

111TH CONGRESS  
1ST SESSION

# H. R. 4132

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

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## 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

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## 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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