

108TH CONGRESS
1ST SESSION

S. 1398

To provide for the environmental restoration of the Great Lakes.

IN THE SENATE OF THE UNITED STATES

JULY 14, 2003

Mr. DEWINE (for himself, Mr. LEVIN, Mr. VOINOVICH, Ms. STABENOW, Mr. COLEMAN, Mr. DURBIN, Mrs. CLINTON, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To provide for the environmental restoration of the Great Lakes.

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 “Great Lakes Environ-
5 mental Restoration Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the Great Lakes and the connecting chan-
9 nels of the Great Lakes form the largest freshwater
10 system in the world, holding $\frac{1}{5}$ of the fresh surface

1 water supply of the world and 9/10 of the fresh sur-
2 face water supply of the United States;

3 (2) 30 years after the date of enactment of the
4 Federal Water Pollution Control Act (33 U.S.C.
5 1251 et seq.), water quality in the Great Lakes has
6 improved, but the Great Lakes remain in a degraded
7 state;

8 (3) evidence of the degraded environment of the
9 Great Lakes includes—

10 (A) a record 599 closings of Great Lakes
11 beaches in 2001;

12 (B) an increase to 20 percent in the per-
13 centage of Great Lakes shoreline that contains
14 polluted sediments; and

15 (C) the issuance by State and local au-
16 thorities of 1,400 fish consumption advisories
17 relating to the Great Lakes;

18 (4) the Great Lakes are sources of drinking
19 water for approximately 40,000,000 people in the
20 United States and Canada;

21 (5) in the years since the Great Lakes Water
22 Quality Agreement was signed and the United
23 States and Canada agreed to “restore and maintain
24 the chemical, physical, and biological integrity of the
25 waters of the Great Lakes Basin and give priority

1 attention to the 43 designated Areas of Concern”,
 2 no sites have been restored in the United States;

3 (6) it is the responsibility of the Federal Gov-
 4 ernment and State and local governments to ensure
 5 that the Great Lakes remain a clean and safe source
 6 of water for drinking, fishing, and swimming; and

7 (7) while the total quantity of resources needed
 8 to restore the Great Lakes is unknown, additional
 9 funding is needed now to augment existing efforts to
 10 address the known threats facing the Great Lakes.

11 **SEC. 3. DEFINITIONS.**

12 In this Act:

13 (1) BOARD.—The term “Board” means the
 14 Great Lakes Environmental Restoration Advisory
 15 Board established by section 5(a).

16 (2) COUNCIL.—The term “Council” means the
 17 Great Lakes Federal Coordination Council estab-
 18 lished by section 6(a).

19 (3) GREAT LAKE.—The term “Great Lake”
 20 means—

21 (A) Lake Erie;

22 (B) Lake Huron (including Lake Saint
 23 Clair);

24 (C) Lake Michigan;

25 (D) Lake Ontario;

1 (E) Lake Superior; and

2 (F) the connecting channels of those

3 Lakes, including—

4 (i) the Saint Marys River;

5 (ii) the Saint Clair River;

6 (iii) the Detroit River;

7 (iv) the Niagara River; and

8 (v) the Saint Lawrence River to the

9 Canadian border.

10 (4) GREAT LAKES STATE.—The term “Great

11 Lakes State” means each of the States of Illinois,

12 Indiana, Ohio, Michigan, Minnesota, New York,

13 Pennsylvania, and Wisconsin.

14 (5) PROGRAM.—The term “Program” means

15 the Great Lakes Environmental Restoration Grant

16 Program established by section 4(a).

17 (6) PROGRAM OFFICE.—The term “Program

18 Office” means the Great Lakes National Program

19 Office of the Environmental Protection Agency.

20 **SEC. 4. GREAT LAKES RESTORATION GRANTS.**

21 (a) ESTABLISHMENT.—There is established a Great

22 Lakes Environmental Restoration Grant Program, to be

23 administered by the Program Office.

24 (b) GRANTS.—

1 (1) IN GENERAL.—In coordination with the
2 Board, the Program Office shall provide to States,
3 municipalities, and other applicants grants for use in
4 and around the Great Lakes in carrying out—

5 (A) contaminated sediment cleanup;

6 (B) wetland restoration;

7 (C) invasive species control and prevention;

8 (D) coastal wildlife and fisheries habitat
9 improvement;

10 (E) public access improvement;

11 (F) water quality improvement;

12 (G) sustainable water use;

13 (H) nonpoint source pollution reduction; or

14 (I) such other projects and activities to re-
15 store, protect, and assist the recovery of the
16 Great Lakes as the Board may determine.

