

117TH CONGRESS  
1ST SESSION

# H. R. 4712

To promote desalination project development and drought resilience, and  
for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2021

Mr. LEVIN of California (for himself and Mr. HUFFMAN) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Science, Space, and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To promote desalination project development and drought  
resilience, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Desalination Develop-  
5 ment Act”.

6 **SEC. 2. DESALINATION PROJECTS AUTHORIZATION.**

7 Section 4(a) of the Water Desalination Act of 1996  
8 (42 U.S.C. 10301 note; Public Law 104–298) is amended

1 by striking the second paragraph (1) (relating to projects)  
2 and inserting the following:

3 “(2) PROJECTS.—

4 “(A) DEFINITION OF ELIGIBLE DESALINA-  
5 TION PROJECT.—In this paragraph, the term  
6 ‘eligible desalination project’ means any project  
7 located in a Reclamation State that—

8 “(i) involves an ocean or brackish  
9 water desalination facility—

10 “(I) constructed, operated, and  
11 maintained by a State, Indian Tribe,  
12 irrigation district, water district, or  
13 other organization with water or  
14 power delivery authority; or

15 “(II) sponsored or funded by any  
16 State, department of a State, subdivi-  
17 sion of a State, or public agency orga-  
18 nized pursuant to State law, includ-  
19 ing—

20 “(aa) direct sponsorship or  
21 funding; or

22 “(bb) indirect sponsorship or  
23 funding, such as by paying for  
24 the water provided by the facility;

1 “(ii) provides a Federal benefit in ac-  
2 cordance with the reclamation laws; and

3 “(iii) is consistent with all applicable  
4 State and Federal resource protection laws  
5 including the protection of marine pro-  
6 tected areas.

7 “(B) DEFINITION OF DESIGNATED DESALI-  
8 NATION PROJECT.—The term ‘designated de-  
9 salination project’ means an eligible desalina-  
10 tion project that—

11 “(i) is an ocean desalination project  
12 that uses a subsurface intake;

13 “(ii) has a total estimated cost of  
14 \$80,000,000 or less; and

15 “(iii) is designed to serve a commu-  
16 nity or group of communities that collec-  
17 tively import more than 75 percent of their  
18 water supplies.

19 “(C) COST-SHARING REQUIREMENT.—

20 “(i) IN GENERAL.—Subject to the re-  
21 quirements of this paragraph, the Federal  
22 share of an eligible desalination project  
23 carried out under this subsection shall  
24 be—

1 “(I) not more than 25 percent of  
2 the total cost of the eligible desalina-  
3 tion project; or

4 “(II) in the case of a designated  
5 desalination project, the applicable  
6 percentage determined in accordance  
7 with clause (ii).

8 “(ii) COST-SHARING REQUIREMENT  
9 FOR CONSTRUCTION COSTS.—In the case  
10 of a designated desalination project carried  
11 out under this subsection, the Federal  
12 share of the cost of construction of the  
13 designated desalination project shall not  
14 exceed the greater of—

15 “(I) 35 percent of the total cost  
16 of construction, up to a Federal cost  
17 of \$20,000,000; or

18 “(II) 25 percent of the total cost  
19 of construction.

20 “(D) STATE ROLE.—Participation by the  
21 Secretary in an eligible desalination project  
22 under this paragraph shall not occur unless—

23 “(i)(I) the eligible desalination project  
24 is included in a State-approved plan; or

1 “(II) the participation has been re-  
2 requested by the Governor of the State in  
3 which the eligible desalination project is lo-  
4 cated; and

5 “(ii) the State or local sponsor of the  
6 eligible desalination project determines,  
7 and the Secretary concurs, that—

8 “(I) the eligible desalination  
9 project—

10 “(aa) is technically and fi-  
11 nancially feasible;

12 “(bb) provides a Federal  
13 benefit in accordance with the  
14 reclamation laws; and

15 “(cc) is consistent with ap-  
16 plicable State laws, State regula-  
17 tions, State coastal zone manage-  
18 ment plans and other State plans  
19 such as California’s Water Qual-  
20 ity Control Plan for the Ocean  
21 Waters in California;

22 “(II) sufficient non-Federal fund-  
23 ing is available to complete the eligible  
24 desalination project; and

1                   “(III) the eligible desalination  
2                   project sponsors are financially sol-  
3                   vent; and

4                   “(iii) the Secretary submits to Con-  
5                   gress a written notification of the deter-  
6                   minations under clause (ii) by not later  
7                   than 30 days after the date of the deter-  
8                   minations.

9                   “(E) ENVIRONMENTAL LAWS.—In partici-  
10                  pating in an eligible desalination project under  
11                  this paragraph, the Secretary shall comply with  
12                  all applicable environmental laws, including, but  
13                  not limited to, the National Environmental Pol-  
14                  icy Act of 1969 (42 U.S.C. 4321 et seq.) and  
15                  State laws implementing the Coastal Zone Man-  
16                  agement Act.

