

(June 18, 1940, ch. 395, 54 Stat. 437.)

CODIFICATION

Section was not enacted as part of the Boulder Canyon Project Act which comprises this subchapter.

BOULDER CITY ACT OF 1958

Public Law 85-900, Sept. 2, 1958, 72 Stat. 1726, provided for disposal of certain Federal property in Boulder City for purposes of establishment of a municipal corporation incorporated under laws of Nevada.

§ 617v. Repealed. Pub. L. 85-900, § 17, Sept. 2, 1958, 72 Stat. 1735

Section, act July 31, 1953, ch. 296, title II, 67 Stat. 250, which was not enacted as part of the Boulder Canyon Project Act (which comprises this subchapter), provided for taxation of leaseholds lying within Boulder Canyon Project Reservation and deduction of certain school taxes in Boulder City Union School District.

SUBCHAPTER II—BOULDER CANYON PROJECT ADJUSTMENT ACT

EFFECTIVE DATE

Effective date of subchapter, see sections 618i, 620f, 620h, 620m of this title.

CONSOLIDATION OF CERTAIN PROJECTS; EFFECT ON THIS SUBCHAPTER

Consolidation of Parker and Davis Dam projects as not affecting this subchapter, see note set out preceding subchapter I of this chapter.

§ 618. Promulgation of charges for electrical energy

The Secretary of the Interior is authorized and directed to, and he shall, promulgate charges, on the basis of computation thereof, for electrical energy generated at Hoover Dam beginning June 1, 1937, computed to be sufficient, together with other net revenues from the project, to accomplish the following purposes:

(a) To meet the cost of operation and maintenance, and to provide for replacements, of the project beginning June 1, 1937;

(b) To repay to the Treasury, with interest, the advances to the Colorado River Dam Fund for the project made prior to June 1, 1937, within fifty years from that date (excluding advances allocated to flood control by section 617a(b) of this title, which shall be repayable as provided in section 618f of this title), and such advances made on and after June 1, 1937, over fifty-year periods;

(c) To provide \$600,000 for each of the years and for the purposes specified in section 618a(c) of this title;

(d) To provide \$500,000 for each of the years and for the purposes specified in section 618a(d) of this title; and

(e) To provide, by application of the increments to rates specified in section 403(c)(2) of the Colorado River Basin Project Act of 1968, as amended and supplemented [43 U.S.C. 1543(c)(2)], revenues, from and after June 1, 1987, for application to the purposes there specified.

Such charges may be made subject to revisions and adjustments at such times, to such extent, and in such manner, as by the terms of their promulgation the Secretary shall prescribe.

(July 19, 1940, ch. 643, § 1, 54 Stat. 774; Apr. 30, 1947, ch. 46, 61 Stat. 56; Pub. L. 98-381, title I, § 104(a)(1)-(3), Aug. 17, 1984, 98 Stat. 1334.)

AMENDMENTS

1984—Pub. L. 98-381, § 104(a)(1), substituted “beginning June 1, 1937” for “during the period beginning June 1, 1937, and ending May 31, 1987” in provisions preceding subsec. (a).

Subsec. (a). Pub. L. 98-381, § 104(a)(1), substituted “beginning June 1, 1937” for “during the period beginning June 1, 1937, and ending May 31, 1987”.

Subsec. (b). Pub. L. 98-381, § 104(a)(2), substituted “and such advances made on or after June 1, 1937, over fifty-year periods” for “and such portion of such advances made on or after June 1, 1937, as (on the basis of repayment thereof within such fifty-year period or periods as the Secretary may determine) will be repayable prior to June 1, 1987”.

Subsec. (e). Pub. L. 98-381, § 104(a)(3), added subsec. (e).

CHANGE OF NAME

Act Apr. 30, 1947, changed name of Boulder Dam back to Hoover Dam.

