

111TH CONGRESS
1ST SESSION

H. R. 4132

To amend the Internal Revenue Code of 1986 to provide for clean renewable water supply bonds.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 19, 2009

Mr. BECERRA (for himself, Ms. GINNY BROWN-WAITE of Florida, Ms. ROYBAL-ALLARD, Mr. PUTNAM, and Ms. RICHARDSON) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide for clean renewable water supply bonds.

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 “Clean Renewable
5 Water Supply Act of 2009”.

6 **SEC. 2. CLEAN RENEWABLE WATER SUPPLY BONDS.**

7 (a) IN GENERAL.—Subpart I of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of
9 1986 is amended by adding at the end the following new
10 section:

1 **“SEC. 54G. CLEAN RENEWABLE WATER SUPPLY BONDS.**

2 “(a) CLEAN RENEWABLE WATER SUPPLY BONDS.—

3 For purposes of this subpart, the term ‘clean renewable
4 water supply bond’ means any bond issued as part of an
5 issue if—

6 “(1) 100 percent of the available project pro-
7 ceeds of such issue are to be used for capital expend-
8 itures incurred by qualified borrowers for 1 or more
9 qualified projects,

10 “(2) the bond is issued by a qualified issuer,

11 “(3) the issuer designates such bond for pur-
12 poses of this section, and

13 “(4) the bond is issued—

14 “(A) pursuant to an allocation by the Sec-
15 retary to such issuer of a portion of the na-
16 tional clean renewable water supply bond limita-
17 tion under subsection (b), and

18 “(B) not later than 6 months after the
19 date that such qualified issuer receives an allo-
20 cation under subsection (b).

21 “Any allocation under subsection (b) not used within the
22 6-month period described in paragraph (4)(B) shall be ap-
23 plied to increase the national clean renewable water supply
24 bond limitation for the next succeeding application period
25 under subsection (b)(2)(B).

1 “(b) NATIONAL LIMITATION ON AMOUNT OF BONDS
2 DESIGNATED.—

3 “(1) IN GENERAL.—There is a national clean
4 renewable water supply bond limitation for each cal-
5 endar year. Such limitation is—

6 “(A) \$100,000,000 for 2010,

7 “(B) \$150,000,000 for 2011,

8 “(C) \$200,000,000 for 2012,

9 “(D) \$250,000,000 for 2013,

10 “(E) \$500,000,000 for 2014,

11 “(F) \$750,000,000 for 2015,

12 “(G) \$1,000,000,000 for 2016,

13 “(H) \$1,500,000,000 for 2017,

14 “(I) \$1,750,000,000 for 2018, and

15 “(J) \$0 for 2019 and thereafter.

16 “(2) ALLOCATION OF LIMITATION.—

17 “(A) IN GENERAL.—The limitation under
18 paragraph (1) shall be allocated by the Sec-
19 retary among qualified projects as provided in
20 this paragraph.

21 “(B) METHOD OF ALLOCATION.—For each
22 calendar year for which there is a national
23 clean renewable water supply bond limitation
24 greater than zero, the Secretary shall publish a
25 notice soliciting applications by qualified issuers

1 for allocations of such limitation to qualified
2 projects. Such notice shall specify a 3-month
3 application period in the calendar year during
4 which the Secretary will accept such applica-
5 tions. Within 30 days after the end of such ap-
6 plication period, and subject to the require-
7 ments of subparagraph (C), the Secretary shall
8 allocate such limitation to qualified projects on
9 a first-come, first-served basis, based on the
10 order in which such applications are received
11 from qualified issuers.

12 “(C) ALLOCATION REQUIREMENTS.—

13 “(i) CERTIFICATIONS REGARDING
14 REGULATORY APPROVALS.—No portion of
15 the national clean renewable water supply
16 bond limitation shall be allocated to a
17 qualified project unless the qualified issuer
18 has certified in its application for such al-
19 location that as of the date of such appli-
20 cation the qualified issuer or qualified bor-
21 rower has received all Federal and State
22 regulatory approvals necessary to construct
23 the qualified project.

