

112TH CONGRESS
1ST SESSION

H. R. 2738

To authorize the Administrator of the Environmental Protection Agency to establish a program of awarding grants to owners or operators of water systems to increase resiliency or adaptability of the systems to any ongoing or forecasted changes to the hydrologic conditions of a region of the United States.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2011

Mrs. CAPPS (for herself, Mr. BLUMENAUER, Ms. EDWARDS, Mr. CARNAHAN, Ms. BERKLEY, Ms. SCHWARTZ, Ms. HIRONO, Mr. GEORGE MILLER of California, Ms. WOOLSEY, and Ms. LEE of California) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Energy and Commerce and Natural Resources, 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

A BILL

To authorize the Administrator of the Environmental Protection Agency to establish a program of awarding grants to owners or operators of water systems to increase resiliency or adaptability of the systems to any ongoing or forecasted changes to the hydrologic conditions of a region of the United States.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Water Infrastructure
3 Resiliency and Sustainability Act of 2011”.

4 **SEC. 2. WATER INFRASTRUCTURE RESILIENCY AND SUS-**
5 **TAINABILITY.**

6 (a) DEFINITIONS.—In this section:

7 (1) ADMINISTRATOR.—The term “Adminis-
8 trator” means the Administrator of the Environ-
9 mental Protection Agency.

10 (2) HYDROLOGIC CONDITIONS.—The term “hy-
11 drologic conditions” means the quality, quantity, or
12 reliability of the water resources of a region of the
13 United States.

14 (3) OWNER OR OPERATOR OF A WATER SYS-
15 TEM.—

16 (A) IN GENERAL.—The term “owner or
17 operator of a water system” means an entity
18 (including a regional, State, Tribal, local, mu-
19 nicipal, or private entity) that owns or operates
20 a water system.

21 (B) INCLUSION.—The term “owner or op-
22 erator of a water system” includes—

23 (i) a non-Federal entity that has oper-
24 ational responsibilities for a federally, trib-
25 ally, or State-owned water system; and

1 (ii) an entity established by an agree-
2 ment between—

3 (I) an entity that owns or oper-
4 ates a water system; and

5 (II) at least one other entity.

6 (4) WATER SYSTEM.—The term “water sys-
7 tem” means—

8 (A) a community water system (as defined
9 in section 1401 of the Safe Drinking Water Act
10 (42 U.S.C. 300f));

11 (B) a treatment works (as defined in sec-
12 tion 212 of the Federal Water Pollution Control
13 Act (33 U.S.C. 1292)), including a municipal
14 separate storm sewer system (as such term is
15 used in the Federal Water Pollution Control
16 Act (33 U.S.C. 1251 et seq.));

17 (C) a decentralized wastewater treatment
18 system for domestic sewage;

19 (D) a groundwater storage and replenish-
20 ment system;

21 (E) a system for transport and delivery of
22 water for irrigation or conservation; or

23 (F) a natural or engineered system that
24 manages floodwaters.

1 (b) PROGRAM.—The Administrator shall establish
2 and implement a program, to be known as the Water In-
3 frastructure Resiliency and Sustainability Program, under
4 which the Administrator awards grants in each of fiscal
5 years 2012 through 2016 to owners or operators of water
6 systems for the purpose of increasing the resiliency or
7 adaptability of the systems to any ongoing or forecasted
8 changes (based on the best available research and data)
9 to the hydrologic conditions of a region of the United
10 States.

11 (c) USE OF FUNDS.—As a condition on receipt of a
12 grant under this section, an owner or operator of a water
13 system shall agree to use the grant funds exclusively to
14 assist in the planning, design, construction, implementa-
15 tion, operation, or maintenance of a program or project
16 that meets the purpose described in subsection (b) by—

17 (1) conserving water or enhancing water use ef-
18 ficiency, including through the use of water metering
19 and electronic sensing and control systems to meas-
20 ure the effectiveness of a water efficiency program;

21 (2) modifying or relocating existing water sys-
22 tem infrastructure made or projected to be signifi-
23 cantly impaired by changing hydrologic conditions;

24 (3) preserving or improving water quality, in-
25 cluding through measures to manage, reduce, treat,

1 or reuse municipal stormwater, wastewater, or
2 drinking water;

3 (4) investigating, designing, or constructing
4 groundwater remediation, recycled water, or desali-
5 nation facilities or systems to serve existing commu-
6 nities;

7 (5) enhancing water management by increasing
8 watershed preservation and protection, such as
9 through the use of natural or engineered green in-
10 frastructure in the management, conveyance, or
11 treatment of water, wastewater, or stormwater;

12 (6) enhancing energy efficiency or the use and
13 generation of renewable energy in the management,
14 conveyance, or treatment of water, wastewater, or
15 stormwater;

16 (7) supporting the adoption and use of ad-
17 vanced water treatment, water supply management
18 (such as reservoir reoperation and water banking),
19 or water demand management technologies, projects,
20 or processes (such as water reuse and recycling,
21 adaptive conservation pricing, and groundwater
22 banking) that maintain or increase water supply or
23 improve water quality;

24 (8) modifying or replacing existing systems or
25 constructing new systems for existing communities

1 or land currently in agricultural production to im-
2 prove water supply, reliability, storage, or convey-
3 ance in a manner that—

4 (A) promotes conservation or improves the
5 efficiency of utilization of available water sup-
6 plies; and

7 (B) does not further exacerbate stresses on
8 ecosystems or cause redirected impacts by de-
9 grading water quality or increasing net green-
10 house gas emissions;

11 (9) supporting practices and projects, such as
12 improved irrigation systems, water banking and
13 other forms of water transactions, groundwater re-
14 charge, stormwater capture, groundwater conjunc-
15 tive use, and reuse or recycling of drainage water,
16 to improve water quality or promote more efficient
17 water use on land currently in agricultural produc-
18 tion;

