

LONG ISLAND SOUND RESTORATION ACT

MAY 2, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 3313]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 3313) to amend section 119 of the Federal Water Pollution Control Act to reauthorize the program for Long Island Sound, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Long Island Sound Restoration Act”.

SEC. 2. NITROGEN CREDIT TRADING SYSTEM AND OTHER MEASURES.

Section 119(c)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1269(c)(1)) is amended by inserting “, including efforts to establish, within the process for granting watershed general permits, a system for trading nitrogen credits and any other measures that are cost-effective and consistent with the goals of the Plan” before the semicolon at the end.

SEC. 3. ASSISTANCE FOR DISTRESSED COMMUNITIES.

Section 119 of the Federal Water Pollution Control Act (33 U.S.C. 1269) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

“(e) ASSISTANCE TO DISTRESSED COMMUNITIES.—

“(1) ELIGIBLE COMMUNITIES.—

“(A) STATES TO DETERMINE CRITERIA.—For the purposes of this subsection, a distressed community is any community that meets affordability criteria established by the State in which the community is located, if such criteria are developed after public review and comment.

“(B) CONSIDERATION OF IMPACT ON WATER AND SEWER RATES.—In determining if a community is a distressed community for the purposes of this subsection, the State shall consider the extent to which the rate of growth of a community’s tax base has been historically slow such that implementing the plan described in subsection (c)(1) would result in a significant increase in any water or sewer rate charged by the community’s publicly-owned wastewater treatment facility.

“(C) INFORMATION TO ASSIST STATES.—The Administrator may publish information to assist States in establishing affordability criteria under subparagraph (A).

“(2) REVOLVING LOAN FUNDS.—

“(A) LOAN SUBSIDIES.—Subject to subparagraph (B), any State making a loan to a distressed community from a revolving fund under title VI for the purpose of assisting the implementation of the plan described in subsection (c)(1) may provide additional subsidization (including forgiveness of principal).

“(B) TOTAL AMOUNT OF SUBSIDIES.—For each fiscal year, the total amount of loan subsidies made by a State under subparagraph (A) may not exceed 30 percent of the amount of the capitalization grant received by the State for the year.

“(3) PRIORITY.—In making assistance available under this section for the upgrading of wastewater treatment facilities, a State may give priority to a distressed community.”.

SEC. 4. REAUTHORIZATION OF APPROPRIATIONS.

Section 119(f) of the Federal Water Pollution Control Act (as redesignated by section 3 of this Act) is amended—

(1) in paragraph (1), by striking “1991 through 2001” and inserting “2000 through 2003”; and

(2) in paragraph (2), by striking “not to exceed \$3,000,000 for each of the fiscal years 1991 through 2001” and inserting “not to exceed \$80,000,000 for each of fiscal years 2000 through 2003”.

PURPOSE AND SUMMARY

The purpose of H.R. 3313 is to reauthorize and improve the Long Island Sound program under the Clean Water Act.

BACKGROUND AND NEED FOR LEGISLATION

Long Island Sound is approximately 110 miles long and 21 miles across at its widest point. More than 8 million people live within the Long Island Sound watershed, which is bordered by the states of New York and Connecticut. Studies estimate the Sound generates more than \$5 billion a year for the regional economy from boating, swimming, and commercial and sport fishing, among other activities. The Long Island Sound, like many estuaries across the U.S., supports multiple uses and demands, and provides habitat for a multitude of fish and wildlife species. Increasing population growth and development have led to water quality problems arising from increased nonpoint source pollution from stormwater and agricultural runoff, wastewater discharges with high nitrogen levels, industrial pollution, and commercial and recreational waste.

An estimated \$1 billion will be needed over the next 20 years to address the environmental and public health problems in the Sound. Much of this cost is associated with sewage treatment plant upgrades to control nitrogen discharges into the Sound. To meet nitrogen reduction goals in a cost-effective manner, Connecticut has been working cooperatively with EPA on the development of a nitrogen credit trading program.

