropriations. The 17 states currently eligible for such assistance received a total appropriation of $3 million in 2000. CBO estimates that making Hawaii eligible for this type of assistance would not significantly affect federal costs.

The CBO staff contact is Megan Carroll. This estimate was 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 S. 1694. The bill is not a regulatory measure in the sense of impos-

ing Government-established standards or significant economic 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 S. 1694, as ordered reported.

EXECUTIVE COMMUNICATIONS

On October 18, 1999, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 1694. These reports had not been received at the time the report on S. 1694 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Commissioner of the Bureau of Reclamation at the Subcommittee hearing follows:

STATEMENT OF ELUID MARTINEZ, COMMISSIONER, BUREAU OF RECLAMATION, U.S. DEPARTMENT OF THE INTERIOR

I am Eluid Martinez, Commissioner of the U.S. Bureau of Reclamation (Reclamation). I appreciate the opportunity to present the views of the Department of the Interior (Department) on S. 1694, the "Hawaii Water Resources Reclamation Act of 1999". The Department has concerns with the bill, in that it would require Reclamation to carry out new activities outside the 17 western states where Reclamation has ongoing legal and contractual responsibilities.

S. 1694 directs the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a study on water resources in the State of Hawaii, and provide a report to Congress with findings and recommendations. The Reclamation study is to survey and identify existing irrigation and water delivery systems in Hawaii, identify the cost of rehabilitating the water delivery systems, and evaluate options for future use of the irrigation and water delivery systems (including alternatives that would improve the use and conservation of water resources). S. 1694 also amends Title XVI of Public Law 102–575 to authorize the Secretary to identify new opportunities for reclamation and reuse of water and wastewater for agriculture and non-agricultural purposes in Hawaii. Reclamation supports a consistent and equitable approach to assessing feasibility and establishing priorities for the Title XVI.

S. 1694 also permits Hawaii to participate in drought relief programs and activities authorized in the Reclamation States Emergency Drought Relief Act (Public Law 10–250) for the 17 Reclamation states. The bill would extend the authorization for the drought program for an additional three years through 2005.

Thank you for the opportunity to present the Department's views on S. 1694.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 1694, as ordered 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):

43 U.S.C.

* * * * * * *

§ 390h. Wastewater and groundwater study and facilities; general authority

(a) ESTABLISHMENT OF WASTEWATER PROGRAM.—The Secretary of the Interior (hereafter "Secretary"), acting pursuant to the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) and Acts amendatory thereof and supplementary thereto (hereafter "Federal reclamation laws"), is directed to undertake a program to investigate and identify opportunities for reclamation and reuse of municipal, industrial, domestic, and agricultural wastewater, and naturally impaired ground and surface waters, for the design and construction of demonstration and permanent facilities to reclaim and reuse wastewater, and to conduct research, including desalting, for the reclamation of wastewater and naturally impaired ground and surface waters.

(b) LIMITATION OF PROGRAM.—Such program shall be limited to the States and areas referred to in section 1 of the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) as amended **[**43 U.S.C.A. § 391**]***, and the State of Hawaii*.

* * * * * * *

§ 2214. Applicable period of drought program

(a) IN GENERAL.—The programs and authorities established under this subchapter shall become operative in any Reclamation State *and in the State of Hawaii* only after the Governor or Governors of the affected State or States, or on a reservation, when the governing body of the affected tribe has made a request for temporary drought assistance and the Secretary has determined that such temporary assistance is merited, or upon the approval of a drought contingency plan as provided in subchapter II of this chapter.

(b) COORDINATION WITH BPA.—If a Governor referred to in subsection (a) of this section is the Governor of the State of Washington, Oregon, Idaho, or Montana, the Governor shall coordinate with the Administrator of the Bonneville Power Administration before making a request under subsection (a) of this section.

(c) TERMINATION OF AUTHORITY.—The authorities established under this subchapter shall terminate [ten years after the date of enactment of this Act] *on September 30, 2005.*

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