19 (10) reducing flood damage, risk, and vulner-
20 ability by—

21 (A) restoring floodplains, wetlands, and
22 uplands integral to flood management, protec-
23 tion, prevention, and response;

24 (B) modifying levees, floodwalls, and other
25 structures through setbacks, notches, gates, re-

1 moval, or similar means to facilitate recon-
2 tion of rivers to floodplains, reduce flood stage
3 height, and reduce damage to properties and
4 populations;

5 (C) providing for acquisition and easement
6 of flood-prone lands and properties in order to
7 reduce damage to property and risk to popu-
8 lations; or

9 (D) promoting land use planning that pre-
10 vents future floodplain development;

11 (11) conducting and completing studies or as-
12 sessments to project how changing hydrologic condi-
13 tions may impact the future operations and sustain-
14 ability of water systems; or

15 (12) developing and implementing measures to
16 increase the resilience of water systems and regional
17 and hydrological basins, including the Colorado
18 River Basin, to rapid hydrologic change or a natural
19 disaster (such as tsunami, earthquake, flood, or vol-
20 canic eruption).

21 (d) APPLICATION.—To seek a grant under this sec-
22 tion, the owner or operator of a water system shall submit
23 to the Administrator an application that—

24 (1) includes a proposal of the program, strat-
25 egy, or infrastructure improvement to be planned,

1 designed, constructed, implemented, or maintained
2 by the water system;

3 (2) cites the best available research or data that
4 demonstrate—

5 (A) the risk to the water resources or in-
6 frastructure of the water system as a result of
7 ongoing or forecasted changes to the
8 hydrological system of a region, including rising
9 sea levels and changes in precipitation patterns;
10 and

11 (B) how the proposed program, strategy,
12 or infrastructure improvement would perform
13 under the anticipated hydrologic conditions;

14 (3) explains how the proposed program, strat-
15 egy, or infrastructure improvement is expected—

16 (A) to enhance the resiliency of the water
17 system, including source water protection for
18 community water systems, to the anticipated
19 hydrologic conditions; or

20 (B) to increase efficiency in the use of en-
21 ergy or water of the water system; and

22 (4) describes how the proposed program, strat-
23 egy, or infrastructure improvement is consistent with
24 an applicable State, tribe, or local climate adaptation
25 plan, if any.

1 (e) PRIORITY.—

2 (1) WATER SYSTEMS AT GREATEST AND MOST
3 IMMEDIATE RISK.—In selecting grantees under this
4 section, subject to subsection (h)(2), the Adminis-
5 trator shall give priority to owners or operators of
6 water systems that are, based on the best available
7 research and data, at the greatest and most imme-
8 diate risk of facing significant negative impacts due
9 to changing hydrologic conditions.

10 (2) GOALS.—In selecting among applicants de-
11 scribed in paragraph (1), the Administrator shall en-
12 sure that, to the maximum extent practicable, the
13 final list of applications funded for each year in-
14 cludes a substantial number that propose to utilize
15 innovative approaches to meet one or more of the
16 following goals:

17 (A) Promoting more efficient water use,
18 water conservation, water reuse, or recycling.

19 (B) Using decentralized, low-impact devel-
20 opment technologies and nonstructural ap-
21 proaches, including practices that use, enhance,
22 or mimic the natural hydrological cycle or pro-
23 tect natural flows.

1 (C) Reducing stormwater runoff or flood-
2 ing by protecting or enhancing natural eco-
3 system functions.

4 (D) Modifying, upgrading, enhancing, or
5 replacing existing water system infrastructure
6 in response to changing hydrologic conditions.

7 (E) Improving water quality or quantity
8 for agricultural and municipal uses, including
9 through salinity reduction.

10 (F) Providing multiple benefits, including
11 to water supply enhancement or demand reduc-
12 tion, water quality protection or improvement,
13 increased flood protection, and ecosystem pro-
14 tection or improvement.

15 (f) COST-SHARING.—

16 (1) FEDERAL SHARE.—The share of the cost of
17 any program, strategy, or infrastructure improve-
18 ment that is the subject of a grant awarded by the
19 Administrator to the owner or operator of a water
20 system under subsection (b) paid through funds dis-
21 tributed under this section shall not exceed 50 per-
22 cent of the cost of the program, strategy, or infra-
23 structure improvement.

24 (2) CALCULATION OF NON-FEDERAL SHARE.—

25 In calculating the non-Federal share of the cost of

1 a program, strategy, or infrastructure improvement
2 proposed by a water system in an application sub-
3 mitted under subsection (d), the Administrator
4 shall—

5 (A) include the value of any in-kind serv-
6 ices that are integral to the completion of the
7 program, strategy, or infrastructure improve-
8 ment, including reasonable administrative and
9 overhead costs; and

10 (B) not include any other amount that the
11 water system involved receives from the Federal
12 Government.

13 (g) REPORT TO CONGRESS.—Not later than 3 years
14 after the date of the enactment of this Act, and every 3
15 years thereafter, the Administrator shall submit to the
16 Congress a report on progress in implementing this sec-
17 tion, including information on project applications received
18 and funded annually.

19 (h) AUTHORIZATION OF APPROPRIATIONS.—

20 (1) IN GENERAL.—To carry out this section,
21 there is authorized to be appropriated \$50,000,000
22 for each of fiscal years 2012 through 2016.

23 (2) LIMITATION.—Of the amount made avail-
24 able to carry out this section for a fiscal year, not
25 more than 20 percent may be made available to

1 grantees for activities described in subsection (c)(10)
2 (relating to reducing flood damage, risk, and vulner-
3 ability).

○