
California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act

Bill Summary

Overview

The bill includes **long-term** and **short-term** provisions to help cope with the historic drought in the West.

Long-term:

With local sponsors as lead, and the federal and state governments providing financial support, the 132 projects identified by **this bill could produce upwards of 1.1 million acre feet in “new” water**, whether through recycling or desalination. The bill does this by:

- Re-authorizing the Desalination Act and providing \$100 million for research, design, and construction of desalination projects (*Sec. 121, pages 21-29*).
- The bill increases funding for WaterSMART from \$350 million to \$500 million and authorizes another \$200 million for recycling through Title XVI (*Sec. 101, pages 9-11*).
- The bill funds RIFIA—a new Reclamation loan and loan guarantee program—at the full \$200 million (*Sec. 131-141, pages 31-44*).
- The bill establishes a new program under Reclamation for providing assistance to communities that have run out of water (*Sec. 101, pages 10-11*).
- **The bill also authorizes \$600 million for storage projects** for storing water from the wet years for use during the dry ones. (*Sec. 112, pages 13-15*).

Short-term:

The bill provides **maximum assurances** that the bill does not violate any **environmental law**, like the Endangered Species Act or the biological opinions. Here’s how:

- **Information from real-time monitoring determines pumping rates**, not specific congressional mandates or targets.
- **Real-time monitoring will produce the information necessary to operate the system more precisely.** (*Section 301, pages 50-54*)
 - The bill authorizes **daily boat monitoring to survey for smelt near the pumps** when turbidity levels are high and the smelt are often attracted to the pumps. (*Sec. 301, page 51*)
 - This bill also authorizes studies to **identify smelts' location in the Delta on a real-time basis**, so pumping can be increased when the fish are not near the pumps and reduced when fish are present. (*Sec. 301, page 51*)
 - The bill commissions a Delta Smelt Distribution Study to **identify how many smelt are in different parts of the Delta** in drier and wetter years, information that is key to running pumps in a manner that isn't harmful to fish.
- **The bill includes a savings clause** that makes clear the drought bill is consistent with all environmental laws, including the Endangered Species Act and biological opinions. (*Section 701, page 76*)

Four key goals guide this legislation:

- **Help communities** most at risk of running out of clean water.
- Provide \$1.3 billion in funding and support for **long-term solutions including water storage, desalination and recycling.**
- **Protect and attempt to restore threatened and endangered species.**
- Modify how the Central Valley Project and State Water Project are operated to **maximize efficiency during the governor's drought emergency declaration** in a manner that adheres to all environmental laws.

LONG-TERM INVESTMENTS

(Title I)

- *This bill authorizes \$1.3 billion in federal support for State and local efforts to increase their drought resiliency.*
- *Here's the ways in which the bill increases investments in California's drought resiliency:*

Assistance for drought-stricken communities

- **Allows rural and disadvantaged communities with fewer than 60,000 residents to apply for grants through a new Reclamation program to help stabilize their water supplies.** Funds can be used for both short-term solutions such as emergency bottled water supplies as well as long-term solutions such as water treatment facilities, wells and connecting homes to centralized water distribution systems. *(Section 101, pages 8-11)*
- Prioritizes State Revolving Funds for communities most at risk of running out of water. Last year, California received more than \$180 million in these funds. **By directing some of these funds to at-risk communities,** the bill provides California with the tools necessary to provide water for public health and safety and to increase drought resiliency. *(Section 102, page 12)*

Storage projects

(\$600 million through 2025)

Storing water during wet years for use in dry years is vital, given the consensus that droughts will grow more severe.

- Authorizes \$600 million for water storage projects in California and other Western states. These may include both federal projects (Shasta) and non-federal projects (Sites, Temperance Flat, Los Vaqueros). *(Sections 111 and 112, pages 12-15)*
- Establishes **deadlines** for the Bureau of Reclamation **to complete feasibility studies** to allow Calfed storage projects to compete for Proposition 1 bond funds. California's Proposition 1—approved by two-thirds of voters in 2014—**provides \$2.7 billion in storage funding.** This means California projects are expected to compete strongly for the matching federal funds made available by this bill. *(Section 115, page 19)*

- **Updates Army Corps dam operations** to increase water supply while reducing flood risk. (*Section 113, pages 15-18*)

Desalination

(\$100 million through 2020)

- Identifies **27 desalination projects throughout California** capable of producing more than 330,000 acre-feet of water per year. The Secretary of the Interior would be required to consider these projects for funding. (*Section 121*)
- Reauthorizes the *Desalination Act* and authorizes the following funds (*Section 122 pages 27-29*):
 - This section also authorizes \$50 million over five years for desalination research projects, such as **improving existing reverse osmosis and membrane technology**, reducing the environmental effects of seawater desalination and developing next-generation technologies to reduce the cost of desalination.
 - \$50 million over five years for feasibility and design for both sea and brackish water desalination projects. Senator Boxer also introduced legislation that would reauthorize the *Desalination Act*, but at lower funding levels.

