Public Law 95-18
95th Congress

An Act

Apr. 7, 1977
[S. 925]

To provide temporary authorities to the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976-77 drought.

Drought of 1976-1977. Temporary emergency authority to Secretary of the Interior. 43 USC 502 note. 43 USC 615v-615x.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior, hereinafter referred to as the "Secretary", acting through the Bureau of Reclamation and the Bureau of Indian Affairs pursuant to the authorities in the Federal Reclamation Laws (74 Stat. 882, as amended) and other appropriate authorities of the Secretary, and the authorities granted herein, is directed to—

(a) perform studies to identify opportunities to augment, utilize, or conserve water supplies available to Federal reclamation projects and Indian irrigation projects constructed by the Secretary; and consistent with existing contractual arrangements, and State law, and without further authorization, to undertake construction, management and conservation activities which can be expected to have an effect in mitigating losses and damages to Federal reclamation projects and Indian irrigation projects constructed by the Secretary resulting from the 1976-1977 drought period: *Provided*, That construction activities undertaken to implement the programs authorized by this Act shall be completed by November 30, 1977;

(b) assist willing buyers in their purchase of available water supplies from willing sellers and to redistribute such water to irrigators based upon priorities to be determined by the Secretary within the constraints of State water laws, with the objective of minimizing losses and damages resulting from the drought; and

(c) undertake expedited evaluations and reconnaissance studies of potential facilities to mitigate the effects of a recurrence of the current emergency and make recommendations to the President and to the Congress evaluating such potential undertakings including, but not limited to, wells, pumping plants, pipelines, canals, and alterations of outlet works of existing impoundments.

Purchases of water. 43 USC 502 note.

SEC. 2. (a) Payments for water acquired from willing sellers will be at a negotiated price, but will not confer any undue benefit or profit to any person or persons compared to what would have been realized if the water had been used in the normal irrigation of crops adapted to the area, as determined by the Secretary.

(b) Purchases of water acquired under subsection (a) above shall be made at a price to be determined by the Secretary: *Provided*, That the selling price shall be sufficient to recover all expenditures made in acquiring the water.

43 USC 502 note.

SEC. 3. (a) The Secretary shall determine for purposes of this Act the priority of need for allocating the water, taking into consideration, among other things, State law, national need, and the effect of losing perennial crops due to drought.

"Irrigators."

(b) For the purposes of this Act the term "irrigators" shall mean any person or legal entity who holds a valid existing water right for irrigation purposes within Federal reclamation projects and within all irrigation projects constructed by the Secretary for Indians.

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(c) For the purposes of this Act, the term "Federal reclamation project" means any project constructed or funded under Federal reclamation law and specifically including projects having approved loans under the Small Reclamation Projects Act of 1956 (70 Stat. 1044) as amended. "Federal reclamation project."

43 USC 422k.

SEC. 4. The Secretary is hereby authorized to defer without penalty, the 1977 payments of any installment of charges including operation and maintenance costs owed to the United States by irrigators as he deems necessary because of financial hardship caused by extreme drought conditions: *Provided*, That any deferment shall be recovered and such recovery may be accomplished by extending the repayment period under the contracting entities' existing contracts with the United States. Deferred payments. 43 USC 502 note.

SEC. 5. Actions taken pursuant to this Act are in response to emergency conditions and depend for their effectiveness upon their completion prior to or during the 1977 irrigation season and, therefore, are deemed not to be major Federal actions significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (83 Stat. 852, as amended, 42 U.S.C. 4321). 43 USC 502 note.

SEC. 6. The program established by this Act shall, to the extent practicable, be coordinated with emergency and disaster relief operations conducted by other Federal and State agencies under other provisions of law. The Secretary shall consult with the heads of such other Federal and State agencies as he deems necessary. The heads of all other Federal agencies performing relief functions under other Federal authorities are hereby authorized and directed to provide the Secretary, or his designee, such information and records as the Secretary or his designee shall deem necessary for the administration of this Act. Federal and State program coordination. 43 USC 502 note.

SEC. 7. Not later than March 1, 1978, the Secretary shall provide the President and the Congress with a complete report on expenditures and accomplishments under this Act. Report to President and Congress. 43 USC 502 note.

SEC. 8. (a) The Secretary is authorized to make loans to irrigators for the purposes of undertaking construction, management, conservation activities, or the acquisition and transportation of water, which can be expected to have an effect in mitigating losses and damages resulting from the 1976–1977 drought period. Loans. 43 USC 502 note.

(b) Such loans shall be without interest with the repayment schedule to be determined by the Secretary, but loans for acquiring water under section 2 of this Act shall not exceed five years in duration.

(c) The authorities conferred by this Act shall terminate on September 30, 1977. Termination.

SEC. 9. There is authorized to be appropriated $100,000,000 to carry out the water purchase and reallocation program authorized by this Act: *Provided*, That 15 per centum of such appropriations shall be available for carrying out other programs authorized by this Act and for construction of emergency physical facilities under terms and conditions applying to expenditures from the emergency fund created by the Act of June 26, 1948 (62 Stat. 1052). Appropriation authorization. 43 USC 502 note.

SEC. 10. (a) Funds available to the Secretary during fiscal year 1977 for expenditure pursuant to the Act of June 26, 1948 (62 Stat. 1052), shall be available for expenditure on behalf of (1) projects financed through loans pursuant to the Small Reclamation Projects Act of 1956 (70 Stat. 1044) as amended, and (2) projects financed with non-Federal funds notwithstanding the provisions of the third sentence of section 46 of the Act of May 25, 1926 (44 Stat. 649, 650), Availability of funds. 43 USC 502 note. 43 USC 423e.

and any other similar provision of law. Expenditures undertaken under this authority shall be governed by the same terms and conditions as apply to programs regularly constructed under Federal reclamation law: *Provided*, That not more than 15 per centum of such available funds may be used on behalf of nonfederally financed projects and not more than $1,000,000 may be expended on behalf of any individual contracting entity.

43 USC 502, 503.

(b) Funds available to the Secretary during fiscal year 1977 for expenditure pursuant to the Act of June 26, 1948 (62 Stat. 1052), shall be available for expenditure for drought emergency programs conducted heretofore or hereafter by State water resource agencies during fiscal year 1977 if such programs are found to be compatible with the broad purposes of this Act: *Provided*, That not more than 5 per centum of such available funds may be used for purposes of this subsection and not more than $1,000,000 may be expended on behalf of any State. In recognition of the widespread and diffused nature of the benefits deriving from this subsection, all funds expended under the authority of this subsection shall be nonreimbursable.

(c) Funds available for expenditure under the provisions of this Act may be used by the Secretary for the purchase of water or for acquisition of entitlement to water from any available source for the purpose of mitigating damage to fish and wildlife resources caused by drought conditions. Not to exceed $10,000,000 may be expended for such activities and any amount so expended shall be nonreimbursable.

43 USC 502 note.

SEC. 11. Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States or—

(a) as affecting in any way any law governing appropriations or use of, or Federal right to, water on public lands;

(b) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control;

(c) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States or of two States and the Federal Government;

(d) as superseding, modifying, or repealing, except as specifically set forth in this Act, existing laws applicable to the various Federal agencies; and

(e) as modifying the terms of any interstate compact.

Approved April 7, 1977.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-155 accompanying H.R. 5117 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 95-50 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 123 (1977):

Mar. 15, considered and passed Senate.

Apr. 4, considered and passed House, amended, in lieu of H.R. 5117; Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 13, No. 15:

Apr. 7, Presidential statement.