

## Calendar No. 442

108TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ 108-232

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### HAWAII WATER RESOURCES ACT OF 2004

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MARCH 9, 2004.—Ordered to be printed

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

### R E P O R T

[To accompany S. 960]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 960) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii and to amend the Hawaii Resources Act of 2000 to modify the water resources study, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 1, line 5, strike “2003” and insert “2004”.
2. On page 2, line 5, strike “1636” and insert “1637”.
3. On page 3, strike lines 13 through 22 and insert the following:

“is amended by inserting after the item relating to section 1636 the following:

“**SEC. 1637. HAWAII RECLAMATION PROJECTS.**”.

#### PURPOSE

The purpose of S. 960 is to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii.

#### BACKGROUND AND NEED

S. 960 authorizes the Secretary of the Interior to undertake three water projects in the State of Hawaii.

Hawaii has areas on the leeward sides of all its islands that are dry and have very limited water supplies. Many of these areas have remarkable similarities to the high deserts in the Western

United States. Additionally, Hawaii is also experiencing varying degrees of drought conditions both on the Big Island and in other parts of the state. The Honolulu Board of Water Supply projects that on Oahu freshwater use will exceed recharge rates in 2018.

The three projects authorized in S. 960 would help Hawaii better manage its water resources, particularly in some of the areas where water is becoming increasingly scarce. The first project, in Honolulu County, would provide a reliable source of water through resource diversification to meet existing and future water demands specifically in the Ewa area of Oahu, where water demands are exceeding the availability of drinking water. Specifically, the proposed project is a 5 million gallon per day seawater desalination facility. Seawater Reverser Osmosis Membrane Technology is proposed, in which approximately 11 million gallons per day of seawater is needed to produce 5 million gallons per day of potable water. Seawater source wells, rather than direct ocean intake, will be used to ensure higher water quality. Brine disposal will be through shallow cap rock wells with temporary brine holding ponds.

The second project, north of Kona, would address the issue of effluent being discharged into a temporary disposal sump from the Kealakehe Wastewater Treatment Plant. The effluent has a particularly high suspended solids content. The proposed project will utilize subsurface wetlands to reduce the suspended solids prior to disinfection. Retrofitting an existing lagoon and completing construction of an additional lagoon would create subsurface wetlands. An open surface wetland would also be constructed to reduce the effluent disposal, create habitat for two endangered species, and provide recreational opportunities for the public. Once the effluent water quality has been upgraded and the maximum amount of flow diverted for use onsite in the constructed wetlands, a distribution system would be needed to convey the recycled water to potential users.

The final project, in Lahaina, would facilitate the use of recycled water by extending the County of Maui's main recycled water pipeline. The county has been one of the water recycling leaders in the State of Hawaii; however, increased use of recycled water is limited by the lack of adequate infrastructure to distribute recycled water to additional users. Specifically, a lack of adequate recycled water storage and associated pipelines are the main constraints to increased use of recycled water in the area.

#### LEGISLATIVE HISTORY

S. 960 was introduced by Senator Akaka on April 30, 2003. Senator Inouye is a co-sponsor. The Water and Power Subcommittee held a hearing on S. 960 on May 13, 2003. S. Hrg. 108-64. At the business meeting on February 11, 2004, the Committee on Energy and Natural Resources ordered S. 960, favorably reported, with an amendment.

#### COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on February 11, 2004, by a unanimous vote of a

quorum present, recommends that the Senate pass S. 960, if amended, as described herein.

The rollcall vote on reporting the measure was 23 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Domenici	
Mr. Nickles	
Mr. Craig	
Mr. Campbell *	
Mr. Thomas	
Mr. Alexander	
Ms. Murkowski	
Mr. Talent	
Mr. Burns	
Mr. Smith *	
Mr. Bunning	
Mr. Kyl *	
Mr. Bingaman	
Mr. Akaka	
Mr. Dorgan *	
Mr. Graham *	
Mr. Wyden *	
Mr. Johnson *	
Ms. Landrieu *	
Mr. Bayh *	
Mrs. Feinstein *	
Mr. Schumer *	
Ms. Cantwell	

\* Indicates voted by proxy.

#### COMMITTEE AMENDMENTS

During consideration of S. 960, the Committee adopted an amendment making three technical corrections to the bill and striking a section previously passed on the Energy and Water Development Appropriations Act of 2004 (Public Law 108-137).

#### SECTION-BY-SECTION ANALYSIS

Section 1 states the short title.

Section 2(a) amends the Reclamation Wastewater and Groundwater Study and Facilities Act by adding a new section 1637.

Section 1637(a)(1) provides authorization for the Secretary, in cooperation with the Board of Water Supply, City and County of Honolulu, to participate in the design, planning, and construction of a project in Kalaeola, Hawaii, to desalinate and distribute seawater for direct potable use.

Section 1637(a)(2) authorizes the Secretary, in cooperation with the county of Hawaii Department of Environmental Management, to participate in the design, planning and construction of facilities in Kealakehe, for the treatment and distribution of recycled water for environmental purposes.

Section 1637(a)(3) authorizes the Secretary in cooperation with the county of Maui Wastewater Reclamation Division, to participate in the design, planning, and construction of, and to acquire

land for, facilities in Lahaina, Hawaii, for the distribution of recycled water for non-potable uses.

Section 1637(b) provides a Federal cost share of no more than 25 percent of the total cost of the project.

Section 1637(c) provides that the Federal funds shall not be used for the operation and maintenance of the facilities.

Section 1637(d) authorizes appropriations. Section 2(b) makes a conforming amendment to the table of contents.