Long Island Sound is one of the estuaries in EPA’s National Estuary Program (NEP), established under section 320 of the Clean

Water Act. EPA approved the Comprehensive Conservation and Management Plan (CCMP) for Long Island Sound in September 1994. The CCMP resulted from the Long Island Sound Study, which was a cooperative effort involving researchers, federal, state, and local regulators, user groups, and other stakeholders to research and monitor Sound conditions, identify priority problems, and develop strategies to address them. NEP funding for the Long Island Sound has been approximately \$300,000 annually for the past several years.

Clean Water Act Section 119, added in 1990, established the EPA Long Island Sound Program Office in the vicinity of the Sound, for the purpose of carrying out the goals of the CCMP, coordinating federal and regional Long Island Sound activities, conducting studies, convening state and local legislative conferences, and providing technical support to the management conference, among other activities. EPA funding for the Long Island Sound office has ranged from \$700,000 in 1997 up to \$975,000 in 2000.

H.R. 3313 reauthorizes funding for the Long Island Sound program and authorizes funding for grants and studies to implement the CCMP at an amount not to exceed \$80 million a year for fiscal years 2000 through 2003. The bill also directs EPA's Long Island Sound Office to include, as part of its assistance and support of CCMP implementation, efforts to establish a nitrogen credit trading program (and any other cost-effective measures consistent with the CCMP) within the process of granting a watershed general permit. The bill authorizes states to provide additional subsidization, including forgiveness of principal for loans to designated distressed communities from a state's clean water state revolving fund, directs the states to establish affordability criteria for such a designation, and authorizes EPA to provide guidance on affordability criteria.

DISCUSSION OF COMMITTEE BILL AND SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Provides that the Act may be cited as the "Long Island Sound Restoration Act."

Section 2. Nitrogen credit trading system and other measures

Section 2 of this legislation amends section 119(c)(1) of the Clean Water Act to require the Office to assist and support a system for trading nitrogen credits and any other measures that are cost-effective and consistent with the goals of the CCMP for Long Island Sound. This assistance and support is to be provided under the existing authorities for the Clean Water Act and the laws of New York and Connecticut, or any subsequent amendments to such authorities or laws. This amendment does not affect any existing regulatory authorities under the Clean Water Act.

The Long Island Sound Study identified nitrogen as a key factor causing low dissolved oxygen levels in Long Island Sound. The nitrogen Total Maximum Daily Load for Long Island Sound that New York and Connecticut are developing will require a 58.5 percent nitrogen load reduction. To meet this reduction in a cost-effective manner, Connecticut plans to institute a nitrogen credit trading

program, which the Long Island Sound Study has helped to develop.

Section 3. Assistance for distressed communities

Amends section 119 by adding a new section authorizing New York and Connecticut to use their state revolving loan funds, established under title VI of the Clean Water Act, to provide additional subsidization when making a loan to a distressed community for the purposes of assisting the implementation of the CCMP for Long Island Sound. This subsidization may include forgiveness of principal. The total amount of loan subsidies made by a state may not exceed 30 percent of the amount of the capitalization grant received by the state for the year.

Under this section, the states of New York and Connecticut would establish affordability criteria, after public review and comment, to be used to determine which communities are distressed. In establishing these criteria, the states must consider the extent to which the rate of growth of a community's tax base has been historically slow such that implementing the CCMP would result in significant increases in any water or sewer rate charged by the community's publicly-owned wastewater treatment facility. EPA is authorized to publish information to assist states in establishing affordability criteria.

In its hearing on H.R. 3313, the Committee received testimony indicating that some communities in New York and Connecticut would have difficulty paying to add the denitrification equipment to their wastewater treatment facilities needed to meet the goals outlined in the CCMP. EPA, Connecticut and New York are encouraged to fully consider the financial stress the cleanup effort will place on the budgets of many small towns when distributing the authorized funds and to take advantage of the additional authorities provided in the bill for helping municipalities fulfill their obligations under the CCMP.

