

GRANTING THE CONSENT OF CONGRESS TO THE
VERMONT-NEW HAMPSHIRE INTERSTATE PUBLIC WATER
SUPPLY COMPACT

MARCH 18, 1996.—Referred to the House Calendar and ordered to be printed

Mr. HYDE, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.J. Res. 129]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the joint resolution (H.J. Res. 129) granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact, having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

SUMMARY AND PURPOSE

H.J. Res. 129 grants congressional consent to an interstate compact adopted by Vermont and New Hampshire that would enable municipalities in one of the States to enter into agreements with neighboring cross-border municipalities in the other to erect and maintain joint public water supply facilities.

BACKGROUND AND NEED FOR THE LEGISLATION

Article I, Section 10, Clause 3 of the United States Constitution provides that: "No State shall without the Consent of Congress * * * enter into any Agreement or Compact with another State, or with a foreign power. * * *"

Congressional consent is required for such agreements and compacts in order to determine whether they work to the detriment of another State and to ensure that they do not conflict with Federal law or Federal interests.

The Vermont-New Hampshire Interstate Public Water Supply Compact was entered into by the State of Vermont through enactment of House Bill 519 on April 17, 1995 and by the State of New Hampshire through enactment of House Bill 494 on June 12, 1995.

According to testimony received by the Subcommittee on Commercial and Administrative Law during a hearing on February 29, 1996, the compact was developed in response to the situation which confronted Guildhall, Vermont and Northumberland (commonly referred to as Groveton), New Hampshire.

Some residents of Guildhall have been receiving water from a spring located in Northumberland for generations. Although Guildhall owns the spring, the water is sent through transmission lines owned by New Hampshire.

The Surface Water Treatment Rule issued pursuant to the Safe Drinking Water Act of 1986 (P.L. 99-339) requires that water from the spring (because it is surface water) be refiltered or that the water system be converted to a groundwater system. Guildhall determined that a groundwater system on its side of the border was too expensive and has joined with Northumberland's plans for an upgraded groundwater system.

Guildhall reportedly owes Northumberland \$75,200 for its proportionate share of developing the groundwater system and it plans to upgrade the water transmission lines on the Vermont side of the border so that the village has enough water for fire protection and necessary infrastructure. However, Guildhall cannot afford to make payment to Northumberland or upgrade its transmission lines without Federal assistance. In order to be eligible for the federal assistance Guildhall seeks, there must be in effect an interstate water compact.

HEARINGS

The Committee's Subcommittee on Commercial and Administrative Law held a hearing on H.J. Res. 129 on February 29, 1996. Testimony was received from Congressmen Charles F. Bass of New Hampshire and Bernard Sanders of Vermont.

COMMITTEE CONSIDERATION

On February 29, 1996, the Subcommittee on Commercial and Administrative Law met in open session and ordered reported H.J. Res. 129 by voice vote, a quorum being present. On March 12, 1996, the Committee met in open session and ordered reported H.J. Res. 129 without amendment by voice vote, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) or rule X of the Rules of the House of Representatives are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House rule XI is inapplicable because this legislation does not provide new budgetary authority or increased expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(C)(3) or rule XI of Rules of the House of Representatives, the Committee sets forth, with respect to H.J. Res. 129, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 15, 1996.

Hon. HENRY J. HYDE,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.J. Res. 129, a joint resolution granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact, as ordered reported by the House Committee on the Judiciary on March 12, 1996. CBO estimates that enacting this legislation would result in no cost to the federal government. The bill contains no new intergovernmental or private sector mandates, as defined in Public Law 104-4, and would impose no new direct costs on state, local or tribal governments.

The joint resolution would permit municipalities in Vermont and New Hampshire to enter into agreements to erect and maintain joint public water supply facilities. Enacting H.J. Res. 129 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to this legislation.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

JUNE E. O'NEILL, *Director.*

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that H.J. Res. 129 will have no significant inflationary impact on prices and costs in the national economy.

SECTION-BY-SECTION ANALYSIS

Section 1

This section grants the consent of Congress to the Vermont-New Hampshire Interstate Water Supply Compact, the text of which is set out in the section.

Article I of the compact contains the statement of policy and definitions. Furthermore, it notes that the compact does not become effective until approved by the United States Congress.

Article II sets out the procedures and conditions governing inter-governmental agreements. Section (a) authorizes municipalities from Vermont and New Hampshire to enter into cooperative agreements with cross-border municipalities for the construction, maintenance, and operation of public water supply facilities serving all municipalities which are parties to the agreement. Section (b) provides that agreements entered into under the authority of the compact shall be approved by the water supply agency of each State, and shall be in a form established jointly by the water supply agencies of both States. Section (c) requires agreements to be adopted by the governing body of each municipality in accordance with statutory procedures for the adoption of interlocal agreements between municipalities within each State. However, before a Vermont municipality may enter into an agreement, the proposed agreement must be approved by the voters.

Section (d) provides that the water supply agency of the State in which any part of the public water supply facility is proposed to be or is located shall review and approve all reports, designs, plans and other engineering documents required for Federal or State grants-in-aid and shall supervise and regulate the planning, design, construction, maintenance, and operation of that part of the facility.

Section (e)(1) provides that applications for Federal grants-in-aid for the planning, design, and construction of public water supply facilities (other than distribution facilities) shall be made jointly by the agreeing municipalities, with the amount of the grant attributable to each State's allotment to be based upon the relative total capacity reserves allocated to the municipalities in the respective States determined jointly by the respective State water supply agencies. Each municipality shall be responsible for applying for Federal and State grants for distribution facilities within its boundaries. Section (e)(2) authorizes municipalities to raise and appropriate revenue for the purpose of contributing pro rata for the planning, design and construction costs of public water supply facilities constructed and operated as joint facilities pursuant to the compact.

Section (f) establishes eight minimum elements that agreements shall contain, including: 1. a system of charges; 2. a uniform set of standards for users; 3. a provision for the pro rata sharing of operating and maintenance costs based upon the ratio of actual usage; 4. a provision establishing a procedure for arbitration and resolution of disputes; 5. a provision establishing a procedure for carriage of liability insurance, if such insurance is necessary under the laws of either State; 6. a provision establishing a procedure to modify the agreement; 7. a provision establishing a procedure for the adoption of regulations for the use, operation and maintenance of the facilities; and, 8. a provision establishing the means by which municipalities that do not own the joint water facility will pay the other municipalities its share of the maintenance and operating costs of the facility.

Section (g) provides that agreements shall be consistent with and not supersede the laws of the State in which the municipality is located. Actions taken by a municipality pursuant to the compact, or agreements entered into thereunder, shall be valid only if taken

in accordance with the laws of the State in which the municipality is located. The article declares that nothing in the compact shall be construed to authorize establishment of interstate districts, authorities or new governmental or quasi-governmental authorities.

Article III provides that the compact will become effective when ratified by the States of Vermont and New Hampshire and approved by the United States Congress.

Section 2

This section provides that the right to alter, amend or repeal the resolution is reserved. Consent granted by it shall not be construed as impairing or affecting rights or jurisdiction of the United States in Vermont or New Hampshire.

Section 3

This section provides that the compact shall be reasonably and liberally construed to effectuate its purposes. It further provides that if any part or application of it is held invalid the remainder shall not be affected.

Section 4

This section provides that the validity of the compact shall not be affected by insubstantial differences in form or language as adopted by the two States.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

Clause 3 of rule XIII of the Rules of the House of Representatives requires that changes in existing law made by the bill, as reported, be included in the report.

This bill makes no direct amendments to any Act.