

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To include a provision relating to capacity development for water systems.

**IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.**

**S. 2848**

To provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. BOOKER to  
the amendment (No. 4979) proposed by Mr. INHOFE

Viz:

- 1 At the end of subtitle A of title VII, add the following:
- 2 **SEC. 7118. CAPACITY DEVELOPMENT.**
- 3 Section 1420 of the Safe Drinking Water Act (42
- 4 U.S.C. 300g-9) is amended—
- 5 (1) in subsection (b), by adding at the end the
- 6 following:
- 7 “(4) HISTORICAL SIGNIFICANT NONCOM-
- 8 PLIERS.—
- 9 “(A) IN GENERAL.—The head of the State
- 10 agency that has primary responsibility to carry

1 out this title in the State shall provide written  
 2 notice to a public water system that the Admin-  
 3 istrator has determined the public water system  
 4 to be a historical significant noncomplier of this  
 5 part.

6 “(B) RETURN TO COMPLIANCE ASSESS-  
 7 MENT.—Not later than 180 days after the date  
 8 on which a public water system receives a no-  
 9 tice under subparagraph (A), <sup>those</sup> ~~the~~ public water  
 10 systems ~~(~~ shall carry out, and submit to the head  
 11 of the State agency that has primary responsi-  
 12 bility to carry out this title in the State for re-  
 13 view, a return to compliance assessment that  
 14 may include consideration of partnership op-  
 15 tions (as described in subsection (d)(3)(A)), ~~with~~  
 16 ~~a public water system that is not determined by~~  
 17 ~~the Administrator to be a historical significant~~  
 18 ~~noncomplier.~~

19 “(C) NO ENFORCEMENT ACTION.—

20 “(i) IN GENERAL.—Except as pro-  
 21 vided in clause (ii), neither the Adminis-  
 22 trator nor a State shall take any action  
 23 against a historical significant noncomplier  
 24 of this part during the time period de-  
 25 scribed in subparagraph (B) if the histor-

*for whom a partnership option  
 as described in subsection (d)(3)(A))  
 may be viable, as determined by  
 the state primary agency, in  
 consultation with the system,*

1           ical significant noncomplier is pursuing a  
2           partnership actively and in good faith.

3           “(ii) EXCEPTION.—Notwithstanding  
4           clause (i), the Administrator or a State  
5           may take an action against a historical sig-  
6           nificant noncomplier during the time pe-  
7           riod described in subparagraph (B) to ad-  
8           dress an imminent or acute public health  
9           risk.”;

10           (2) in subsection (c)—

11           (A) in paragraph (2)—

12           (i) in subparagraph (C)(ii), by insert-  
13           ing “that are determined to be historical  
14           significant noncompliers and public water  
15           systems that are not determined to be his-  
16           torical significant noncompliers” after  
17           “public water systems”;

18           (ii) in subparagraph (D), by striking  
19           “and” after the semicolon;

20           (iii) in subparagraph (E), by striking  
21           the period at the end and inserting “;  
22           and”; and

23           (iv) by adding at the end the fol-  
24           lowing:

25           “(F) a description of—



1           mined by the Administrator to be a histor-  
2           ical significant noncomplier of this part;

3           “(ii) a partnership between a water  
4           system determined by the Administrator to  
5           be a historical significant noncomplier of  
6           this part and a water system that is not  
7           determined by the Administrator to be a  
8           historical significant noncomplier of this  
9           part; and

10          “(iii) a partnership between 2 or more  
11          water systems determined by the Adminis-  
12          trator to be historical significant noncom-  
13          pliers of this part.

14          “(B) DEADLINE FOR RETURN TO COMPLI-  
15          ANCE.—A water system determined by the Ad-  
16          ministrator to be a historical significant non-  
17          complier of this part that enters into a partner-  
18          ship agreement ~~with a water system that is not~~  
19          ~~determined by the Administrator to be a histor-~~  
20          ~~ical significant noncomplier of this part~~ shall  
21          return to compliance—

22          “(i) in the case of an approved State  
23          plan, as soon as practicable but not later  
24          than 3 years after the date on which the

1 water system enters into the partnership  
2 agreement; or

3 “(ii) in the case of an enforceable  
4 agreement approved by the State and the  
5 Administrator, not later than 6 years after  
6 the date on which the water system enters  
7 into the partnership agreement.