17 (2) DISTRIBUTION.—In providing grants under
18 this section for a fiscal year, the Program Office
19 shall ensure that—

20 (A) at least 1 project or activity is funded
21 in each Great Lakes State for the fiscal year;

22 (B) the amount of funds received by each
23 Great Lakes State under this section for the
24 fiscal year is at least 6 percent, but not more
25 than 30 percent, of the total amount of funds

1 made available for grants under this section for
2 the fiscal year;

3 (C) each project or activity for which fund-
4 ing is provided results in 1 or more tangible im-
5 provements in the Great Lakes watershed; and

6 (D) each project or activity for which fund-
7 ing is provided addresses 1 or more priority
8 issue areas identified by the Board for the fiscal
9 year.

10 (3) GRANT EVALUATION.—

11 (A) IN GENERAL.—In evaluating grant
12 proposals, the Program Office shall give great
13 weight to the ranking of proposals by the Board
14 under section 5(c)(3).

15 (B) DECISION NOT TO FUND.—If the Pro-
16 gram Office decides not to fund a grant pro-
17 posal ranked by the Board as 1 of the top 10
18 proposals meriting funding, the Program Office
19 shall provide to the Board, not later than 30
20 days after the date of the determination, a writ-
21 ten statement explaining the reasons why the
22 proposal was not funded.

23 (4) FUNDING LIMITATIONS.—Funds provided
24 under the Program shall not be used for any of the
25 following:

1 (A) Design, construction, or improvement
2 of a road except as required in connection with
3 a sewer upgrade.

4 (B) Design, implementation, or evaluation
5 of a research or monitoring project or activity
6 except as required in connection with a project
7 or activity that will result in a tangible improve-
8 ment to the Great Lakes watershed.

9 (C) Design or implementation of a beau-
10 tification project or activity that does not result
11 in a tangible improvement to the Great Lakes
12 watershed.

13 (D) Litigation expenses, including legal ac-
14 tions to address violations of the Federal Water
15 Pollution Control Act (33 U.S.C. 1251 et seq.),
16 the Endangered Species Act of 1973 (16 U.S.C.
17 1531 et seq.), or any other environmental law
18 or regulation.

19 (E) Lobbying expenses (as defined in sec-
20 tion 2 of the Lobbying Disclosure Act of 1995
21 (2 U.S.C. 1602)).

22 (c) AUTHORIZATION OF APPROPRIATIONS.—

23 (1) IN GENERAL.—There is authorized to be
24 appropriated to carry out this section \$600,000,000
25 for each of fiscal years 2004 through 2013.

1 (2) COST SHARING.—The Federal share of the
 2 cost of any project or activity carried out using
 3 funds made available under paragraph (1) shall not
 4 exceed 80 percent.

5 (3) IN-KIND CONTRIBUTIONS.—The non-Fed-
 6 eral share of the cost of any project or activity car-
 7 ried out using funds made available under para-
 8 graph (1) may be provided in cash or in kind.

9 **SEC. 5. GREAT LAKES ADVISORY BOARD.**

10 (a) ESTABLISHMENT.—There is established a com-
 11 mittee to be known as the “Great Lakes Environmental
 12 Restoration Advisory Board”.

13 (b) MEMBERSHIP.—

14 (1) IN GENERAL.—The Board shall be com-
 15 posed of 21 voting members (or designees of the
 16 members), of whom—

17 (A) 8 shall be the Governors of the Great
 18 Lakes States;

19 (B) 1 shall be Director of the Great Lakes
 20 National Program Office;

21 (C) 1 shall be the Secretary of the Interior;

22 (D) 1 shall be the Director of the National
 23 Oceanic and Atmospheric Administration;

24 (E) 1 shall be the Chief of Engineers;

1 (F) 1 shall be the Secretary of Agriculture;
 2 and

3 (G) 8 shall be chief executives of cities,
 4 counties, or municipalities in the Great Lakes
 5 basin and selected by the Steering Committee
 6 of the Great Lakes Cities Initiative, including 1
 7 member from each Great Lakes.