#### 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 24, 2004.*

Hon. PETE V. DOMENICI,  
*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. 960, the Hawaii Water Resources Act of 2004.

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

Sincerely,

ELIZABETH M. ROBINSON  
(For Douglas Holtz-Eakin, Director).

Enclosure.

#### *S. 960—Hawaii Water Resources Act of 2004*

Summary: S. 960 would authorize the Secretary of the Interior to participate in three separate reclamation projects in Hawaii. The Bureau of Reclamation estimates that these projects would cost \$66 million. The bill would limit the federal share of project costs to 25 percent and would prohibit the use of federal funds for operating or maintaining the projects. In addition, this bill would increase the amount authorized to be appropriated for the Hawaii Water Resources Study from \$0.3 million to \$2 million.

Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 960 would cost \$16 million over the 2005–2009 period. Enacting S. 960 would not affect direct spending or revenues.

S. 960 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. The federal funds authorized by this bill would benefit local governments in Hawaii. Any costs incurred by these governments to provide the required matching funds would be voluntary.

Estimated Cost to the Federal Government: The estimated budgetary impact of S. 960 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2004	2005	2006	2007	2008	2009
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated authorization level .....	0	5	4	4	4	0
Estimated outlays .....	0	3	4	4	4	1

Basis of Estimate: For this estimate, CBO assumes that S. 960 will be enacted before the end of fiscal year 2004 and that the necessary amounts will be appropriated in each fiscal year starting in 2005. Based on information from the Bureau of Reclamation and historical spending patterns of similar construction projects, CBO estimates that implementing the construction projects outlined in this bill would cost \$16 million over the 2005–2009 period.

CBO does not estimate a cost for increasing the authorization of appropriations for the Hawaii Water Resources Study because this provision became law in the Energy and Water Development Appropriations Act, 2004 (Public Law 108–137).

Intergovernmental and Private-Sector Impact: S. 960 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The federal funds authorized by this bill would benefit local governments in Hawaii. Any costs incurred by these governments to provide the required matching funds would be voluntary.

Estimate Prepared by: Federal Costs: Julie Middleton. Impact on State, Local, and Tribal Governments: Marjorie Miller. Impact on the Private Sector: Paige Piper/Bach.

Estimated Approved by: Peter H. Fontaine, Deputy 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. 960. The bill is not a regulatory measure in the sense of imposing 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. 960, as ordered reported.

#### EXECUTIVE COMMUNICATIONS

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. 960 on May 13, 2003. These reports had not been received at the time the report on S. 960 was filed. The testimony provided by the Department of the Interior at the Subcommittee hearing follows:

STATEMENT OF JOHN W. KEYS III, COMMISSIONER, BUREAU  
OF RECLAMATION, DEPARTMENT OF THE INTERIOR

My name is John Keys and I am the Commissioner of  
the Bureau of Reclamation. I am pleased to appear before

this Subcommittee to provide the Department's views on S. 960.

S. 960 would amend two Acts—the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.), commonly called Title XVI, and the Hawaii Water Resources Act of 2000 (Public Law 106–566, Title I).

Because S. 960 was introduced as recently as April 30, 2003, we have had little time to thoroughly analyze the merits of the legislation. Therefore, until we have had that opportunity, we cannot support S. 960. We do note that section 2 of the proposed legislation adds three additional projects to title XVI. Due to the tremendous backlog of current projects already authorized under this program, we currently oppose the addition of any new projects. And, based on recent funding levels, it could take Reclamation more than 15 years to complete funding of the 27 currently authorized projects.

Thank you for the opportunity to comment on S. 960. That concludes my statement and I would be happy to answer any questions.

#### 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. 960, 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):

### RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1992

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#### SEC. 2. DEFINITION AND TABLE OF CONTENTS.

For purposes of this Act, the term “Secretary” means the Secretary of the Interior.

#### TABLE OF CONTENTS

Sec. 1. Short title.

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#### TITLE XVI—RECLAMATION WASTEWATER AND GROUNDWATER STUDIES

Sec. 1601. Short title.

\* \* \* \* \*

Sec. 1635. Lakehaven, Washington, Water Reclamation and Reuse Project.

Sec. 1637. *Hawaii reclamation projects.*

\* \* \* \* \*

**TITLE XVI—RECLAMATION WASTEWATER AND GROUNDWATER STUDIES**

**SEC. 1601. SHORT TITLE.**

This title may be referred to as the “Reclamation Wastewater and Groundwater Study and Facilities Act”.

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**SEC. 1637. HAWAII RECLAMATION PROJECTS.**

(a) *AUTHORIZATION.—THE SECRETARY MAY—*

*(1) in cooperation with the Board of Water Supply, City and County of Honolulu, Hawaii, participate in the design, planning, and construction of a project in Kalaeloa, Hawaii, to desalinate and distribute seawater for direct potable use within the service area of the Board;*

*(2) in cooperation with the County of Hawaii Department of Environmental Management, Hawaii, participate in the design, planning, and construction of facilities in Kealahou, Hawaii, for the treatment and distribution of recycled water and for environmental purposes within the County; and*

*(3) in cooperation with the County of Maui Wastewater Reclamation Division, Hawaii, participate in the design, planning, and construction of, and acquire land for, facilities in Lahaina, Hawaii, for the distribution of recycled water from the Lahaina Wastewater Reclamation Facility for non-potable uses within the County.*

(b) *COST SHARE.—The Federal share of the costs of a project described in subsection (a) shall not exceed 25 percent of the total cost of the project.*

(c) *LIMITATION.—Funds provided by the Secretary shall not be used for the operation and maintenance of a project described in subsection (a).*

(d) *AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.*