Water recycling

(\$350 million through 2020)

- The bill identifies **105 water recycling and reuse projects** with the potential to provide more than 853,756 acre-feet per year of “new” water. (*Section 121, pages 21-27*)
- Increases the authorization for the Bureau of Reclamation’s **WaterSMART program from \$350 million to \$500 million**. These grants are for long-term water conservation, reclamation and recycling projects, including small-scale storage and reclamation projects. (*Section 101, page 10*)
- Authorizes **\$200 million for water-recycling projects** through Title XVI that reclaim and reuse wastewaters and naturally impaired ground and surface water. (*Section 123, pages 29-31*).

RIFIA and WaterSense
(\$210 million through 2020)

By providing funds for the most cost-effective federal programs, Washington can help state and local agencies leverage existing dollars into larger projects.

- **Reclamation Infrastructure Finance and Innovation Act (RIFIA):** Authorizes **\$200 million RIFIA**. This loan-guarantee and low-cost loan program will allow water districts and municipalities to leverage loans and loan guarantees for water projects, reducing repayment loan costs by as much as 25 percent. This is modeled after TIFIA, a successful loan-guarantee program for transportation projects. (*Subtitle IV.E; Sections 131 through 141, pages 31-44*)
- **WaterSense:** Authorizes **\$10 million for EPA’s WaterSense program**, which provides information on which household products are water-efficient. The program is modelled after the successful Energy Star program for energy efficient household appliances. (*Section 124, page 31*)

ACTIONS TO BENEFIT FISH AND WILDLIFE
(Title II)

Protecting fish populations
(\$45 million through 2020)

- The bill includes **\$45 million to assist in the protection and recovery of fish populations**. (*Section 201, pages 44-46*)
- Directs federal agencies to develop and implement a pilot program—funded by local water districts—to **protect threatened and endangered salmon and steelhead by removing non-native predator fish** from the Stanislaus River, such as striped bass, smallmouth bass, largemouth bass and black bass. (*Section 203, pages 47-50*)
- Directs federal agencies to develop and implement pilot projects to **reduce invasive aquatic vegetation to improve survival and recovery of endangered fish**. Invasive species—such as water hyacinth—have played major roles in the decline of listed fish in the Bay-Delta, including the Delta Smelt. (*Section 204, pages 50*)

Assisting refuges for migratory birds
(additional \$2 million annually through 2020)

- Authorizes an additional \$2 million dollars per year to **improve water conveyance infrastructure**, which will help deliver water to wildlife refuges. *(Section 202, pages 46-47)*

SHORT-TERM, TEMPORARY OPERATIONS
(Title III)

- *Includes six provisions to move water during the drought in California all while operating within environmental laws and regulations.*
- *Also includes language that makes clear all actions must be taken consistent with law and that none of the provisions violate the *Endangered Species Act*, the *Clean Water Act*, the biological opinions, or state law*
- *Since the recycling, desalination, and storage projects this bill identifies will take years, and in some cases decades to construct, we cannot overlook the importance of short-term relief.*

Environmental protections

- The legislation includes a “savings clause” making clear that **nothing in the bill overrides or modifies the *Endangered Species Act* or any other environmental law.** *(Section 701, page 76)*
- **The federal agencies with expertise in the *Endangered Species Act*** (the National Marine Fisheries Service and U.S. Fish and Wildlife Service) **helped write the operations provisions to ensure pumping is in compliance with environmental laws and biological opinions.**

Real-time monitoring to protect fish species

- **Equips the agencies with the tools necessary to operate the system more precisely**, by pumping when the fish are close to the pumps and ratcheting down pumping when the fish are close. *(Section 301, pages 50-54)*
 - Authorizes **daily boat monitoring to survey for smelt near the pumps** when turbidity levels are high and the smelt are often attracted to the pumps.

- Authorizes studies to **identify smelts' location in the Delta on a real-time basis**, so pumping can be increased when the fish are not near the pumps and reduced when fish are present.
- Authorizes a Delta Smelt Distribution Study to **identify how many smelt are in different parts of the Delta** in drier and wetter years, information that is key to running pumps in a manner that isn't harmful to fish.

Temporary Operational Provisions

1) **Pumping at the high end of the Delta Smelt provision** (*Section 301(e), pages 52-53*):

- **How the provision works:** The revised bill gives the agencies the discretion to choose at what level to pump, based on real-time monitoring, updated studies, and the most up-to-date science.
- The revised text simply requires the agencies to explain why pumping at the high end of the smelt biological opinion would cause adverse effects to fish, if they decide to pump at a lower levels. This is a straightforward request: That the agencies exercise their discretion to pump as environmental conditions dictate but provide explanations for the decisions they make

2) **Winter Storms and “payback”** (*Section 303, pages 58-60*):