8 (2) OBSERVERS.—The Board may include ob-
 9 servers, including—

10 (A) the Premiers of the Canadian Prov-
 11 inces of Ontario and Quebec;

12 (B) a representative of the Government of
 13 Canada;

14 (C) a representative of the State Depart-
 15 ment;

16 (D) 8 representatives of environmental or-
 17 ganizations (with 1 member appointed by the
 18 Governor of each Great Lakes State), includ-
 19 ing—

20 (i) Great Lakes United;

21 (ii) the Lake Michigan Federation;

22 (iii) the National Wildlife Federation;

23 (iv) the Sierra Club; and

24 (v) The Nature Conservancy;

1 (E) 5 representatives of industry selected
2 by the chairperson of the Board;

3 (F) the Chairman of the United States
4 section of the International Joint Committee;

5 (G) the Vice Chair of the United States
6 section of the Great Lakes Fishery Commission;

7 (H) the Chairman of the Great Lakes
8 Commission; and

9 (I) 3 representatives of Native Americans
10 selected by the President.

11 (3) DATE OF APPOINTMENTS.—The appoint-
12 ment of each member of the Board shall be made
13 not later than 90 days after the date of enactment
14 of this Act.

15 (4) TERM; VACANCIES.—

16 (A) TERM.—A member of the Board shall
17 be appointed for 5 years.

18 (B) VACANCIES.—A vacancy on the
19 Board—

20 (i) shall not affect the powers of the
21 Board; and

22 (ii) shall be filled in the same manner
23 as the original appointment was made.

24 (5) MEETINGS.—The Board shall meet at the
25 call of the chairperson.

1 (6) CHAIRPERSON.—The Board shall select a
 2 chairperson of the Board from the members ap-
 3 pointed under paragraph (1)(A).

4 (c) DUTIES.—

5 (1) IN GENERAL.—Before the beginning of the
 6 fiscal year, the Board shall determine by majority
 7 vote, and shall submit to the Program Office, the
 8 funding priority issue areas that shall apply to all
 9 grants provided under section 4 during the fiscal
 10 year.

11 (2) GREAT LAKES GOALS.—The priorities shall
 12 be based on environmental restoration goals for the
 13 Great Lakes that—

14 (A) are prepared by the Governors of
 15 Great Lakes States; and

16 (B) identify specific objectives and the best
 17 methods by which to produce a tangible im-
 18 provement to the Great Lakes.

19 (3) GRANTS.—

20 (A) PROGRAM OFFICE.—The Program Of-
 21 fice shall provide to the Board, in a timely man-
 22 ner, copies of grant proposals submitted under
 23 section 4.

24 (B) BOARD.—The Board shall—

25 (i) review the grant proposals; and

1 (ii) provide to the Program Office, by
 2 a date specified by the Program Office, a
 3 list of the grant applications that the
 4 Board recommends for funding, ranked in
 5 order of the applications that most merit
 6 funding.

7 **SEC. 6. GREAT LAKES FEDERAL COORDINATING COUNCIL.**

8 (a) ESTABLISHMENT.—There is established, in the
 9 executive branch, the Great Lakes Federal Coordinating
 10 Council.

11 (b) MEMBERSHIP.—

12 (1) IN GENERAL.—The Council shall consist
 13 of—

- 14 (A) the Secretary of the Interior;
- 15 (B) the Secretary of Agriculture;
- 16 (C) the Secretary of Commerce;
- 17 (D) the Secretary of State;
- 18 (E) the Secretary of Transportation;
- 19 (F) the Secretary of Health and Human
 20 Services;
- 21 (G) the Administrator of the Environ-
 22 mental Protection Agency, acting through the
 23 Great Lakes National Program Office Director;
- 24 (H) the Secretary of the Army, acting
 25 through the Chief of Engineers; and

1 (I) such additional members as are ap-
2 pointed under paragraph (2).

3 (2) ADDITIONAL MEMBERS.—With the concur-
4 rence of a majority of the members of the Council,
5 the chairperson of the Council may appoint addi-
6 tional members to the Council from among individ-
7 uals who are officers or employees of the Federal
8 Government with significant responsibilities con-
9 cerning the environmental restoration and protection
10 of the Great Lakes.