1 “(ii) RESTRICTION ON ALLOCATIONS
2 TO LARGE PROJECTS OR TO INDIVIDUAL
3 PROJECTS.—

4 “(I) IN GENERAL.—The Sec-
5 retary shall not allocate—

6 “(aa) more than 60 percent
7 of the national clean renewable
8 water supply bond limitation for
9 a calendar year to 1 or more
10 large projects,

11 “(bb) more than 18 percent
12 of the amount of the national
13 clean renewable water supply
14 bond limitation for a calendar
15 year to any single project that is
16 a large project,

17 “(cc) more than 12 percent
18 of the national clean renewable
19 water supply bond limitation for
20 a calendar year to any single
21 project that is not a large
22 project, or

23 “(dd) more than
24 \$95,000,000 for all calendar
25 years for any single project.

1 “(II) DEFINITION OF LARGE
2 PROJECT.—For purposes of subclause
3 (I), the term ‘large project’ means a
4 qualified project that is designed to
5 deliver more than 10,000,000 gallons
6 of water per day.

7 “(III) EXCEPTION TO RESTRIC-
8 TION.—Subclause (I) shall not apply
9 to the extent its application would
10 cause any portion of the national
11 clean renewable water supply bond
12 limitation for the calendar year to re-
13 main unallocated, based on applica-
14 tions for allocations of such limitation
15 received by the Secretary during the
16 application period referred to in sub-
17 paragraph (B).

18 “(3) CARRYOVER OF UNUSED LIMITATION.—If
19 the clean renewable water supply bond limitation for
20 any calendar year exceeds the aggregate amount al-
21 located under paragraph (2) for such year, such lim-
22 itation for the succeeding calendar year shall be in-
23 creased by the amount of such excess.

24 “(c) MATURITY LIMITATION.—

1 “(1) IN GENERAL.—A bond shall not be treated
2 as a clean renewable water supply bond if the matu-
3 rity of such bond exceeds 20 years.

4 “(2) COORDINATION WITH SECTION 54A.—The
5 maturity limitation in section 54A(d)(5) shall not
6 apply to any clean renewable water supply bond.

7 “(d) DEFINITIONS.—For purposes of this section—

8 “(1) GOVERNMENTAL BODY.—The term ‘gov-
9 ernmental body’ means any State or Indian tribal
10 government, or any political subdivision thereof.

11 “(2) LOCAL WATER COMPANY.—The term ‘local
12 water company’ means any entity responsible for
13 providing water service to the general public (includ-
14 ing electric utility, industrial, agricultural, commer-
15 cial, or residential users) pursuant to State or tribal
16 law.

17 “(3) QUALIFIED BORROWER.—The term ‘quali-
18 fied borrower’ means a governmental body or a local
19 water company.

20 “(4) QUALIFIED DESALINATION FACILITY.—
21 The term ‘qualified desalination facility’ means any
22 facility that is used to produce new water supplies
23 by desalinating seawater, groundwater, or surface
24 water if the facility’s source water includes chlorides
25 or total dissolved solids that, either continuously or

1 seasonally, exceed maximum permitted levels for pri-
2 mary or secondary drinking water under Federal or
3 State law (as in effect on the date of issuance of the
4 issue).

5 “(5) QUALIFIED GROUNDWATER REMEDIATION
6 FACILITY.—The term ‘qualified groundwater remedi-
7 ation facility’ means any facility that is used to re-
8 claim contaminated or naturally impaired ground-
9 water for direct delivery for potable use if the facili-
10 ty’s source water includes constituents that exceed
11 maximum contaminant levels regulated under the
12 Safe Drinking Water Act (as in effect on the date
13 of the enactment of this section).

14 “(6) QUALIFIED ISSUER.—The term ‘qualified
15 issuer’ means—

16 “(A) a governmental body, or

17 “(B) in the case of a State or political sub-
18 division thereof (as defined for purposes of sec-
19 tion 103), any entity qualified to issue tax-ex-
20 empt bonds under section 103 on behalf of such
21 State or political subdivision.

22 “(7) QUALIFIED PROJECT.—

23 “(A) IN GENERAL.—The term ‘qualified
24 project’ means any facility owned by a qualified
25 borrower which is a—

- 1 “(i) qualified desalination facility,
2 “(ii) qualified recycled water facility,
3 “(iii) qualified groundwater remedi-
4 ation facility, or
5 “(iv) facility that is functionally re-
6 lated or subordinate to a facility described
7 in clause (i), (ii), or (iii).