8 “(C) STATE REVOLVING LOAN FUNDS.—  
9 The Administrator may not withhold from a  
10 State funds under section 1452 or reduce any  
11 State allotment or set-aside under that section  
12 based on the action or inaction of a State with  
13 respect to new partnerships under this section.

14 “(4) PARTNERSHIP INCENTIVES.—The Admin-  
15 istrator shall—

16 “(A) establish incentives for public water  
17 systems to enter into a partnership described in  
18 paragraph (3)(A), including allowing a State to  
19 award grant and loan funds to a public water  
20 system that is determined by the Administrator  
21 to be a historical significant noncomplier of this  
22 part—

23 “(i) to assess partnership options; and

24 “(ii) to engage in peer-to-peer assist-  
25 ance; and

1           “(B) provide other technical assistance as  
2 necessary to achieve compliance with this sec-  
3 tion.

4           “(5) SAFE HARBOR.—

5           “(A) IN GENERAL.—A public water system  
6 that enters into a partnership described in  
7 clause (i) or (ii) of paragraph (3)(A) and ac-  
8 quires ownership or control of a water system  
9 determined by the Administrator to be a histor-  
10 ical significant noncomplier of this part shall be  
11 held harmless from any fines or penalties asso-  
12 ciated with violations of Federal law by the his-  
13 torical significant noncomplier that occurred on  
14 a date that is before the change in ownership  
15 or control of that public water system if the  
16 public water system discloses the violations to  
17 the State and the Administrator under such no-  
18 tice requirements as the Administrator may es-  
19 tablish.

20           “(B) PARTNERSHIP BETWEEN 2 OR MORE  
21 HISTORICAL SIGNIFICANT NONCOMPLIERS.—  
22 Subparagraph (A) shall not apply to a partner-  
23 ship described in clause (iii) of paragraph  
24 (3)(A).

1           “(6) VOLUNTARY COMPLIANCE AUDITS.—The  
2 Administrator shall establish incentives for public  
3 water systems to assess compliance with this title,  
4 including the use of Federal or State audit and self-  
5 disclosure policies that include an assessment of the  
6 completeness and accuracy of monitoring and data  
7 reported to the head of the State agency that has  
8 primary responsibility to carry out this title in the  
9 State to determine compliance.

10           “(7) GUIDANCE; COFUNDING.—

11           “(A) IN GENERAL.—Not later than 18  
12 months after the date of enactment of this  
13 paragraph, the Administrator, in coordination  
14 with the Secretary of Agriculture and the Sec-  
15 retary of Housing and Urban Development,  
16 shall develop guidance on the use of all avail-  
17 able Federal grants and loan funds for public  
18 water systems that enter into a partnership  
19 agreement.

20           “(B) COFUNDING.—The Administrator  
21 shall maximize flexibility for the use of co-  
22 funding for public water systems that enter into  
23 a partnership agreement.

24           “(8) RECIPROCITY.—The Administrator shall  
25 develop incentives to encourage reciprocity among



1 States to provide greater mobility of certified opera-  
2 tors, with a focus on rural and disadvantaged com-  
3 munities.”; and

4 (4) in subsection (g)(2)—

5 (A) in the first sentence, by striking “The  
6 Administrator” and inserting the following:

7 “(1) IN GENERAL.—The Administrator”;

8 (B) in the second sentence, by striking  
9 “The Administrator” and inserting the fol-  
10 lowing:

11 “(2) NO DUPLICATION.—The Administrator”;

12 and

13 (C) by adding at the end the following:

14 “(3) BEST PRACTICES DATABASE.—

15 “(A) IN GENERAL.—The Administrator, in  
16 coordination with the States, shall establish a  
17 best practices database to share examples of  
18 practices involving operational, technical, and  
19 financial capacity under this part.

20 “(B) GRANTS AUTHORIZED.—The Admin-  
21 istrator may make grants available to an appro-  
22 priate nonprofit organization to develop and  
23 maintain the database described in subpara-  
24 graph (A).”.