11 (c) CHAIRPERSON.—The Director of the Great Lakes
12 National Program Office shall serve as chairperson of the
13 Council.

14 (d) MEETINGS.—The Council shall meet at the call
15 of the chairperson, but not less often than 3 times in each
16 calendar year.

17 (e) DUTIES.—

18 (1) IN GENERAL.—The Council shall ensure
19 that the efforts of Federal agencies concerning envi-
20 ronmental restoration and protection of the Great
21 Lakes are coordinated, effective, complementary,
22 and cost-efficient.

23 (2) DUTIES.—To carry out subsection (a), the
24 Council shall—

1 (A) ensure that Federal agencies imple-
2 ment the policies and priorities identified by the
3 Council through appropriate actions, including
4 working in cooperation with Federal agencies
5 on development of budgets for the annual sub-
6 mission by the President to Congress of the
7 budget of the United States Government under
8 section 1105 of title 31, United States Code;
9 and

10 (B) develop and submit to the appropriate
11 committees of Congress and the Director of the
12 Office of Management and Budget—

13 (i) an annual list of priorities for im-
14 plementation, ranked in high, medium, and
15 low categories, under Federal efforts and
16 programs; and

17 (ii) a description of accomplishments
18 under—

19 (I) the Program; and

20 (II) as the Council considers ap-
21 propriate, other federally funded
22 grant programs that benefit the Great
23 Lakes.

1 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to carry out this section
3 \$100,000 for each of fiscal years 2004 through 2006.

4 **SEC. 7. GREAT LAKES WATER QUALITY INDICATORS AND**
5 **MONITORING.**

6 (a) IN GENERAL.—Section 118(c)(1) of the Federal
7 Water Pollution Control Act (33 U.S.C. 1268(c)(1)) is
8 amended by striking subparagraph (B) and inserting the
9 following:

10 “(B)(i) not later than 2 years after the
11 date of enactment of this clause, in cooperation
12 with Canada and appropriate Federal agencies
13 (including the United States Geological Survey,
14 the National Oceanic and Atmospheric Admin-
15 istration, and the United States Fish and Wild-
16 life Service), develop and implement a set of
17 science-based indicators of water quality and re-
18 lated environmental factors in the Great Lakes,
19 including, at a minimum, measures of toxic pol-
20 lutants that have accumulated in the Great
21 Lakes for a substantial period of time, as deter-
22 mined by the Program Office;

23 “(ii) not later than 4 years after the date
24 of enactment of this clause—

1 “(I) establish a Federal network for
 2 the regular monitoring of, and collection of
 3 data throughout, the Great Lakes basin
 4 with respect to the indicators described in
 5 clause (i); and

6 “(II) collect an initial set of bench-
 7 mark data from the network; and

8 “(iii) not later than 2 years after the date
 9 of collection of the data described in clause
 10 (ii)(II), and biennially thereafter, in addition to
 11 the report required under paragraph (10), sub-
 12 mit to Congress, and make available to the pub-
 13 lic, a report that—

14 “(I) describes the water quality and
 15 related environmental factors of the Great
 16 Lakes (including any changes in those fac-
 17 tors), as determined through the regular
 18 monitoring of indicators under clause
 19 (ii)(I) for the period covered by the report;
 20 and

21 “(II) identifies any emerging problems
 22 in the water quality or related environ-
 23 mental factors of the Great Lakes.”.

24 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
 25 118 of the Federal Water Pollution Control Act (33

1 U.S.C. 1268) is amended by striking subsection (h) and
 2 inserting the following:

3 “(h) AUTHORIZATION OF APPROPRIATIONS.—

4 “(1) IN GENERAL.—There is authorized to be
 5 appropriated to carry out this section (other than
 6 subsection (c)(1)(B)) \$25,000,000 for each of fiscal
 7 years 2004 through 2008.

8 “(2) GREAT LAKES WATER QUALITY INDICA-
 9 TORS AND MONITORING.—There are authorized to
 10 be appropriated to carry out subsection (c)(1)(B)—

11 “(A) \$4,000,000 for fiscal year 2004;

12 “(B) \$6,000,000 for fiscal year 2005;

13 “(C) \$8,000,000 for fiscal year 2006; and

14 “(D) \$10,000,000 for fiscal year 2007.”.

○