



Legislative Bulletin..... April 10, 2013

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H.R. 678 - Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act

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Order of Business: The legislation is scheduled to be considered on April 10, 2013, under H.Res. 140, a modified open rule. The rule allows for H.R. 678 to be considered in the Committee of the Whole. The rule waives all points of order against the bill and allows for one hour of general debate, equally divided and controlled by the chair and ranking member of the Natural Resources committee. After general debate, the legislation shall be considered for amendment under the five-minute rule. All amendments must be preprinted in the Congressional Record at least one day before the legislation is considered. After amendment debate, the Committee shall rise and report the bill to the House. The rule allows for one motion to recommit with or without instructions. The text of the rule can be [found here](#).

Summary: H.R. 678 authorizes the Bureau of Reclamation to offer power privilege leases to an irrigation district or a water users association for hydropower. These leases would allow small conduit hydropower generation to take place at canals and pipes that are under the jurisdiction of the Bureau of Reclamation.

The legislation defines “small conduit hydropower” as a facility capable of producing up to five megawatts of electric capacity.

H.R. 678 clarifies that the National Environmental Policy Act of 1969 does not apply to small conduit hydropower development. However, NEPA will still apply for transmissions occurring on federal lands.

Additional Information: Similar legislation, H.R. 2842, passed the House of Representatives on March 7, 2012, by a [roll call vote of 265-154](#). The RSC’s Legislative Bulletin for H.R. 2842 can be [found here](#).

Amendments Preprinted in the Congressional Record:

1. *Napolitano (D-CA)*: The underlying legislation contains language that clarifies that the National Environmental Policy Act of 1969 does not apply to small conduit hydropower

development. This amendment strikes that language, thereby allowing NEPA to apply to small conduit hydropower development.

The amendment also increases the megawatt allowance for small conduit hydropower projects to 15 megawatts. The underlying legislation defines “small conduit hydropower” as a facility capable of producing up to five megawatts of electric capacity.

2. **Tipton (R-CO):** The amendment makes several technical changes and clarifications to the underlying legislation.
3. **Tipton (R-CO):** The underlying legislation contains language that clarifies that the National Environmental Policy Act of 1969 does not apply to small conduit hydropower development. This amendment strikes that language, but directs the Bureau of Reclamation to apply its NEPA categorical exclusion (CE) process on small conduit hydropower projects, excluding facilities on federal lands. According to the Committee, this essentially codifies the Bureau’s existing CE policy but specifies that it applies to projects in the bill, which will reduce potential litigation and give regulatory certainty since the existing CE is inadequate in these areas.

Committee Action: H.R. 678 was introduced on February 13, 2013, and referred to the House Natural Resources Subcommittee on Water and Power. The subcommittee discharged H.R. 678 by unanimous consent. The full committee [held a markup](#) on March 20, 2013, and approved the legislation by a [roll call vote of 17-12](#).

Outside Groups: The legislation is supported by the following groups:

- American Public Power Association
- Association of California Water Association
- Family Farm Alliance
- National Hydropower Association
- National Water Resources Association
- Western Business Roundtable

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: CBO estimates that enacting H.R. 678 would increase federal offsetting receipts by \$1 million over the 2014-2023 period because it would authorize the Bureau of Reclamation to permit private entities to develop hydropower at certain facilities owned by the bureau. CBO’s full report can be [viewed here](#).

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: According to House Report 113-24, the legislation 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.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation contains no earmarks, limited tax benefits, or limited tariff benefits.

Constitutional Authority: According the sponsor, “Congress has the power to enact this legislation pursuant to the following: Article IV, Section 3, clause 2, U.S. Constitution.” Rep. Tipton’s statement in the Congressional Record can be [viewed here](#).

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