17                  “(F) INFORMATION.—In participating in  
18                  an eligible desalination project under this sub-  
19                  section, the Secretary—

20                  “(i) may rely on reports prepared by  
21                  the sponsor of the eligible desalination  
22                  project, including feasibility or equivalent  
23                  studies, environmental analyses, and other  
24                  pertinent reports and analyses; but

1 “(ii) shall retain responsibility for  
2 making the independent determinations de-  
3 scribed in subparagraph (C).

4 “(G) FUNDING.—

5 “(i) AUTHORIZATION OF APPROPRIA-  
6 TIONS.—There is authorized to be appro-  
7 priated to carry out this paragraph  
8 \$260,000,000 for the period of fiscal years  
9 2020 through 2024.

10 “(ii) CONGRESSIONAL APPROVAL INI-  
11 TIALY REQUIRED.—

12 “(I) IN GENERAL.—Each initial  
13 award under this paragraph for de-  
14 sign and study or for construction of  
15 an eligible desalination project shall  
16 be approved by an Act of Congress.

17 “(II) RECLAMATION REC-  
18 OMMENDATIONS.—The Commissioner  
19 of Reclamation shall submit rec-  
20 ommendations regarding the initial  
21 award of preconstruction and con-  
22 struction funding for consideration  
23 under subclause (I) to—

24 “(aa) the Committee on Ap-  
25 propriations of the Senate;

1 “(bb) the Committee on En-  
 2 ergy and Natural Resources of  
 3 the Senate;

4 “(cc) the Committee on Ap-  
 5 propriations of the House of Rep-  
 6 resentatives; and

7 “(dd) the Committee on  
 8 Natural Resources of the House  
 9 of Representatives.

10 “(iii) SUBSEQUENT FUNDING  
 11 AWARDS.—After approval by Congress of  
 12 an initial award of preconstruction or con-  
 13 struction funding for an eligible desalina-  
 14 tion project under clause (ii), the Commis-  
 15 sioner of Reclamation may award addi-  
 16 tional preconstruction or construction  
 17 funding, respectively, for the eligible desali-  
 18 nation project without further congres-  
 19 sional approval.”.

20 **SEC. 3. PRIORITIZATION FOR PROJECTS.**

21 Section 4 of the Water Desalination Act of 1996 (42  
 22 U.S.C. 10301 note; Public Law 104–298) is amended by  
 23 striking subsection (c) and inserting the following:

24 “(c) PRIORITIZATION.—In carrying out demonstra-  
 25 tion and development activities under this section, the Sec-



1 retary and the Commissioner of Reclamation shall each  
2 prioritize projects—

3 “(1) for the benefit of drought-stricken States  
4 and communities;

5 “(2) for the benefit of States that have author-  
6 ized funding for research and development of desali-  
7 nation technologies and projects;

8 “(3) that demonstrably reduce a reliance on im-  
9 ported water supplies that have an impact on species  
10 listed under the Endangered Species Act of 1973  
11 (16 U.S.C. 1531 et seq.);

12 “(4) that, in a measurable and verifiable man-  
13 ner, reduce a reliance on imported water supplies  
14 from imperiled ecosystems such as the Sacramento-  
15 San Joaquin River Delta;

16 “(5) that demonstrably leverage the experience  
17 of international partners with considerable expertise  
18 in desalination, such as the State of Israel;

19 “(6) that maximize use of renewable energy to  
20 power desalination facilities;

21 “(7) that maximize energy efficiency so that the  
22 lifecycle energy demands of desalination are mini-  
23 mized;

24 “(8) located in regions that have employed  
25 strategies to increase water conservation and the

1 capture and recycling of wastewater and stormwater;  
2 and

3 “(9) that meet the following criteria if they are  
4 ocean desalination facilities—

5 “(A) utilize a subsurface intake or, if a  
6 subsurface intake is not technologically feasible,  
7 an intake that uses the best available site, de-  
8 sign, technology, and mitigation measures to  
9 minimize the mortality of all forms of marine  
10 life and impacts to coastal dependent resources;

11 “(B) are sited and designed to ensure that  
12 the disposal of wastewaters including brine  
13 from the desalination process—

14 “(i) are not discharged to impaired  
15 bodies of water, or State or Federal Ma-  
16 rine Protected Areas; and

17 “(ii) achieve ambient salinity levels  
18 within a reasonable distance from the dis-  
19 charge point;

20 “(C) are sited, designed, and operated in a  
21 manner that maintains indigenous marine life  
22 and a healthy and diverse marine community;

23 “(D) do not cause significant unmitigated  
24 harm to aquatic life; and

1                   “(E) include a construction and operation  
2                   plan designed to minimize loss of coastal habi-  
3                   tat as well as aesthetic, noise, and air quality  
4                   impacts.”.

5 **SEC. 4. RECOMMENDATIONS TO CONGRESS.**

6           In determining project recommendations to Congress  
7   under section 4(a)(2)(F)(ii)(II) of the Water Desalination  
8   Act of 1996, the Commissioner of Reclamation shall estab-  
9   lish a priority scoring system that assigns priority scores  
10   to each project evaluated based on the prioritization cri-  
11   teria of section 4(c) of the Water Desalination Act of 1996  
12   (42 U.S.C. 10301 note; Public Law 104–298).

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