Under the reported bill, funding under section 119, as amended, providing for construction of projects that are treatment works as defined in the Clean Water Act, will be subject to the requirements of the Davis-Bacon Act as provided in section 513 of the Clean Water Act. The Committee is aware that some of the construction funded under section 119 may not come within the definition of treatment works. The Committee has not addressed the issue of whether these construction projects should be covered by the Davis-Bacon Act, and the reported bill should not be considered as a precedent on this issue.

Section 4. Reauthorization of appropriations

Amends section 119(f) to reauthorize funding to carry out the duties of the Long Island Sound Office through fiscal year 2003. In addition, this section authorizes \$80,000,000 a year for each of fiscal years 2000 through 2003 to carry out section 119(d).

HEARINGS

On February 29, 2000, the Water Resources and Environment Subcommittee held a hearing on H.R. 3313 and other legislation. Testimony on H.R. 3313 was given by, among others, New York

Governor George Pataki, Connecticut Governor John Rowland, Representative Shays (CT), Representative Johnson (CT), Representative Lazio (NY), and Representative Ackerman (NY). In addition, testimony on this legislation was given by representatives of the National Audubon Society of New York, Construction Industry Council of Westchester and Hudson Valley, and Save The Sound, Inc.

COMMITTEE CONSIDERATION

On April 5, 2000, the Water Resources and Environment Subcommittee reported H.R. 3313, by unanimous voice vote, favorably to the Full Committee. The Subcommittee adopted an amendment to change the subsidy for distressed communities from only offering a negative interest rate to a broader array of options, including principal forgiveness. The amendment also capped the amount of such subsidies based on the annual capitalization grant received by the State.

On April 11, 2000, the Full Committee met in open session and ordered the bill reported to the House by unanimous voice vote.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each roll call vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with ordering H.R. 3313 reported.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 3313.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 3313 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 21, 2000.

Hon. BUD SHUSTER,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3313, the Long Island Sound Restoration Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman (for federal costs) and Victoria Heid Hall (for the state and local impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 3313—Long Island Sound Restoration Act

Summary: H.R. 3313 would extend and increase the authorization of appropriations over the 2000–2003 period for the Environmental Protection Agency's (EPA's) Long Island Sound program office. Under current law, the program is authorized to receive appropriations of \$3 million annually through 2001. This bill would authorize the appropriation of up to \$80 million annually over the 2000–2003 period for EPA to make additional grants to states and support efforts to establish a trading program among entities in the region to exchange the rights to emit nitrogen compounds into the Long Island Sound watershed. In addition, enacting H.R. 3313 would give states more flexibility in allocating funds from their revolving funds to distressed communities with regard to the conservation and management plan for Long Island Sound. While federal funds are included in such revolving funds, CBO does not estimate that enacting this provision would result in any significant impact on the federal budget.

CBO estimates that implementing this legislation would cost \$237 million over the 2000–2005 period, assuming appropriation of the authorized amounts. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 3313 contains no intergovernmental mandates or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: For purposes of this estimate, CBO assumes that the amounts authorized will be appropriated for each fiscal year and that outlays will follow the pattern

of similar EPA programs. The estimated impact of H.R. 3313 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and the environment).

	By fiscal year, in millions of dollars—					
	2000	2001	2002	2003	2004	2005
SPENDING SUBJECT TO APPROPRIATION						
Spending under current law:						
Estimated authorization level ¹	1	3	0	0	0	0
Estimated Outlays	1	2	1	1	(?)	0
Proposed changes:						
Estimated authorization level	79	77	80	80	0	0
Estimated Outlays	2	18	39	63	63	52
Spending under H.R. 3313:						
Estimated authorization level	80	80	80	80	0	0
Estimated Outlays	3	20	40	64	63	52

¹The 2000 level is the amount appropriated for that year for the Long Island Sound program at EPA. Under current law, \$3 million is authorized to be appropriated for this program in 2001.

