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

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## **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 137 projects identified by **this bill could produce upwards of 1.4 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*).
- The bill increases funding for WaterSMART from \$350 million to \$500 million and authorizes another \$200 million for recycling through Title XVI (*Sec. 101*).
- The bill funds RIFIA—a new Reclamation loan and loan guarantee program—at the full \$200 million (*Sec. 131-141*).
- The bill establishes a new program under Reclamation for providing assistance to communities that have run out of water (*Sec. 101*).
- **The bill also authorizes \$600 million for storage projects** for storing water from the wet years for use during the dry ones. (*Sec. 112*)

#### **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*)
  - 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*)
  - 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*)
  - 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*)

**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)*
- 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)*

### **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)*
- 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)*

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

### **Desalination**

*(\$100 million through 2020)*

- Identifies **27 desalination projects throughout California** capable of producing more than 352,000 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*):
  - 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 **110 water recycling and reuse projects** with the potential to provide more than 1,060,334 acre-feet per year of “new” water. (*Section 121*)
- 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*)
- Authorizes **\$200 million for water-recycling projects** through Title XVI that reclaim and reuse wastewaters and naturally impaired ground and surface water. (*Section 123*).

### **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)*
- **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)*

## **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)*
- 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)*
- 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)*

**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)*

**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)*
- **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)*
  - 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

The bill includes eight provisions to allow more water to be captured and stored during the drought:

1. Improved data to operate pumps at higher levels when no fish are present and reduce pumping levels when fish are nearby.
  - Requiring **daily boat monitoring to survey for smelt near the pumps** when turbidity levels are high, so that pumping reductions are made based on the facts.
  - Authorizing studies to identify smelts' location in the Delta on a real-time basis.
  - Authorizing a Delta Smelt Distribution Study to **identify how many smelt are in different parts of the Delta** in drier and wetter years. This is critical to know what limitations the agencies can impose on pumping.
2. Allow agencies to keep the additional water they are able to pump during winter storms.
  - The bill authorizes agencies to increase pumping during winter storms, using their best judgment to determine when and by how much.
  - Once the storms end, the agencies would no longer be required to "payback" water already pumped unless there was an environmental reason, such as harm to fish.
  - This so-called "payback" has led to the loss of tens of thousands of acre-feet. Payback currently requires agencies to reduce subsequent water pumping by an equal amount of water as was captured during the

storms, which means the loss of tens of thousands acre-feet of water that could instead be stored or transferred for use throughout the state.

3. Agencies must explain reductions in pumping under the Delta Smelt Biological Opinion.

- The bill does not impose any mandated pumping levels, instead leaving those pumping levels up to the discretion of the water agencies. But **the bill does require officials to justify the levels at which they pump under the smelt biological opinion.**
- By requiring written justification for the level of pumping, the bill attempts to maximize the amount of water pumped by directing officials to consider whether real-time monitoring justifies lowering pumping levels. The agencies must explain their decisions based on improved data, not just rely on their intuition.
- To be clear: The revised text does not include any pumping mandate. We removed a provision that would have mandated pumping at -5000 cubic feet per second in the Old and Middle Rivers, unless pumping at these levels would cause additional adverse effects on the Delta smelt.

4. Agencies must maximize water supplies consistent with applicable laws and biological opinions.

- Federal agencies should be capable of doing more than one thing at once: they should try to both protect species and provide reliable water supplies.
- The bill makes very clear that the agencies cannot harm the fish in violation of the biological opinions – but **within this environmental protection mandate the agencies should try to increase water supplies.**
- This requirement complements the additional requirement that agencies must explain any harm to fish that results from a reduction in water supplies.

5. Open Delta Cross-Channel Gates more often.

- The bill requires the Secretary of the Interior and the Secretary of Commerce to take actions to ensure the Delta Cross Channel Gates remain open to the greatest extent possible, consistent with state and federal law.
- Keeping the gates open for longer helps both Delta farmers and communities and South of Delta communities. Keeping the gates open means that water from the Sacramento River is used to control salinity instead of releasing water from the Central Valley Project (like Folsom or San Luis) that would otherwise be pumped south.
- When the gates are closed, water no longer flows directly from the Sacramento River into the interior Delta.
- The gate's closures means that the agencies must either reduce pumping or use stored water to "flush" salty water back out through the Delta.

Given that we never have enough water, water transfers are a mechanism to use the voluntary, market process to move water to those who truly need it. The bill includes three provisions to increase water transfers.

6. Extending the time period for water transfers by five months. The bill extends by five months the time period when transfers may take place. The current transfer window of July through September is extended to April through November. This would allow water transfers to be available during the spring planting season. All transfers must remain consistent with the biological opinions and their adaptive management provisions.
7. The 1:1 transfer ratio. The strong El Niño means more water is likely to be available for voluntary transfers from willing sellers with extra water to buyers downstream who need water. This provision helps facilitate those transfers in April and May by allowing a 1:1 transfer ratio. In past years, agencies have reduced the likelihood of transfers by requiring water users to send more water downstream than can be pumped out (up to a 4:1 ratio). By allowing for a 1:1 ratio—while adhering to environmental law and biological opinions—more water transfers can be accomplished, providing water to users who truly need it.

- Expediting review of transfers and the construction of barriers. Environmental reviews of water transfers and the installation of temporary barriers must be completed within 60 days, unless an environmental impact statement is required.

## **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)*
- 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)*
- 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)*
- 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)*
- *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)*
- Directs the Bureau of Reclamation to **publish an annual report on water releases for benefit of fish** and evaluate their environmental benefits. *(Section 505)*
- 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)*
- 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*)

- Authorizes a Department of the Interior program to establish an open system with data on water quality, climate and weather effects, and erosion, which would be accessible to the public online. (*Section 508*)
- 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 509*)

### **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*)

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*)

### **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*)