- **How the provision works:** The revised bill authorizes the agencies to increase pumping during winter storms, and allows the agencies to use their best judgment to determine what level of outflows is the appropriate trigger for increased pumping.
- Given that the agencies have discretion when to increase pumping, litigation risk is greatly reduced.
- **Payback:** Once those storms are over, the agencies would no longer be required to “pay back” the water that was already pumped, unless there was an environmental reason. (*Section 303*)

3) **1:1 transfer ratio:** Provides incentives for increased water transfers. Water transfers sent into the Delta in April and May can only be withdrawn at a 1:1 ratio if the transfers adhere to environmental law and biological opinions. (*Section 302(b)(6), pages 55-56*)

- Given this year's El Niño storms, this provision could provide some relief. Contractors can currently transfer 100% of transfer water because San Joaquin Valley is “critically dry,” and the biological opinion allows a “1:1 ratio” – if the river flows at 1,000 cubic feet per second, then water can be transferred at the same rate.

- Maintaining a 1:1 ratio for transfers through the spring and early summer will ensure that 100% of the water identified for a transfer goes to the communities that need it most, unless there is a sound environmental reason to allow some of that water to be lost through the Delta.
- 4) **Extended window for water transfers : The Draft Bill extends the window for transfers from April 1 to November 30 (currently July 1 to September 30), if the extended transfers can be done **consistent with the biological opinions**.** (*Section 302(b)(6), pages 55-56*)
- 5) **Reviewing transfers and barriers:** Environmental reviews of water transfers and the installation and removal of temporary barriers must be completed within 60 days, unless an environmental impact statement is required. (*Sec. 302(b)(7)-(9), pages 56-57*)
- 6) **Delta Cross-Channel Gates:** The bill requires the Secretary of the Interior and the Secretary of Commerce to take steps to ensure the Gates remain open to the greatest extent possible. (*Section 302(b)(7), page 56*)
- When the gates are closed, CVP and SWP water stored in Shasta, Oroville and Folsom must be released to reduce salinity in the Interior Delta, resulting in the loss of water that would otherwise be delivered to contractors.
 - This requirement will help control salinity in the Interior Delta and avoid mandatory releases of CVP and SWP water supplies.

ADDITIONAL PROVISIONS

(Titles IV and V)

- Protect and preserve water rights and ensure that some State Water Project and Central Valley Project water contractors do not benefit from the legislation at the expense of others. (*Sections 401 to 404, pages 60-64*)
- Authorizes the Bureau of Reclamation to expand its service area to include Kettleman City and directs the Bureau of Reclamation to enter into a long-term contract with the Kettleman City Community Services District to **provide them up to 900 acre feet of water**. Kettleman City residents have struggled with contaminated groundwater for years, and this provision would help ensure Kettleman City's 1,500 residents secure access to clean water supplies. (*Section 501, pages 64-65*)
- This section requires the Secretary of the Interior to **publish expenditures and an evaluation of those expenditures for the Restoration Fund** (in 2014,

revenues were approximately \$53 million), publicize a draft work plan for the upcoming year and solicit public comment. (*Section 502, page 65*)

- Directs the Department of the Interior to **complete its assessment of the risks to water resources** in specific watersheds posed by climate change. (*Section 503, pages 65-66*)
- *If requested*, the Departments of Interior and Commerce are required to provide technical and modeling assistance to the State Water Resources Control Board in protecting water quality during the drought. (*Section 504, page 66*)
- Directs the Bureau of Reclamation to **publish an annual report on water releases for benefit of fish** and evaluate their environmental benefits. (*Section 505, page 66*)
- Requires the Bureau of Reclamation to **identify potential additional storage capacity in New Melones Reservoir** that may be made available to local water and irrigation districts in the Stanislaus River Basin. (*Section 506, page 66-67*)
- Facilitates efforts by the California Department of Water Resources and U.S. Fish and Wildlife Service to **construct a unified federal/state Delta Research Station at the old Rio Vista Army Base**. (*Section 507, page 67*)
- Allows Departments of Interior and Commerce to **provide a single annual report** under the reporting requirements of the Act to reduce the burden on the agencies. (*Section 508, page 67*)

PAYING FOR THE BILL

(Title VI)

- Based on recently enacted legislation to **deauthorize inactive Army Corps of Engineers projects**, this section requires the Secretary of the Interior to identify projects and program that have not received funding in the past five years. After providing an opportunity for public comment and congressional disapproval, the Interior Secretary may formally deauthorize those projects or programs. (*Section 601, pages 67-71*)

Estimated by the Bureau of Reclamation to provide between \$700 million and \$1.3 billion.

- Directs the Department of the Interior to **convert certain existing water service contracts** between the United States and water users' associations to repayment contracts **to allow for prepayment** of such contracts, upon the request of the contractor. Requires a specified percentage of certain receipts generated from prepayment of contracts under this title to fund the construction of CALFED surface water storage. Estimated by the Bureau of Reclamation to provide \$630 million. (Sec.602, pages 71-76)

DURATION

(Title VII)

- **The temporary provisions will sunset two years after the date of enactment or when the governor's drought declaration ends, whichever is later.** (Sec. 702, page 91)