CONSTRUCTION WITH OTHER LAWS

Pub. L. 98-381, title I, § 104(b), Aug. 17, 1984, 98 Stat. 1335, provided that: “Except as amended by this Act [amending sections 618, 618a, 618e, and 618k of this title], the Boulder Canyon Project Adjustment Act of 1940 (54 Stat. 774, as amended, 43 U.S.C. 618), as amended and supplemented [this subchapter], shall remain in full force and effect.”

§ 618a. Receipts from project; disposition

All receipts from the project shall be paid into the Colorado River Dam Fund and shall be available, without further appropriation, for:

(a) Defraying operating expenses

Defraying the costs of operation (including purchase of supplemental energy to meet temporary deficiencies in firm energy which the Secretary of Energy is obligated by contract to supply), maintenance and replacements of, and emergency expenditures for, all facilities of the project, within such separate limitations as may be included in annual appropriations Acts;

(b) Repayment of cost of construction

Repayment to the Treasury, with interest (after making provision for the payments and transfers provided in subdivisions (c) and (d) of this section), of advances to the Colorado River Dam Fund for the construction of the project (excluding the amount allocated to flood control by section 2(b) of the Project Act [43 U.S.C. 617a(b)]), and any readvances made to said fund under section 618d of this title; and

(c) Commutation payments to Arizona and Nevada

Payment subject to the provisions of section 618b of this title, in commutation of the payments now provided for the States of Arizona and Nevada in section 4(b) of the Project Act [43 U.S.C. 617c(b)] to each of said States of the sum of \$300,000 for each year of operation, beginning with the year of operation ending May 31, 1938, and continuing annually thereafter until and including the year of operation ending May 31, 1987, and such payments for any year of operation which shall have expired at the time when

this subdivision shall become effective shall be due immediately, and be paid, without interest, as expeditiously as administration of this subchapter will permit, and each such payment for subsequent years of operation shall be made on or before July 31, following the close of the year of operation for which it is made. All such payments shall be made from revenues received on and after July 19, 1940 in the Colorado River Dam Fund.

Notwithstanding the foregoing provisions of this subsection, in the event that there are levied and collected by or under authority of Arizona or Nevada or by any lawful taxing political subdivision thereof, taxes upon—

- (i) the project as herein defined;
- (ii) the electrical energy generated at Hoover Dam by means of facilities, machinery, or equipment both owned and operated by the United States, or owned by the United States and operated under contract with the United States;
- (iii) the privilege of generating or transforming such electrical energy or of use of such facilities, machinery, or equipment or of falling water for such generation or transforming; or
- (iv) the transmission or control of such electrical energy so generated or transformed (as distinguished from the transmission lines and other physical properties used for such transmission or control) or the use of such transmission lines or other physical properties for such transmission or control,

payments made hereunder to the State by or under the authority of which such taxes are collected shall be reduced by an amount equivalent to such taxes. Nothing herein shall in anywise impair the right of either the State of Arizona or the State of Nevada, or any lawful taxing political subdivision of either of them, to collect non-discriminatory taxes upon that portion of the transmission lines and all other physical properties, situated within such State and such political subdivision, respectively, and belonging to any of the lessees and/or allottees under the Project Act [43 U.S.C. 617 et seq.] and/or under this subchapter, and nothing herein shall exempt or be construed so as to exempt any such property from nondiscriminatory taxation, all in the manner provided by the constitution and laws of such State. Sums, if any, received by each State under the provisions of the Project Act [43 U.S.C. 617 et seq.] shall be deducted from the first payment or payments to said State authorized by this subchapter. Payments under this subsection shall be deemed contractual obligations of the United States, subject to the provisions of section 618b of this title.

