

Calendar No. 633107TH CONGRESS
2^D SESSION**S. 2608****[Report No. 107-296]**

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.

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, Mr. LIEBERMAN, Ms. COLLINS, Mr. WYDEN, Mrs. FEINSTEIN, Mr. NELSON of Florida, Mr. DODD, and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

OCTOBER 3, 2002

Reported by Mr. HOLLINGS, with an amendment

[Strike all after the enacting clause and insert the part printed in italic]

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”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) Coastal and estuarine areas provide impor-
9 tant nursery habitat for two-thirds of the Nation’s
10 commercial fish and shellfish; provide nesting and
11 foraging habitat for coastal birds; harbor significant
12 natural plant communities; and serve to facilitate
13 coastal flood control and pollutant filtration.

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

21 (3) The National Estuarine Research Reserve
22 system established under that Act relies on the pro-
23 tection of pristine designated areas for long-term
24 protection and for the conduct of education and re-

1 search critical to the protection and conservation of
2 coastal and estuarine resources.

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

7 (5) Protection of undeveloped coastal lands
8 through the acquisition of interests in property from
9 a willing seller are a cost-effective means of pro-
10 viding these areas with permanent protection from
11 development.

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

19 (7) Federal-State-nongovernmental organization
20 pilot land acquisition projects have already substan-
21 tially contributed to the long-term health and viabil-
22 ity of coastal and estuarine systems.

23 (8) Enhanced protection of estuarine and coast-
24 al areas can be attained through watershed-based

1 acquisition strategies coordinated through Federal,
2 State, regional, and local efforts.

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

4 The Coastal Zone Management Act of 1972 (16
5 U.S.C. 1451 et seq.) is amended by inserting after section
6 306A (16 U.S.C. 1455a) the following:

7 **“SEC. 306B. COASTAL AND ESTUARINE LAND PROTECTION**
8 **PROGRAM.**

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

22 “(b) **PROPERTY ACQUISITION GRANTS.**—The Sec-
23 retary shall make grants under the program to coastal
24 States with approved coastal zone management plans or
25 National Estuarine Research Reserve units for the pur-

1 pose of acquiring property or interests in property de-
2 scribed in subsection (a) that will further the goals of—

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

5 “(2) a National Estuarine Research Reserve
6 management plan; or

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

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

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

23 “(2) The applicant shall identify the values to
24 be protected by inclusion of the lands in the pro-
25 gram, management activities that are planned and

1 the manner in which they may affect the values
2 identified, and any other information from the land-
3 owner relevant to administration and management of
4 the land.

5 “(3) Awards shall be based on demonstrated
6 need for protection and ability to successfully lever-
7 age funds among participating entities, including
8 Federal programs, regional organizations, State and
9 other governmental units, landowners, corporations,
10 or private organizations.

11 “(4) Applications must be determined to be
12 consistent with the State’s or territory’s approved
13 coastal zone plan, program and policies prior to sub-
14 mittal to the Secretary.

15 “(5) Priority shall be given to lands described
16 in subsection (a) that can be effectively managed
17 and protected and that have significant ecological or
18 watershed protection value.

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

23 “(7) Eligible States or National Estuarine Re-
24 search Reserves may allocate grants to local govern-
25 ments or agencies eligible for assistance under sec-

1 tion 306A(e) and may acquire lands in cooperation
2 with nongovernmental entities and Federal agencies.

3 “(8) The Secretary shall develop performance
4 measures that will allow periodic evaluation of the
5 program’s effectiveness in meeting the purposes of
6 this section and such evaluation shall be reported to
7 Congress.

8 “(d) MATCHING REQUIREMENTS.—

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

13 “(2) MAXIMUM FEDERAL SHARE.—

14 “(A) 75 PERCENT FEDERAL FUNDS.—No
15 more than 75 percent of the funding for any
16 grant under this section shall be derived from
17 Federal sources, unless such requirement is
18 specifically waived by the Secretary.

19 “(B) WAIVER OF REQUIREMENT.—The
20 Secretary may grant a waiver of the limitation
21 in subparagraph (A) for underserved commu-
22 nities, communities that have an inability to
23 draw on other sources of funding because of the
24 small population or low income of the commu-

1 nity, or for other reasons the Secretary deems
2 appropriate.

3 ~~“(3) OTHER FEDERAL FUNDS.—Where finan-~~
4 ~~cial assistance awarded under this section represents~~
5 ~~only a portion of the total cost of a project, funding~~
6 ~~from other Federal sources may be applied to the~~
7 ~~cost of the project. Each portion shall be subject to~~
8 ~~match requirements under the applicable provision~~
9 ~~of law.~~

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

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

1 “(1) leverages land acquisition funding from
2 other Federal land conservation or acquisition pro-
3 grams such that other Federal contributions, at a
4 minimum, equal the amounts provided by the Sec-
5 retary;

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

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

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

13 “(5) provides water quality protection for areas
14 set aside for research under the National Estuarine
15 Research Reserve program; and

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

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

23 “(g) LIMIT ON ADMINISTRATIVE COSTS.—Up to 5
24 percent of the funds made available to the Secretary or
25 eligible coastal State under this section shall be used for

1 planning or administration. The Secretary shall provide
2 a report to Congress with an account of all expenditures
3 under this section for fiscal year 2003, fiscal year 2004,
4 fiscal year 2005, and triennially thereafter.