8 “(B) ENVIRONMENTAL IMPACT.—A project
9 shall not be treated as a qualified project under
10 subparagraph (A) unless such project is de-
11 signed to comply with regulations issued under
12 subsection (e) relating to the minimization of
13 the environmental impact of the project.

14 “(8) QUALIFIED RECYCLED WATER FACILITY.—

15 “(A) IN GENERAL.—The term ‘qualified
16 recycled water facility’ means any wastewater
17 treatment facility, distribution facility, or dis-
18 tribution system which—

19 “(i) exceeds the requirements for the
20 treatment and disposal of wastewater
21 under the Clean Water Act and any other
22 Federal or State water pollution control
23 standards for the discharge and disposal of
24 wastewater to surface water, land, or
25 groundwater (as such requirements and

1 standards are in effect on the date of
2 issuance of the issue), and

3 “(ii) except as provided in subpara-
4 graph (B), is used to reclaim wastewater
5 produced by the general public (including
6 electric utility, industrial, agricultural,
7 commercial, or residential users) to the ex-
8 tent such reclaimed wastewater is used for
9 a beneficial use that the issuer reasonably
10 expects as of the date of issuance of the
11 issue otherwise would have been satisfied
12 with potable water supplies.

13 “(B) IMPERMISSIBLE USES.—Reclaimed
14 wastewater is not used for a use described in
15 subparagraph (A)(ii) to the extent such re-
16 claimed wastewater is—

17 “(i) discharged into a waterway or
18 used to meet waterway discharge permit
19 requirements and not used to supplement
20 potable water supplies,

21 “(ii) used to restore habitat,

22 “(iii) used to provide once-through
23 cooling for an electric generation facility,
24 or

1 “(iv) intentionally introduced into the
2 groundwater and not used to supplement
3 potable water supplies.

4 “(e) REGULATIONS.—The Secretary shall prescribe
5 such regulations as are necessary to carry out the pur-
6 poses of this section, including regulations promulgated in
7 consultation with the Administrator of the Environmental
8 Protection Agency to ensure the environmental impact of
9 qualified facilities is minimized.”.

10 (b) STUDY ON ALLOCATION METHOD.—

11 (1) IN GENERAL.—The Secretary of the Treas-
12 ury shall conduct a study on the method of alloca-
13 tion for the national limitation provided under sec-
14 tion 54G(b)(2) of the Internal Revenue Code of
15 1986 (as added by subsection (a)) in order to deter-
16 mine whether a different allocation method would
17 better result in the development of projects to pro-
18 vide new supplies of water in a more efficient man-
19 ner. In assessing the advisability of a different allo-
20 cation method, the study shall take into account—

21 (A) the administrative burdens on the Fed-
22 eral government and issuers, and

23 (B) the environmental impact of such
24 projects, and

1 (C) the cost effectiveness of the projects
2 funded.

3 The study shall include an examination of at least
4 three rounds of allocations.

5 (2) CONSULTATION AND PUBLIC COMMENT.—
6 Such study shall be conducted in consultation with
7 the Secretary of the Interior and the Administrator
8 of the Environmental Protection Agency and shall
9 allow for public comment.

10 (3) SUBMISSION TO CONGRESS.—The study,
11 and any recommended changes to the allocation
12 method, shall be submitted to the Committee on
13 Ways and Means of the House of Representatives
14 and the Committee on Finance of the Senate before
15 July 1, 2014.

16 (c) CONFORMING AMENDMENTS.—

17 (1) Paragraph (1) of section 54A(d) of the In-
18 ternal Revenue Code of 1986 is amended by striking
19 “or” at the end of subparagraph (D), by inserting
20 “or” at the end of subparagraph (E), and by insert-
21 ing after subparagraph (E) the following new sub-
22 paragraph:

23 “(F) a clean renewable water supply
24 bond,”.

1 (2) Subparagraph (C) of section 54A(d)(2) of
2 such Code is amended by striking “and” at the end
3 of clause (iv), by striking the period at the end of
4 clause (v) and inserting “, and”, and by adding at
5 the end the following new clause:

6 “(vi) in the case of a clean renewable
7 water supply bond, a purpose specified in
8 section 54G(a)(1).”.

9 (3) The table of sections for subpart I of part
10 IV of subchapter A of chapter 1 of such Code is
11 amended by adding at the end the following new
12 item:

“Sec. 54G. Clean renewable water supply bonds.”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to obligations issued after Decem-
15 ber 31, 2009.

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