

CONGRESS
Senate/WRDA 2024**August 9, 2024**
Special Report #2621

On August 1 the Senate passed the Thomas R. Carper Water Resources Development Act (WRDA) of 2024 (S. 4367) by unanimous consent. The bill focuses on authorizing U.S. Army Corps of Engineers' projects and feasibility studies while largely maintaining current policy. The bill would change the federal cost-share for inland waterway construction and rehabilitation from 65% to 75%, and add a cost-share option of 10% for economically disadvantaged communities. The bill would authorize only one project not included in the House companion bill (a Akutgan Harbor, Alaska navigation project). Water supply as a primary Corps' purpose is considered for specific regions under certain conditions.

Title I

Section 112 would allow the Secretary to partner with other federal agencies, national laboratories, and institutions of higher education to develop, update, and maintain hydrologic and climate-related models for use in water resources planning. It would also authorize the Secretary to use the models. Section 115 directs the Secretary to continue the Silver Jackets program, which coordinates state-led interagency teams to work together to reduce flood risk and enhance response and recovery efforts. Section 120 extends the expedited consideration granted to eligible projects that may be considered outside the regular authorization cycle.

Title II

Section 201 authorizes 62 new feasibility studies and 13 studies for project modifications including projects in Arizona (1), California (6), Colorado (1), Kansas (1), Nevada (1), Texas (1), and Washington (3). This section would also modify two flood risk management and ecosystem restoration projects in Texas.

Section 203 directs the Secretary to expedite the completion of 38 feasibility studies and 20 authorized projects. The bill would expedite flood risk management projects at: Cave Buttes Dam, Arizona; McMicken Dam, Arizona; the Lower San Joaquin Valley, California; and Imperial Streams Salton Sea, California. It would expedite flood risk management and ecosystem restoration projects in Arizona on the Little Colorado River, Rio de Flag, and the Va Shly'AY Akimel (Salt River) on the Maricopa Indian Reservation. Expedited water control manual updates for water supply and flood control include Roosevelt Dam, Arizona; Oroville Dam, California; and New Bullards Dam, California. In Arizona, other flood control projects to be expedited include the Ak Chin Levee, McCormick Wash, Rose and Palm Garden Washes, and the Lower Santa Cruz River, plus an aquatic ecosystem restoration project for Corazon de los Tres Rios del Norte. Tribal Partnership Program projects to be expedited are on the Maricopa (Ak Chin) Indian Reservation, Gila River Indian Reservation, and in the Navajo Nation Bird Springs area.

Section 204 expedites feasibility studies including 3 navigation projects in Texas.

Section 208 directs the Secretary to assess potential use of forecast-informed reservoir operations at a reservoir in the Colorado River Basin. It would allow the Secretary to carry out modified operations at that reservoir if the Secretary determines those activities to be appropriate, subject to the availability of funding.

Section 214 would authorize feasibility studies for four projects, including Jones Levee, Washington and Hatch, New Mexico.

Section 216 would authorize the Secretary to carry out a feasibility study for a Corps project in the Colorado River Basin in the State of Arizona to determine whether to include water supply as a project purpose. In carrying out this provision, a request for such a study must be made by a non-federal interest or the Governor of the State of Arizona. If, after carrying out the study, the Secretary determines that water supply should be included, the Secretary would submit the recommendation to the authorizing committees.

Section 217 would establish a pilot program for a non-federal interest to carry out a water reallocation study at a Corps reservoir project in the State of North Dakota. On completion, the non-federal interest would submit the results to the Secretary. The section also directs the Secretary to issue guidance for the formulation of a water reallocation study by a non-federal interest.

Section 219 would add the Walla Walla River Basin and the San Francisco Bay Basin as focus areas for watershed water resources needs assessments.

Section 229 directs the Secretary to develop a public private partnership user's guide, including a description of applicable authorities, opportunities, lessons learned, roles and responsibilities, potential benefits, and best practices.

Section 230 would require the Secretary to complete a report on the authorities and programs that facilitate the use of alternative project delivery methods for water resources development projects, including public-private partnerships. The report must include an assessment of the Secretary's use of authorities and programs and associated water resources development projects, implementation challenges, lessons learned, best practices, and any recommendations that result from the assessment.

Section 232 would require the Secretary to complete a report on real property associated with the Corps project at Lake Oahe in North Dakota that is not needed to carry out the project purposes and may be transferred to the Standing Rock Sioux Tribe to support recreation opportunities.