5 “(h) TITLE AND MANAGEMENT OF ACQUIRED PROP-
6 ERTY.—

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

12 “(A) the title to the property will be held
13 by the grant recipient or other appropriate pub-
14 lic agency designated by the recipient in per-
15 petuity;

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

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

1 ~~“(2) CONSERVATION EASEMENT.—~~In this sub-
 2 section, the term ‘conservation easement’ includes an
 3 easement, recorded deed, or interest deed where the
 4 grantee acquires all rights, title, and interest in a
 5 property, except those rights, title, and interests that
 6 may run with the land and are expressly reserved by
 7 a grantor and agreed to at the time of purchase.

8 ~~“(i) AUTHORIZATION OF APPROPRIATIONS.—~~There
 9 are authorized to be appropriated to the Secretary—

10 ~~“(1) \$60,000,000 for fiscal year 2003 and each~~
 11 fiscal year thereafter to carry out this section (other
 12 than subsection (e)); and

13 ~~“(2) \$5,000,000 for fiscal year 2003 to carry~~
 14 out subsection (e), such sum to remain available
 15 without fiscal year limitation.”.

16 **SECTION 1. SHORT TITLE.**

17 *This Act may be cited as the “Coastal and Estuarine*
 18 *Land Protection Act”.*

19 **SEC. 2. FINDINGS.**

20 *The Congress finds the following:*

21 (1) *Coastal and estuarine areas provide impor-*
 22 *tant nursery habitat for two-thirds of the Nation’s*
 23 *commercial fish and shellfish, provide nesting and*
 24 *foraging habitat for coastal birds, harbor significant*

1 *natural plant communities, and serve to facilitate*
2 *coastal flood control and pollutant filtration.*

3 (2) *The Coastal Zone Management Act of 1972*
4 *(16 U.S.C. 1451 et seq.) recognizes the national im-*
5 *portance of these areas and their ecological vulner-*
6 *ability to anthropogenic activities by establishing a*
7 *comprehensive Federal-State partnership for pro-*
8 *tecting natural reserves and managing growth in*
9 *these areas.*

10 (3) *The National Estuarine Research Reserve*
11 *system established under that Act relies on the protec-*
12 *tion of pristine designated areas for long-term protec-*
13 *tion and for the conduct of education and research*
14 *critical to the protection and conservation of coastal*
15 *and estuarine resources.*

16 (4) *Intense development pressures within the*
17 *coastal zone are driving the need to provide coastal*
18 *managers with a wider range of tools to protect and*
19 *conserve important coastal and estuarine areas.*

20 (5) *Protection of undeveloped coastal lands*
21 *through the acquisition of interests in property from*
22 *a willing seller are a cost-effective means of providing*
23 *these areas with permanent protection from develop-*
24 *ment.*

1 *mental integrity of important coastal and estuarine areas,*
2 *including wetlands and forests, that have significant con-*
3 *servation, recreation, ecological, historical, or aesthetic val-*
4 *ues, and that are threatened by conversion from their nat-*
5 *ural, undeveloped, or recreational state to other uses. The*
6 *program shall be administered by the National Ocean Serv-*
7 *ice of the National Oceanic and Atmospheric Administra-*
8 *tion through the Office of Ocean and Coastal Resource Man-*
9 *agement.*

10 “(b) *PROPERTY ACQUISITION GRANTS.*—*The Secretary*
11 *shall make grants under the program to coastal States with*
12 *approved coastal zone management plans or National Estu-*
13 *arine Research Reserve units for the purpose of acquiring*
14 *property or interests in property described in subsection (a)*
15 *that will further the goals of—*

16 “(1) *a Coastal Zone Management Plan or Pro-*
17 *gram approved under this title; or*

18 “(2) *a National Estuarine Research Reserve*
19 *management plan; or*

20 “(3) *a regional or state watershed protection*
21 *plan involving coastal States with approved coastal*
22 *zone management plans.*

23 “(c) *GRANT PROCESS.*—*The Secretary shall allocate*
24 *funds to coastal States or National Estuarine Research Re-*
25 *serves under this section through a competitive grant proc-*

1 *ess in accordance with guidelines that meet the following*
2 *requirements:*

3 “(1) *The Secretary shall consult with the State’s*
4 *coastal zone management program, any National Es-*
5 *tuarine Research Reserve in that State, and the lead*
6 *agency designated by the Governor for coordinating*
7 *the establishment and implementation of the Coastal*
8 *and Estuarine Land Protection Act (if different from*
9 *the coastal zone management program).*

10 “(2) *Each participating State shall identify pri-*
11 *ority conservation needs within the State, the values*
12 *to be protected by inclusion of lands of the program,*
13 *and the threats to those values that should be avoided.*

14 “(3) *Each participating State shall evaluate how*
15 *the acquisition of property or easements might impact*
16 *working waterfront needs.*

