

## Calendar No. 734

108TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
108-375

### CALIFORNIA MISSIONS PRESERVATION ACT

SEPTEMBER 28, 2004.—Ordered to be printed

Mr. DOMENICI, from the Committee on Energy and Natural Resources, submitted the following

### R E P O R T

[To accompany H.R. 1446]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 1446) to support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the Act, 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 “California Missions Preservation Act”.

#### SEC. 2. DEFINITIONS.

In this Act:

(1) CALIFORNIA MISSION.—The term “California mission” means each of the 21 historic Spanish missions and 1 asistencia that—

(A) are located in the State;

(B) were built between 1769 and 1798; and

(C) are designated as California Registered Historic Landmarks.

(2) FOUNDATION.—The term “Foundation” means the California Missions Foundation, a nonsectarian charitable corporation that—

(A) was established in the State in 1998 to fund the restoration and repair of the California missions; and

(B) is operated exclusively for charitable purposes under section 501(c)(3) of the Internal Revenue Code of 1986.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(4) STATE.—The term “State” means the State of California.

### SEC. 3. COOPERATIVE AGREEMENTS.

(a) **IN GENERAL.**—The Secretary may enter into a cooperative agreement with the Foundation to provide technical and financial assistance to the Foundation to restore and repair—

- (1) the California missions; and
- (2) the artwork and artifacts associated with the California missions.

(b) **FINANCIAL ASSISTANCE.**—

(1) **IN GENERAL.**—The cooperative agreement may authorize the Secretary to make grants to the Foundation to carry out the purposes described in subsection (a).

(2) **ELIGIBILITY.**—To be eligible to receive a grant or other form of financial assistance under this Act, a California mission must be listed on the National Register of Historic Places.

(3) **APPLICATION.**—To receive a grant or other form of financial assistance under this Act, the Foundation shall submit to the Secretary an application that—

(A) includes a status report on the condition of the infrastructure and associated artifacts of each of the California missions for which the Foundation is seeking financial assistance; and

(B) describes a comprehensive program for the restoration, repair, and preservation of the infrastructure and artifacts referred to in subparagraph (A), including—

- (i) a description of the prioritized preservation activities to be conducted over a 5-year period; and
- (ii) an estimate of the costs of the preservation activities.

(4) **APPLICABLE LAW.**—Consistent with section 101(e)(4) of the National Historic Preservation Act (16 U.S.C. 470a(e)(4)), the Secretary shall ensure that the purpose of any grant or other financial assistance provided by the Secretary to the Foundation under this Act—

- (A) is secular;
- (B) does not promote religion; and
- (C) seeks to protect qualities that are historically significant.

(c) **REVIEW AND DETERMINATION.**—

(1) **IN GENERAL.**—The Secretary shall submit a proposed agreement to the Attorney General for review.

(2) **DETERMINATION.**—A cooperative agreement entered into under subsection (a) shall not take effect until the Attorney General issues a finding that the proposed agreement submitted under paragraph (1) does not violate the establishment clause of the first amendment of the Constitution.

(d) **REPORT.**—As a condition of receiving financial assistance under this Act, the Foundation shall annually submit to the Secretary and to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that describes the status of the preservation activities carried out using amounts made available under this Act.

### SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There is authorized to be appropriated to carry out this Act \$10,000,000 for the period of fiscal years 2004 through 2009.

(b) **MATCHING REQUIREMENT.**—Any amounts made available to carry out this Act shall be matched on not less than a 1-to-1 basis by the Foundation.

(c) **OTHER AMOUNTS.**—Any amounts made available to carry out this Act shall be in addition to any amounts made available for preservation activities in the State under the National Historic Preservation Act (16 U.S.C. 470 et seq.).

### PURPOSE OF THE MEASURE

The purpose of H.R. 1446 is to authorize the Secretary of the Interior to make grants to the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artwork and artifacts of these missions.

### BACKGROUND AND NEED

The California missions were established by the Catholic Church as religious and cultural centers. Stretching from San Diego to as far north as Sonoma, 21 missions were constructed, marking the

steady march of the Spanish as they colonized the territory that eventually became California.

The oldest mission, Mission San Diego de Alcalá in San Diego, was founded by Father Junipero Serra in 1769. The last mission built was Mission San Francisco Solano in Sonoma, completed in 1823. With Mexico's independence from Spain came secularization, followed by the American occupation. After the initial 65-year period of operation, the missions, built of adobe and wood, by and large fell into ruin.

