

Calendar No. 142

112TH CONGRESS }
1st Session }

SENATE

{ REPORT
112-62

UINTAH WATER CONSERVANCY CONTRACT REPAYMENT

AUGUST 30 (legislative day, AUGUST 2), 2011.—Ordered to be printed

Filed under authority of the order of the Senate of August 2, 2011

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

R E P O R T

[To accompany S. 808]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 808) to direct the Secretary of the Interior to allow for prepayment of repayment contracts between the United States and the Uintah Water Conservancy District, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 808 is to direct the Secretary of the Interior to allow for the prepayment of a repayment contract between the United States and the Uintah Water Conservancy District in the State of Utah.

BACKGROUND AND NEED

The Uintah Water Conservancy District (District) operates and maintains the Vernal and Jensen Units of the Central Utah Project, which was authorized as part of the Colorado River Storage Project Act of 1956. The District entered into a repayment contract dated June 3, 1976, requiring the repayment of the costs associated with the construction of the Jensen Unit. In 1992, the contract was amended to reduce the project water supply from 18,000 acre-feet per year to 2,000 acre-feet per year. Legislation is required to allow prepayment of the repayment obligations in the amended contract. According to the District, prepayment of the contract will substantially reduce the cost of water to the District.

The bill provides that the Bureau of Reclamation will receive the net present value of the full amount that would be due from the District without any early repayment.

LEGISLATIVE HISTORY

Senator Hatch introduced S. 808 on April 13, 2011. The bill is co-sponsored by Senator Lee. The Subcommittee on Water and Power held a hearing on S. 808 on May 19, 2011 and considered the bill at its business meeting on July 14, 2011. The Committee ordered S. 808 favorably reported without amendment at its business meeting on July 14, 2011.

During the 111th Congress, the Committee considered identical legislation, S. 1757, sponsored by Senator Bennett. The Subcommittee on Water and Power held a hearing on S. 1757 on November 5, 2009 (S. Hrg. 111–339) and the Committee ordered the bill favorably reported without amendment on December 16, 2009 (S. Rpt. 111–143). A companion measure, H.R. 2950, sponsored by Representative Matheson, passed the House of Representatives by a voice vote on September 29, 2009.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on July 14, 2011, by voice vote of a quorum present, recommends that the Senate pass S. 808.

SECTION-BY-SECTION ANALYSIS

Section 1 provides that the Secretary of the Interior shall allow the Uintah Water Conservancy District to prepay the Federal government for the cost of municipal and industrial water delivery facilities that were financed by the United States (contract no. 6–05–01–00143). The section further provides that prepayment shall reflect the net present value of the debt the District owes to the government, and that the District may prepay the debt in several installments, though the debt must be prepaid in full by September 30, 2022. The prepayment shall be adjusted to conform to any final cost allocation, as determined by the Bureau of Reclamation, and may not be adjusted based on the type of financing used by the District to prepay the debt.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

S. 808—A bill to direct the Secretary of the Interior to allow for prepayment of repayment contracts between the United States and the Uintah Water Conservancy District

S. 808 would allow the Uintah Water Conservancy District in Utah to prepay the present value of certain amounts the district owes to the U.S. Treasury for its share of the cost to build the Jensen Unit of the Central Utah Project. Based on information from the Bureau of Reclamation and the Uintah Water Conservancy District, CBO estimates that enacting the legislation would have no impact on the federal budget. Because the legislation would not af-

fect direct spending or revenues, pay-as-you-go procedures do not apply.

The Uintah Water Conservancy District is currently paying the federal government about \$227,000 a year on a balance of \$3.9 billion in project construction costs that have been allocated to the district for repayment. However, if the district chose to prepay its debt to the government under the bill, it also would have to pay for additional construction costs—totaling \$7.4 million—that have not yet been assigned to the district for repayment. Information from the district indicates that it would be unable to prepay that additional amount. Therefore, if the bill were enacted, CBO expects that the district would continue to make the annual payments it does under current law and the legislation would have no impact on the federal budget.