²Less than \$500,000.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 3313 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Enacting the legislation would allow states more flexibility, under permission regarding the Long Island Sound, to prioritize certain loans to distressed communities and to subsidize those loans. Such subsidies would be provided by states voluntarily.

Previous CBO estimate: On October 7, 1999, CBO transmitted a cost of estimate for S. 1632, a bill to extend the authorization of appropriations for activities at Long Island Sound, as ordered reported by the Senate Committee on Environment and Public Works on September 29, 1999. In contrast to H.R. 3313, S. 1632 would extend and increase the authorization of appropriations for the Long Island Sound program office by up to \$10 million for each of fiscal years 2000 through 2005.

Estimate prepared by: Federal costs: Susanne S. Mehlman; Impact on State, local and tribal governments: Victoria Heid Hall; impact on the private sector: Jean Wooster.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office

pursuant to section 423 of the Unfunded Mandates Reform Act. (Public Law 104–4.)

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act. (Public Law 104–1.)

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

SECTION 119 OF THE FEDERAL WATER POLLUTION CONTROL ACT

SEC. 119. LONG ISLAND SOUND.—(a) * * *

* * * * *

(c) DUTIES OF THE OFFICE.—The Office shall assist the Management Conference of the Long Island Sound Study in carrying out its goals. Specifically, the Office shall—

(1) assist and support the implementation of the Comprehensive Conservation and Management Plan for Long Island Sound developed pursuant to section 320 of this Act, *including efforts to establish, within the process for granting watershed general permits, a system for trading nitrogen credits and any other measures that are cost-effective and consistent with the goals of the Plan;*

* * * * *

(e) ASSISTANCE TO DISTRESSED COMMUNITIES.—

(1) ELIGIBLE COMMUNITIES.—

(A) STATES TO DETERMINE CRITERIA.—*For the purposes of this subsection, a distressed community is any community that meets affordability criteria established by the State in which the community is located, if such criteria are developed after public review and comment.*

(B) CONSIDERATION OF IMPACT ON WATER AND SEWER RATES.—*In determining if a community is a distressed community for the purposes of this subsection, the State shall consider the extent to which the rate of growth of a community's tax base has been historically slow such that implementing the plan described in subsection (c)(1) would result in a significant increase in any water or sewer rate charged by the community's publicly-owned wastewater treatment facility.*

(C) *INFORMATION TO ASSIST STATES.*—*The Administrator may publish information to assist States in establishing affordability criteria under subparagraph (A).*

(2) *REVOLVING LOAN FUNDS.*—

(A) *LOAN SUBSIDIES.*—*Subject to subparagraph (B), any State making a loan to a distressed community from a revolving fund under title VI for the purpose of assisting the implementation of the plan described in subsection (c)(1) may provide additional subsidization (including forgiveness of principal).*

(B) *TOTAL AMOUNT OF SUBSIDIES.*—*For each fiscal year, the total amount of loan subsidies made by a State under subparagraph (A) may not exceed 30 percent of the amount of the capitalization grant received by the State for the year.*

(3) *PRIORITY.*—*In making assistance available under this section for the upgrading of wastewater treatment facilities, a State may give priority to a distressed community.*

[(e)] (f) *AUTHORIZATIONS.*—(1) *There is authorized to be appropriated to the Administrator for the implementation of this section, other than subsection (d), such sums as may be necessary for each of the fiscal years [1991 through 2001] 2000 through 2003.*

(2) *There is authorized to be appropriated to the Administrator for the implementation of subsection (d) [not to exceed \$3,000,000 for each of the fiscal years 1991 through 2001] not to exceed \$80,000,000 for each of fiscal years 2000 through 2003.*

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