Since the late 1800s, groups and individuals who recognized the historical, sociological, and artistic importance of these settlements spearheaded efforts to restore and reconstruct them. In 1948, for instance, the Hearst Mission Restoration Fund was established with a grant of \$500,000. Yet until now no single entity has looked after the missions' long-term preservation and restoration needs. There has been no major campaign on behalf of all the California missions for many decades.

The missions are the most visited historical sites in the State with 5.5 million visitors per year and are a part of the Statewide fourth grade curricula. Of the 21 California missions, 19 do not receive support from any governmental agency. Most rely solely on nominal visitor fees, proceeds from gift shop sales and donations.

H.R. 1446 authorizes the Secretary of the Interior to make grants to the California Missions Foundation to support the efforts of the Foundation to restore and repair the California missions and to preserve the artworks and artifacts associated with them. The grant program is for 5 years and totals \$10 million. The legislation also contains a requirement for matching funds.

#### LEGISLATIVE HISTORY

H.R. 1446 was introduced by Representative Farr on March 26, 2003 and passed the House of Representatives by voice vote on October 10, 2003. Companion legislation, S. 1306, was introduced by Senators Boxer and Feinstein on June 20, 2003. The Senate Committee on Energy and Natural Resources' Subcommittee on National Parks held a hearing on H.R. 1446 and S. 1306 on March 9, 2004. At the business meeting on September 15, 2004, the Committee on Energy and Natural Resources ordered H.R. 1446, as amended, favorably reported.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in an open business session on September 15, 2004, by a voice vote of a quorum present, recommends that the Senate pass H.R. 1446, if amended as described herein. Senator Thomas voted no.

#### COMMITTEE AMENDMENT

During its consideration of H.R. 1446, the Committee adopted an amendment in the nature of a substitute. In addition to removing the section detailing congressional findings the amendment requires that the Attorney General review the proposed agreement between the California Missions Foundation and the Secretary of the Interior and issue a finding that the agreement does not violate the Establishment

Clause of the First Amendment of the Constitution. This requirement is similar to one that applies to the San Antonio Missions National Historical Park in Texas. The amendment also requires that a California mission must be on the National Register of Historic Places to be eligible to receive financial or other grant assistance under this Act. The amendment is described in detail in the section-by-section analysis below.

#### SECTION-BY-SECTION ANALYSIS

Section 1 entitles this bill the “California Missions Preservation Act.”

Section 2 defines key terms used in this Act.

Section 3(a) authorizes the Secretary of the Interior to enter into cooperative agreements with the California Missions Foundation to provide financial and technical assistance to repair and restore the mission buildings and the artwork and other artifacts associated with them.

Subsection (b) allows the cooperative agreement to authorize the Secretary to make grants to the Foundation. To be eligible to receive a grant or other financial assistance under this Act, a mission must be listed on the National Register of Historic Places. The Foundation must submit a grant application that includes a condition assessment and a comprehensive program for restoration, repair, and preservation of the infrastructure and artifacts of each California mission. The application must also contain a 5-year prioritized preservation plan for the mission and its artifacts and estimate the cost of the program. As provided in section 101(e)(4) of the National Historic Preservation Act (16 U.S.C. 470a(e)(4)), the Secretary shall ensure that the purpose of a grant under this section is secular, does not promote religion, and seeks to protect those qualities that are historically significant.

Subsection (c) directs the Secretary to submit a proposed agreement as described in subsection (b) to the Attorney General for review. The agreement shall not take effect until the Attorney General has issued a finding that the agreement does not violate the establishment clause of the first amendment of the Constitution.

Subsection (d) directs the California Missions Foundation to submit to the Secretary an annual report on the status of the preservation efforts using grant funds. In addition, this section requires the Secretary to submit a copy of the report to Congress.

Section 4 authorizes to be appropriated a total of \$10 million for fiscal years 2004 through 2009. Any funds made available under this Act shall be matched on not less than a one to one basis by the Foundation. Funds appropriated under this section shall be in addition to any funds made available for preservation efforts in the State of California under the National Historic Preservation Act.

#### COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office.

#### *H.R. 1446—California Missions Preservation Act*

Summary: H.R. 1446 would authorize the appropriation of \$10 million over the 2004–2009 period to restore 21 historic Spanish missions in California. Most of this funding would be used by the

Department of the Interior to provide grants to the California Missions Foundation, a nonprofit corporation established for that purpose.

CBO estimates that implementing H.R. 1446 would cost \$10 million over the next five years, assuming appropriation of the authorized amount. Enacting H.R. 1446 would not affect revenues or direct spending.