S. 808 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Aurora Swanson. The estimate was approved by Theresa Gullo, 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. 808.

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. 808, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 808, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Bureau of Reclamation, at the May 19, 2011, Subcommittee hearing on S. 808 follows:

STATEMENT OF DAVID MURILLO, DEPUTY COMMISSIONER,
OPERATIONS, BUREAU OF RECLAMATION, DEPARTMENT OF
THE INTERIOR

Madam Chairman and Members of the Subcommittee, I am David Murillo, Deputy Commissioner of Operations of the Bureau of Reclamation (Reclamation). Thank you for the opportunity to provide the views of the Department of the Interior (Department) on S. 808, as introduced on April 13, 2011. This legislation allows for prepayment of the current and future repayment contract obligations of the Uintah Water Conservancy District (District) of the costs

allocated to their municipal and industrial water (M&I) supply on the Jensen Unit of the Central Utah Project (CUP) and provides that the prepayment must result in the United States recovering the net present value of all repayment streams that would have been payable to the United States if S. 808 were not enacted. S. 808 would amend current law to change the date of repayment to 2022 from 2037. The legislation would also allow repayment to be provided in several installments and requires that the repayment be adjusted to conform to a final cost allocation. The Department supports S. 808.

The District entered into a repayment contract dated June 3, 1976, in which they agreed to repay all reimbursable costs associated with the Jensen Unit of the CUP. The Jensen Unit's total water supply was envisioned at this time to be roughly 18,000 acre-feet because plans anticipated completion of another pumping plant at a location on the Green River known as Burns Bench.

However, for a variety of reasons, the Burns Bench feature was never built. And with the enactment of language in Section 203(g) of the Central Utah Project Completion Act of 1992 (P.L. 102-575), the District's contract was amended in 1992 to reduce the project M&I supply subject to repayment to 2,000 acre-feet annually, and temporarily fix repayment for this supply based upon a reduced interim cost allocation developed for the still-uncompleted project. The amended 1992 contract required the District to repay about \$5.545 million through the year 2037 at the project interest rate of 3.222% with annual payments of \$226,585. The current balance due, without discounting, is \$3,949,058 as of 2011.

It is important to note that this \$3,949,058 figure reflects a repayment amount that is statutorily lowered by the 1992 legislation, and does not reflect the true repayment costs of the Jensen Unit. The costs allocated to the 2,000 acre-feet of contracted M&I supply, and the M&I supply available through additional incomplete project features, may be significantly revised upward in the future upon project completion or enactment of this bill, both of which would require a Final Cost Allocation. An additional currently unallocated cost of \$7,419,513 is expected to be allocated to the contracted 2,000 acre-feet in order to achieve a full and final project repayment.¹

These are the costs that paragraph 3 of S. 808 requires to be included in the prepayment. The 2011 balance on the 1992 M&I repayment contract is \$3,949,058 and the adjustment amount when factoring in the total project cost including interest on that debt is \$7,419,513. Therefore, in total non-discounted dollars, the Conservancy District owes the Federal government \$11,368,571.

Under Reclamation law, water districts are not authorized to prepay their M&I repayment obligation based upon a discounted value of their remaining annual payments.

¹This allocation will be subject to revision should there be additions to the project.

This legislation would authorize early repayment by the Uintah Conservancy District to the Federal government. Because there is an interest component to the M&I repayment streams to be repaid early, early repayment without an adjustment for interest would result in lower overall repayment to the United States. To keep the United States whole, the Bureau of Reclamation would collect the present value of the whole amount that would be due without early repayment.

The language in S. 808 has been amended from the language contained in an earlier version of this legislation, S. 1757 (111th Congress). The amended language clarifies that this legislation requires that the Federal government be paid what it is owed by the Conservancy District. Because the United States supports the goals of providing for early repayment under this contract so long as the United States is kept whole, and S. 808 clearly establishes that early repayment under this legislation must be of an amount equal to the net present value of the foregone revenue stream, the Department supports this legislation.

This concludes my testimony. I will be pleased to answer any questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 808, as ordered reported.