(d) Transfer of sums to Colorado River Development Fund; expenditure of fund

Transfer, subject to the provisions of section 618b of this title, from the Colorado River Dam Fund to a special fund in the Treasury, established and designated the "Colorado River Development Fund", of the sum of \$500,000 for the year of operation ending May 31, 1938, and the like sum of \$500,000 for each year of operation thereafter, until and including the year of operation ending May 31, 1987. The transfer of the said sum of \$500,000 for each year of operation

shall be made on or before July 31 next following the close of the year of operation for which it is made: *Provided*, That any such transfer for any year of operation which shall have ended at the time this subsection shall become effective, shall be made, without interest, from revenues received in the Colorado River Dam Fund, as expeditiously as administration of this subchapter will permit, and without readvances from the general funds of the Treasury. Receipts of the Colorado River Development Fund for the years of operation ending in 1938, 1939, and 1940 (or in the event of reduced receipts during any of said years, due to adjustments under section 618b of this title, then the first receipts of said fund up to \$1,500,000), are authorized to be appropriated only for the continuation and extension, under the direction of the Secretary, of studies and investigations by the Bureau of Reclamation for the formulation of a comprehensive plan for the utilization of waters of the Colorado River system for irrigation, electrical power, and other purposes, in the States of the upper division and the States of the lower division, including studies of quantity and quality of water and all other relevant factors. The next such receipts up to and including the receipts for the year of operation ending in 1955 are authorized to be appropriated only for the investigation and construction of projects for such utilization in and equitably distributed among the four States of the upper division: *Provided, however*, That in view of distributions heretofore made, and in order to expedite the development and utilization of water projects within all of the States of the upper division, the distribution of such funds for use in the fiscal years 1949 to 1955, shall be on a basis which is as nearly equal as practicable. Such receipts for the years of operation ending in 1956 to 1987, inclusive, are authorized to be appropriated for the investigation and construction of projects for such utilization in and equitably distributed among the States of the upper division and the States of the lower division. The terms "Colorado River system", "States of the upper division", and "States of the lower division" as so used shall have the respective meanings defined in the Colorado River compact mentioned in the Project Act [43 U.S.C. 617 et seq.]. Such projects shall be only such as are found by the Secretary to be physically feasible, economically justified, and consistent with such formulation of a comprehensive plan. Nothing in this subchapter shall be construed so as to prevent the authorization and construction of any such projects prior to the completion of said plan of comprehensive development; nor shall this subchapter be construed as affecting the right of any State to proceed independently of this subchapter or its provisions with the investigation or construction of any project or projects. Transfers under this subsection shall be deemed contractual obligations of the United States, subject to the provisions of section 618b of this title.

(e) Transfer to Lower Colorado River Basin Development Fund

Transfer to the Lower Colorado River Basin Development Fund established by title IV of the Colorado River Basin Project Act of 1968, as

amended and supplemented [43 U.S.C. 1541 et seq.], of the revenues referred to in section 618(e) of this title.

(July 19, 1940, ch. 643, §2, 54 Stat. 774; Apr. 30, 1947, ch. 46, 61 Stat. 56; May 14, 1948, ch. 292, 62 Stat. 235; June 1, 1948, ch. 364, §1, 62 Stat. 284; Pub. L. 98-381, title I, §104(a)(4), Aug. 17, 1984, 98 Stat. 1334.)

REFERENCES IN TEXT

The Project Act, referred to in text, is defined in section 618k of this title.

The Colorado River Basin Project Act, referred to in subd. (e), is Pub. L. 90-537, Sept. 30, 1968, 82 Stat. 885, as amended, which is classified principally to chapter 32 (§1501 et seq.) of this title. Title IV of the Act is classified to subchapter IV (§1541 et seq.) of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

AMENDMENTS

1984—Pub. L. 98-381, §104(a)(4)(i), amended introductory provisions generally, inserting “, without further appropriation,” after “available”.

Subd. (a). Pub. L. 98-381, §104(a)(4)(i), substituted “Defraying the costs of operation (including purchase of supplemental energy to meet temporary deficiencies in firm energy which the Secretary of Energy is obligated by contract to supply), maintenance and replacements of, and emergency expenditures for, all facilities of the project, within such separate limitations as may be included in annual appropriations Acts;” for “Annual appropriation for the operation, maintenance, and replacements of the project, including emergency replacements necessary to insure continuous operations;”.

