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H. R. 678

One Hundred Thirteenth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Thursday, the third day of January, two thousand and thirteen

An Act

To authorize all Bureau of Reclamation conduit facilities for hydropower development under Federal Reclamation law, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act".

SEC. 2. AUTHORIZATION.

Section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) is amended—

(1) by striking "The Secretary is authorized to enter into contracts to furnish water" and inserting the following:

"(1) The Secretary is authorized to enter into contracts to furnish water";

(2) by striking "(1) shall" and inserting "(A) shall";

(3) by striking "(2) shall" and inserting "(B) shall";

(4) by striking "respecting the terms of sales of electric power and leases of power privileges shall be in addition and alternative to any authority in existing laws relating to particular projects" and inserting "respecting the sales of electric power and leases of power privileges shall be an authorization in addition to and alternative to any authority in existing laws related to particular projects, including small conduit hydropower development"; and

(5) by adding at the end the following:

"(2)(A) When carrying out this subsection, the Secretary shall first offer the lease of power privilege to an irrigation district or water users association operating the applicable transferred conduit, or to the irrigation district or water users association receiving water from the applicable reserved conduit. The Secretary shall determine a reasonable time frame for the irrigation district or water users association to accept or reject a lease of power privilege offer for a small conduit hydropower project.

"(B) If the irrigation district or water users association elects not accept a lease of power privilege offer under subparagraph (A), the Secretary shall offer the lease of power privilege to other parties in accordance with this subsection.

"(3) The Bureau of Reclamation shall apply its categorical exclusion process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to small conduit

hydropower development under this subsection, excluding siting of associated transmission facilities on Federal lands.

"(4) The Power Resources Office of the Bureau of Reclamation shall be the lead office of small conduit hydropower policy and procedure-setting activities conducted under this subsection.

"(5) Nothing in this subsection shall obligate the Western Area Power Administration, the Bonneville Power Administration, or the Southwestern Power Administration to purchase or market any of the power produced by the facilities covered under this subsection and none of the costs associated with production or delivery of such power shall be assigned to project purposes for inclusion in project rates.

"(6) Nothing in this subsection shall alter or impede the delivery and management of water by Bureau of Reclamation facilities, as water used for conduit hydropower generation shall be deemed incidental to use of water for the original project purposes. Lease of power privilege shall be made only when, in the judgment of the Secretary, the exercise of the lease will not be incompatible with the purposes of the project or division involved, nor shall it create any unmitigated financial or physical impacts to the project or division involved. The Secretary shall notify and consult with the irrigation district or water users association operating the transferred conduit before offering the lease of power privilege and shall prescribe terms and conditions that will adequately protect the planning, design, construction, operation, maintenance, and other interests of the United States and the project or division involved.

"(7) Nothing in this subsection shall alter or affect any existing agreements for the development of conduit hydropower projects or disposition of revenues.

"(8) Nothing in this subsection shall alter or affect any existing preliminary permit, license, or exemption issued by the Federal Energy Regulatory Commission under Part I of the Federal Power Act (16 U.S.C. 792 et seq.) or any project for which an application has been filed with the Federal Energy Regulatory Commission as of the date of the enactment of the Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act.

"(9) In this subsection:

"(A) CONDUIT.—The term 'conduit' means any Bureau of Reclamation tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.

"(B) IRRIGATION DISTRICT.—The term 'irrigation district' means any irrigation, water conservation or conservancy, multicounty water conservation or conservancy district, or any separate public entity composed of two or more such districts and jointly exercising powers of its member districts.

"(C) RESERVED CONDUIT.—The term 'reserved conduit' means any conduit that is included in project works the care, operation, and maintenance of which has been reserved by the Secretary, through the Commissioner of the Bureau of Reclamation.

"(D) TRANSFERRED CONDUIT.—The term 'transferred conduit' means any conduit that is included in project works the care, operation, and maintenance of which has been transferred to a legally organized water users association or irrigation district.

"(E) SMALL CONDUIT HYDROPOWER.—The term 'small conduit hydropower' means a facility capable of producing 5 megawatts or less of electric capacity.".

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate.