

107TH CONGRESS
2D SESSION

S. 2608

To amend the Coastal Zone Management Act of 1972 to authorize the acquisition of undeveloped coastal areas in order better to ensure their protection from development.

IN THE SENATE OF THE UNITED STATES

JUNE 11, 2002

Mr. HOLLINGS (for himself, Mr. GREGG, Mr. KERRY, Ms. SNOWE, Mr. INOUE, Mr. REED, Mr. BREAUX, Mr. CLELAND, Mr. DEWINE, Mr. SARBANES, Mr. BIDEN, Mr. KENNEDY, Ms. MIKULSKI, Mr. COCHRAN, Mr. TORRICELLI, Mrs. MURRAY, Ms. LANDRIEU, Mr. CORZINE, and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Coastal Zone Management Act of 1972 to authorize the acquisition of coastal areas in order better to ensure their protection from conversion or development.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Coastal and Estuarine
5 Land Protection Act”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) Coastal and estuarine areas provide impor-
4 tant nursery habitat for two-thirds of the Nation's
5 commercial fish and shellfish, provide nesting and
6 foraging habitat for coastal birds, harbor significant
7 natural plant communities, and serve to facilitate
8 coastal flood control and pollutant filtration.

9 (2) The Coastal Zone Management Act of 1972
10 (16 U.S.C. 1451 et seq.) recognizes the national im-
11 portance of these areas and their ecological vulner-
12 ability to anthropogenic activities by establishing a
13 comprehensive Federal-State partnership for pro-
14 tecting natural reserves and managing growth in
15 these areas.

16 (3) The National Estuarine Research Reserve
17 system established under that Act relies on the pro-
18 tection of pristine designated areas for long-term
19 protection and for the conduct of education and re-
20 search critical to the protection and conservation of
21 coastal and estuarine resources.

22 (4) Intense development pressures within the
23 coastal zone are driving the need to provide coastal
24 managers with a wider range of tools to protect and
25 conserve important coastal and estuarine areas.

1 (5) Protection of undeveloped coastal lands
2 through the acquisition of interests in property from
3 a willing seller are a cost-effective means of pro-
4 viding these areas with permanent protection from
5 development.

6 (6) Permanent protection of lands in the coast-
7 al zone is a necessary component of any program to
8 maintain and enhance coastal and estuarine areas
9 for the benefit of the Nation, including protection of
10 water quality, access to public beachfront, con-
11 serving wildlife habitat, and sustaining sport and
12 commercial fisheries.

13 (7) Federal-State-nongovernmental organization
14 pilot land acquisition projects have already substan-
15 tially contributed to the long-term health and viabil-
16 ity of coastal and estuarine systems.

17 (8) Enhanced protection of estuarine and coast-
18 al areas can be attained through watershed-based
19 acquisition strategies coordinated through Federal,
20 State, regional, and local efforts.

21 **SEC. 3. ESTABLISHMENT OF PROGRAM.**

22 The Coastal Zone Management Act of 1972 (16
23 U.S.C. 1451 et seq.) is amended by inserting after section
24 306A (16 U.S.C. 1455a) the following:

1 **“SEC. 306B. COASTAL AND ESTUARINE LAND PROTECTION**
2 **PROGRAM.**

3 “(a) IN GENERAL.—The Secretary shall establish a
4 Coastal and Estuarine Land Protection Program, in co-
5 operation with appropriate State, regional, and other units
6 of government for the purposes of protecting the environ-
7 mental integrity of important coastal and estuarine areas,
8 including wetlands and forests, that have significant con-
9 servation, recreation, ecological, historical, or aesthetic
10 values, and that are threatened by conversion from their
11 natural, undeveloped, or recreational state to other uses.
12 The program shall be administered by the National Ocean
13 Service of the National Oceanic and Atmospheric Adminis-
14 tration through the Office of Ocean and Coastal Resource
15 Management.

16 “(b) PROPERTY ACQUISITION GRANTS.—The Sec-
17 retary shall make grants under the program to coastal
18 States with approved coastal zone management plans or
19 National Estuarine Research Reserve units for the pur-
20 pose of acquiring property or interests in property de-
21 scribed in subsection (a) that will further the goals of—

22 “(1) a Coastal Zone Management Plan or Pro-
23 gram approved under this title; or

24 “(2) a National Estuarine Research Reserve
25 management plan; or

1 “(3) a regional or state watershed protection
2 plan involving coastal States with approved coastal
3 zone management plans.

4 “(c) GRANT PROCESS.—The Secretary shall allocate
5 funds to coastal States or National Estuarine Research
6 Reserves under this section through a competitive grant
7 process in accordance with guidelines that meet the fol-
8 lowing requirements:

9 “(1) The Secretary shall consult with the
10 State’s coastal zone management program, any Na-
11 tional Estuarine Research Reserve in that State, and
12 the lead agency designated by the Governor for co-
13 ordinating the establishment and implementation of
14 the Coastal and Estuarine Land Protection Act (if
15 different from the coastal zone management pro-
16 gram).

17 “(2) The applicant shall identify the values to
18 be protected by inclusion of the lands in the pro-
19 gram, management activities that are planned and
20 the manner in which they may affect the values
21 identified, and any other information from the land-
22 owner relevant to administration and management of
23 the land.

24 “(3) Awards shall be based on demonstrated
25 need for protection and ability to successfully lever-

1 age funds among participating entities, including
2 Federal programs, regional organizations, State and
3 other governmental units, landowners, corporations,
4 or private organizations.

5 “(4) Applications must be determined to be
6 consistent with the State’s or territory’s approved
7 coastal zone plan, program and policies prior to sub-
8 mittal to the Secretary.

9 “(5) Priority shall be given to lands described
10 in subsection (a) that can be effectively managed
11 and protected and that have significant ecological or
12 watershed protection value.

13 “(6) In developing guidelines under this section,
14 the Secretary shall consult with other Federal agen-
15 cies and non-governmental entities expert in land ac-
16 quisition and conservation procedures.

17 “(7) Eligible States or National Estaurine Re-
18 search Reserves may allocate grants to local govern-
19 ments or agencies eligible for assistance under sec-
20 tion 306A(e) and may acquire lands in cooperation
21 with nongovernmental entities and Federal agencies.

22 “(8) The Secretary shall develop performance
23 measures that will allow periodic evaluation of the
24 program’s effectiveness in meeting the purposes of

1 this section and such evaluation shall be reported to
2 Congress.

3 “(d) MATCHING REQUIREMENTS.—

4 “(1) IN GENERAL.—The Secretary may not
5 make a grant under the program unless the Federal
6 funds are matched by non-Federal funds in accord-
7 ance with this subsection.

8 “(2) MAXIMUM FEDERAL SHARE.—

9 “(A) 75 PERCENT FEDERAL FUNDS.—No
10 more than 75 percent of the funding for any
11 grant under this section shall be derived from
12 Federal sources, unless such requirement is
13 specifically waived by the Secretary.

14 “(B) WAIVER OF REQUIREMENT.—The
15 Secretary may grant a waiver of the limitation
16 in subparagraph (A) for underserved commu-
17 nities, communities that have an inability to
18 draw on other sources of funding because of the
19 small population or low income of the commu-
20 nity, or for other reasons the Secretary deems
21 appropriate.

22 “(3) OTHER FEDERAL FUNDS.—Where finan-
23 cial assistance awarded under this section represents
24 only a portion of the total cost of a project, funding
25 from other Federal sources may be applied to the

1 cost of the project. Each portion shall be subject to
2 match requirements under the applicable provision
3 of law.

4 “(4) SOURCE OF MATCHING COST SHARE.—For
5 purposes of paragraph (2)(A), the non-Federal cost
6 share for a project may be determined by taking into
7 account the value of non-monetary or in-kind con-
8 tributions of the non-Federal partner, such as land
9 value, conservation easement value, remediation, res-
10 toration, enhancement, or donated labor and sup-
11 plies. Such in-kind contributions must be identified
12 in project plans and must have been made within 3
13 years before or after the grant application submis-
14 sion.

15 “(e) REGIONAL WATERSHED DEMONSTRATION
16 PROJECT.—The Secretary may provide up to \$5,000,000
17 for a regional watershed protection demonstration project
18 that will meet the requirements of this section and:

19 “(1) leverages land acquisition funding from
20 other Federal land conservation or acquisition pro-
21 grams such that other Federal contributions, at a
22 minimum, equal the amounts provided by the Sec-
23 retary;

1 “(2) involves partnerships from a broad spec-
2 trum of Federal, State, and non-governmental enti-
3 ties;

4 “(3) provides for the creation of conservation
5 corridors and preservation of unique coastal habitat;

6 “(4) protects largely unfragmented habitat
7 under imminent threat of development or conversion;

8 “(5) provides water quality protection for areas
9 set aside for research under the National Estuarine
10 Research Reserve program; and

11 “(6) provides a model for future regional water-
12 shed protection projects.

13 “(f) RESERVATION OF FUNDS FOR NATIONAL ESTU-
14 ARINE RESEARCH RESERVE SITES.—No less than 15 per-
15 cent of funds made available under this section shall be
16 available for acquisitions benefiting National Estuarine
17 Research Reserve acquisitions.

18 “(g) LIMIT ON ADMINISTRATIVE COSTS.—Up to 5
19 percent of the funds made available to the Secretary or
20 eligible coastal State under this section shall be used for
21 planning or administration. The Secretary shall provide
22 a report to Congress with an account of all expenditures
23 under this section for fiscal year 2003, fiscal year 2004,
24 fiscal year 2005, and triennially thereafter.

1 “(h) TITLE AND MANAGEMENT OF ACQUIRED PROP-
2 ERTY.—

3 “(1) IN GENERAL.—If any property is acquired
4 in whole or in part with funds made available
5 through a grant under this section, the grant recipi-
6 ent shall provide such assurances as the Secretary
7 may require that—

8 “(A) the title to the property will be held
9 by the grant recipient or other appropriate pub-
10 lic agency designated by the recipient in per-
11 petuity;

12 “(B) the property will be managed in a
13 manner that is consistent with the purposes for
14 which the land entered into the program and
15 shall not convert such property to other uses;
16 and

17 “(C) if the property or interest in land is
18 sold, exchanged, or divested, funds equal to the
19 correct value will be returned to the Secretary,
20 for re-distribution in the grant process.

21 “(2) CONSERVATION EASEMENT.—In this sub-
22 section, the term ‘conservation easement’ includes an
23 easement, recorded deed, or interest deed where the
24 grantee acquires all rights, title, and interest in a
25 property, except those rights, title, and interests that

1 may run with the land and are expressly reserved by
2 a grantor and agreed to at the time of purchase.

3 “(i) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Secretary—

5 “(1) \$60,000,000 for fiscal year 2003 and each
6 fiscal year thereafter to carry out this section (other
7 than subsection (e)); and

8 “(2) \$5,000,000 for fiscal year 2003 to carry
9 out subsection (e), such sum to remain available
10 without fiscal year limitation.”.

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