Subd. (e). Pub. L. 98-381, §104(a)(4)(ii), substituted provisions relating to the transfer of funds to the Lower Colorado River Basin Development Fund for provisions which had made available receipts from the project paid into the Colorado River Dam Fund, for annual appropriation for fiscal years 1948 to 1951 for payment to Boulder City School District as reimbursement for pupil instructions not exceeding \$65 per semester per pupil.

1948—Subd. (d). Act June 1, 1948, inserted proviso to fourth sentence to provide for distribution of receipts for fiscal years 1949 to 1955, inclusive.

Subd. (e). Act May 14, 1948, added subd. (e).

CHANGE OF NAME

Act Apr. 30, 1947, changed name of Boulder Dam back to Hoover Dam.

§ 618a-1. Availability of Colorado River Development Fund for investigation and construction purposes

The availability of appropriations from the Colorado River Development Fund for the investigation and construction of projects in any of the States of the Colorado River Basin shall not be held to forbid the expenditure of other funds for those purposes in any of those States where such funds are otherwise available therefor.

(June 1, 1948, ch. 364, §2, 62 Stat. 285.)

CODIFICATION

Section was not enacted as part of the Boulder Canyon Project Adjustment Act which comprises this chapter.

§ 618b. Reduction of payments and transfers where revenue is insufficient

If, by reason of any act of God, or of the public enemy, or any major catastrophe, or any other

unforeseen and unavoidable cause, the revenues, for any year of operation, after making provision for costs of operation, maintenance, and the amount to be set aside for said year for replacements, should be insufficient to make the payments to the States of Arizona and Nevada and the transfers to the Colorado River Development Fund in this subchapter provided for, such payments and transfers shall be proportionately reduced, as the Secretary may find to be necessary by reason thereof.

(July 19, 1940, ch. 643, §3, 54 Stat. 776.)

§ 618c. Charges as retroactive; adjustment of accounts

(a) Upon the taking effect of this subchapter, pursuant to section 618i of this title, the charges, or the basis of computation thereof, promulgated under this subchapter, shall be applicable as from June 1, 1937, and adjustments of accounts by reason thereof, including charges by and against the United States, shall be made so that the United States and all parties that have contracted for energy, or for the privilege of generating energy, at the project, shall be placed in the same position, as nearly as may be, as determined by the Secretary, that they would have occupied had such charges, or the basis of computation thereof, and the method of operation which may be provided for under section 618h of this title, been effective on June 1, 1937: *Provided*, That such adjustments with contractors shall not be made in cash, but shall be made by means of credits extended over such period as the Secretary may determine.

(b) In the event payments to the States of Arizona and Nevada, or either of them, under section 618a(c) of this title, shall be reduced by reason of the collection of taxes mentioned in said section, adjustments shall be made, from time to time, with each allottee which shall have paid any such taxes, by credits or otherwise, for that proportion of the amount of such reductions which the amount of the payments of such taxes by such allottee bears to the total amount of such taxes collected.

(July 19, 1940, ch. 643, §4, 54 Stat. 776.)

§ 618d. Readvances from Treasury where Dam Fund is insufficient to meet cost of replacements

If at any time there shall be insufficient sums in the Colorado River Dam Fund to meet the cost of replacements, however necessitated, in addition to meeting the other requirements of this subchapter, or of regulations authorized hereby and promulgated by the Secretary, the Secretary of the Treasury, upon request of the Secretary of the Interior, shall readvance to the said fund, in amounts not exceeding, in the aggregate, moneys repaid to the Treasury pursuant to section 618a(b) of this title, the amount required for replacements, however necessitated, in excess of the amount currently available therefor in said Colorado River Dam Fund. There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums, not exceeding said aggregate amount, as may be necessary to permit the Sec-