17 “(4) *The applicant shall identify the values to be*
18 *protected by inclusion of the lands in the program,*
19 *management activities that are planned and the man-*
20 *ner in which they may affect the values identified,*
21 *and any other information from the landowner rel-*
22 *evant to administration and management of the land.*

23 “(5) *Awards shall be based on demonstrated need*
24 *for protection and ability to successfully leverage*
25 *funds among participating entities, including Federal*

1 *programs, regional organizations, State and other*
2 *governmental units, landowners, corporations, or pri-*
3 *vate organizations.*

4 *“(6) Applications must be determined to be con-*
5 *sistent with the State’s or territory’s approved coastal*
6 *zone plan, program and policies prior to submittal to*
7 *the Secretary.*

8 *“(7) Priority shall be given to lands described in*
9 *subsection (a) that can be effectively managed and*
10 *protected and that have significant ecological or wa-*
11 *tershed protection value.*

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

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

21 *“(10) The Secretary shall develop performance*
22 *measures that will allow periodic evaluation of the*
23 *program’s effectiveness in meeting the purposes of this*
24 *section and such evaluation shall be reported to Con-*
25 *gress.*

1 “(d) *MATCHING REQUIREMENTS.*—

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

6 “(2) *MAXIMUM FEDERAL SHARE.*—

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

12 “(B) *WAIVER OF REQUIREMENT.*—*The Sec-*
13 *retary may grant a waiver of the limitation in*
14 *subparagraph (A) for underserved communities,*
15 *communities that have an inability to draw on*
16 *other sources of funding because of the small pop-*
17 *ulation or low income of the community, or for*
18 *other reasons the Secretary deems appropriate.*

19 “(3) *OTHER FEDERAL FUNDS.*—*Where financial*
20 *assistance awarded under this section represents only*
21 *a portion of the total cost of a project, funding from*
22 *other Federal sources may be applied to the cost of the*
23 *project. Each portion shall be subject to match re-*
24 *quirements under the applicable provision of law.*

1 “(4) *SOURCE OF MATCHING COST SHARE.*—For
2 purposes of paragraph (2)(A), the non-Federal cost
3 share for a project may be determined by taking onto
4 account the following:

5 “(A) *Land value may be used as non-Federal*
6 *match if the lands are identified in project plans and*
7 *acquired within three years prior to the submission*
8 *of the project application or after the submission of*
9 *a project application until the project grant is closed*
10 *(not to exceed 3 years). The appraised value of the*
11 *land at the time of project closing will be considered*
12 *the non-Federal cost share.*

13 “(B) *Costs associated with land acquisition, land*
14 *management planning, remediation, restoration, and*
15 *enhancement may be used as non-Federal match if the*
16 *activities are identified in the plan and expenses are*
17 *incurred within the period of the grant award. These*
18 *costs may include either case or in-kind contributions.*

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

23 “(1) *leverages land acquisition funding from*
24 *other Federal land conservation or acquisition pro-*
25 *grams such that other Federal contributions, at a*

1 *minimum, equal the amounts provided by the Sec-*
2 *retary;*

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

6 “(3) *provides for the creation of conservation*
7 *corridors and preservation of unique coastal habitat;*

8 “(4) *protects largely unfragmented habitat under*
9 *imminent threat of development or conversion;*

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

13 “(6) *provides a model for future regional water-*
14 *shed protection projects.*

15 “(f) *RESERVATION OF FUNDS FOR NATIONAL ESTUA-*
16 *RINE RESEARCH RESERVE SITES.—No less than 15 percent*
17 *of funds made available under this section shall be available*
18 *for acquisitions benefiting National Estuarine Research Re-*
19 *serve acquisitions.*

20 “(g) *LIMIT ON ADMINISTRATIVE COSTS.—No more*
21 *than 5 percent of the funds made available to the Secretary*
22 *under this section shall be used by the Secretary for plan-*
23 *ning or administration of the program. The Secretary shall*
24 *provide a report to Congress with an account of all expendi-*

1 tures under this section for fiscal year 2003, fiscal year
2 2004, fiscal year 2005, and triennially thereafter.

3 “(h) *TITLE AND MANAGEMENT OF ACQUIRED PROP-*
4 *ERTY.*—

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

10 “(A) *the title to the property will be held by*
11 *the grant recipient or other appropriate public*
12 *agency designated by the recipient in perpetuity;*

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

1 *Act except those rights, title, and interests that may*
2 *run with the land that are expressly reserved by a*
3 *grantor and are agreed to at the time of purchase.*

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

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

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

12 **SEC. 4. ASSISTANCE FROM OTHER AGENCIES.**

13 *Section 310(a) of the Coastal Zone Management Act*
14 *of 1972 (16 U.S.C. 1456c(a)) is amended by striking “any*
15 *qualified person for the purposes of carrying out this sub-*
16 *section.” and inserting “any other Federal agencies (includ-*
17 *ing interagency financing of Coastal America activities)*
18 *and any other qualified person for the purposes of carrying*
19 *out this section.”.*

Calendar No. 633

107TH CONGRESS
2^D SESSION

S. 2608

[Report No. 107-296]

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.

OCTOBER 3, 2002

Reported with an amendment