Section 233 directs the Government Accountability Office (GAO) to undertake a number of studies including a report on project lifespan and indemnification clauses in project partnership agreements. It would establish a sense of Congress that the use of an indemnification clause and operation, maintenance, repair, replacement, and rehabilitation (OMRR&R) requirements in project partnership agreements are preventing development of critical infrastructure and more suitable legal tools may be available. The studies would include a review of: (1) the risks of removing such provisions to the federal government and non-federal interests; (2) whether the clause is still necessary given changes in engineering, legal structures, and water resources development projects; (3) States whose laws prohibit agreements that include an indemnification clause; (4) comparing other federal agencies' approach; (5) the useful lifespan of water resources development projects; (6) situations in which non-federal interests have been unable to meet OMRR&R requirements; and (7) policy alternatives to OMRR&R requirements, such as allowing extension, reevaluation, or deauthorization of water resources development projects. Section 233 also directs a GAO study on the modernization of the civil works program through the use of technology and best available engineering practices. The modernization study would include an assessment of the extent to which: (1) existing engineering practices and technologies could be better utilized by the Corps to improve planning, reduce delays, save cost, and improve data collection and sharing capabilities; (2) the Corps currently utilizes identified practices and technologies, has effective processes to share best practices, and partners with national laboratories, academic institutions, and other federal agencies. Section 233 also directs a GAO study on the use of covered easements, modernization of environmental reviews, and environmental justice.

TITLE III – DEAUTHORIZATIONS, MODIFICATIONS, AND RELATED PROVISIONS

Section 301 would deauthorize projects or portions of projects in East San Pedro Bay, California; Truckee Meadows, Nevada; the Souris River Basin, North Dakota; and Seattle Harbor, Washington.

Section 302 would authorize new and modify existing environmental water and wastewater infrastructure projects in Arizona (4), California (4), Colorado (1), Kansas (1), Nevada (2), Oklahoma (1), and Washington (1). It would increase funding for a Midwest City, Oklahoma project from \$5M to \$10M. It would set the non-federal share of environmental infrastructure projects at 25% or 10% for economically disadvantaged communities.

Section 304 would make technical corrections to the authorization for acequias irrigation systems and increase funding from \$80M to \$100M. Section 305 would realign the authority of a WRDA 2022 assistance program to the entire state, rather than the current authorization to assist non-federal interests in southwestern Oregon. It would also increase funding for Oregon from \$50M to \$90M. Section 308 would modify certain projects in Ohio and North Dakota to allow a non-federal cost share of 10% for economically disadvantaged communities. Section 312 would modify Section 595 of WRDA 1999,

dealing with western rural water projects in Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming, to allow a non-federal cost share of 10% for economically disadvantaged communities. Section 317 would extend the Corps' responsibility over the long-term maintenance and repair of the Lowell Creek Tunnel in Alaska for an additional five years. Section 325 would include riverine erosion projects for carrying out storm damage prevention and reduction, coastal erosion, and ice and glacial damage projects in Alaska. Section 326 would extend the authorization for rehabilitation of Corps constructed dams through 2029. Section 330 directs the Secretary to establish a program for ecosystem restoration in the Middle Rio Grande Bosque. Section 340 would amend the Copan Lake, Oklahoma and the State of Kansas water supply contracts.

Section 345 authorizes the Secretary to establish a pilot program to operate covered projects with water supply as the primary project purpose during drought emergencies in the project area. Projects must be Corps projects located in the State of California or the State of Arizona for which water supply is an authorized purpose. In carrying out this section, the Secretary must consider other authorized purposes and coordinate with the non-federal interest. The Secretary would also be authorized to update the water control manual to include drought operations and contingency plans and to use funds contributed by a non-federal interest.

Section 347 would increase the number of projects that can utilize the Non-Federal Project Implementation Pilot Program and extend the authorization of appropriations until 2029. Section 348 would add Lake Elsinore, California and the Willamette River, Oregon as focus areas in the harmful algal bloom demonstration program.

TITLE IV

Section 401 authorizes construction for 13 projects including a Manhattan Levees flood risk management project in Kansas; a Gulf Intracoastal Waterway navigation and hurricane and storm damage risk reduction project in Texas; and a Des Peres Tres Rios modification project in Arizona.