H.R. 1446 contains no intergovernmental 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: The estimated budgetary impact of H.R. 1446 over the 2005–2009 period is shown in the following table. For this estimate, CBO assumes that the \$10 million authorization will be appropriated evenly over the 2005–2009 period. Estimated outlays are based on historical spending patterns for similar programs. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—				
	2005	2006	2007	2008	2009
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated authorization level .....	2	2	2	2	2
Estimated outlays .....	2	2	2	2	2

Intergovernmental and private-sector impact: H.R. 1446 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Deborah Reis; Impact on State, Local, and Tribal Governments: Leo Lex; and Impact on the Private Sector: Jean Talarico.

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

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 1446.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 1446.

#### EXECUTIVE COMMUNICATIONS

On February 25, 2004, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on H.R. 1446. These reports had not been received when this report was filed. The testimony provided by the Department of the Interior at the Subcommittee hearing on H.R. 1446 follows:

STATEMENT OF P. DANIEL SMITH, SPECIAL ASSISTANT,  
NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to present the Department of the Interior's views on S. 1306 and H.R. 1446 authorizing the Secretary of the Interior to make matching, historic preservation grants to the California Missions Foundation to restore and repair California's historically significant Spanish mission buildings and their associated historic artworks and artifacts. Under this bill, grants up to \$10 million over a 5-year period would be made through the authority of Section 101 of the National Historic Preservation Act.

While the goal of this legislation is admirable, the Department opposes S. 1306 and H.R. 1446. We cannot support this new Federal funding commitment at a time when we are trying to focus our available resources on taking care of existing National Park Service responsibilities. Nor can we support legislative earmarks that would effectively take limited and critically needed historic preservation operations funding away and divert it to these specific purposes under the National Historic Preservation Act. The Department strongly supports the principle that States, tribes, and local governments—not the Federal government—are best suited to determine the highest priorities for awarding grants in each jurisdiction under the Historic Preservation Fund. This has been the guiding idea of the National Historic Preservation Act since its passage in the mid-1960s. Under the current process, the Department allocates blocks of funds to States and to Indian tribes who then, in turn, award funding to properties and projects that meet the most urgent needs within the individual jurisdiction. There are many and very worthy projects everywhere, including other individual and classes of historic building that are regrettably in need of assistance from the Historic Preservation Fund.

The Department of the Interior does support efforts to preserve for this and future generations the story of Father Junipero Serra and the founding of California's incomparable chain of colonial-era missions. Over a 54-year period beginning in 1769, Serra, and his fellow Jesuits, followed later by the Franciscans, built with native Indian labor a chain of mission complexes that today stretch along the coast for 600 miles from San Diego to Sonoma—north of San Francisco. It is a rich story of tenacity, bravery, cultural conflict, greed, mistrust, and, ultimately, hope. As a Nation, we are richer for Serra and his compatriot's struggles and for the labors of California's native peoples. We also are fortunate that so many of these remarkable historic places survive in California today. The Department recognizes that these missions are powerful tangible evidence of our Nation's remarkable story and worthy of our care and attention.

We believe, however, that there are other sources of funding available for the restoration at the California mis-

sions. One national example is the Save America's Treasures program that awards grants for preservation and conservation work on nationally significant intellectual and cultural artifacts and nationally significant historic structures and sites. Each California Mission is a "national class property" and would, we believe, compete favorably in the Save America's Treasures program as well in any other fundraising campaign. The Department would be more than happy to work with the California Missions Foundation to develop Save America's Treasures applications as well as fundraising strategies to accomplish this important work.

We note that Section 3(c) of S. 1306 and H.R. 1446 requires detailed professional condition assessments and scopes of work to ensure that preservation and conservation needs are fully assessed, that the highest priority and most critical work is undertaken, and that any work supported by these grants meets the highest professional standards. The California missions are historic properties significant to every American citizen and we must ensure that any work done there is of the highest caliber.

Should S. 1306 or H.R. 1446 move to a committee markup, we would suggest requiring a formal partnership role for the appropriate Catholic Church archdioceses where the missions remain active churches and in church ownership. Without the full partnership and support of the Church, the most effective and best long-term preservation of these national treasures cannot be assured.

Mr. Chairman, thank you for the opportunity to provide our comments on S. 1306 and H.R. 1446. This concludes my prepared testimony. I would be glad to answer any questions that you or the members of the committee may have.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act H.R. 1446, as ordered reported.

