109TH CONGRESS 1ST SESSION

H. R. 1368

To provide the Secretary of the Army with additional and enhanced authority with respect to water resources projects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

March 17, 2005

Mr. Burgess (for himself, Mr. Poe, and Mr. Marchant) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To provide the Secretary of the Army with additional and enhanced authority with respect to water resources projects, and for other purposes.

- 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 "Integrated Water Re-
- 5 sources Management Act of 2005".

1	SEC. 2. SUPPORT OF STATE, TRIBAL, INTERSTATE WATER
2	RESOURCES ORGANIZATIONS, AND LOCAL
3	GOVERNMENT.
4	The Secretary of the Army shall include as a primary
5	mission of the Army Corps of Engineers the provision of
6	technical services and assistance to support planning, con-
7	servation, and responsible integrated management of
8	water resources by State, tribal, interstate water resources
9	organizations, and local governments.
10	SEC. 3. TECHNICAL ASSISTANCE.
11	Section 22 of Water Resources Development Act of
12	1974 (42 U.S.C. 1962d–16) is amended—
13	(1) in subsection (a) by striking "The Sec-
14	retary" and inserting the following:
15	"(a) Federal State Cooperation.—
16	"(1) Comprehensive plans.—The Sec-
17	retary'';
18	(2) by inserting after the last sentence in sub-
19	section (a) the following:
20	"(2) Technical assistance.—
21	"(A) IN GENERAL.—At the request of a
22	governmental agency or non-Federal interest,
23	the Secretary may provide, at Federal expense,
24	technical assistance to such agency or non-Fed-
25	eral interest in managing water resources.

1	"(B) Types of assistance.—Technical
2	assistance under this paragraph may include
3	provision and integration of hydrologic, eco-
4	nomic, and environmental data and analyses.".
5	(3) in subsection (b)(1) by striking "this sec-
6	tion" each place it appears and inserting "subsection
7	(a)(1)";
8	(4) in subsection (b)(2) by striking "Up to $\frac{1}{2}$
9	of the" and inserting "The";
10	(5) in subsection (c)—
11	(A) by striking "(c) There is" and insert-
12	ing the following:
13	"(c) Authorization of Appropriations.—
14	"(1) Federal and state cooperation.—
15	There is";
16	(B) by striking "except that not more
17	than \$500,000 shall be expended in any one
18	year in any one State";
19	(C) by striking "the provisions of this sec-
20	tion" and inserting "subsection $(a)(1)$;"; and
21	(D) by inserting at the end the following:
22	"(2) Technical assistance.—There is au-
23	thorized to be appropriated \$10,000,000 annually to
24	carry out subsection (a)(2), of which not more than
25	\$2,000,000 annually may be used by the Secretary

- 1 to enter into cooperative agreements with nonprofit
- 2 organizations and State agencies to provide assist-
- ance to rural and small communities."; and
- 4 (6) by adding at the end the following:
- 5 "(e) Annual Submission.—The Secretary shall pro-
- 6 vide a listing of the individual activities proposed for fund-
- 7 ing under subsection (a)(1), based on performance criteria
- 8 developed by the Secretary.".

9 SEC. 4. WATERSHED AND RIVER BASIN ASSESSMENTS.

- 10 (a) IN GENERAL.—Section 729 of the Water Re-
- 11 sources Development Act of 1986 (33 U.S.C. 2267a; 114
- 12 Stat. 2587–2588; 100 Stat. 4164) is amended—
- (1) by striking paragraph (1) of subsection (f)
- and inserting the following:
- 15 "(1) Non-federal share.—The non-Federal
- share of the costs of an assessment carried out
- under this section on or after December 11, 2000,
- shall be 25 percent."; and
- 19 (2) by striking subsection (g).
- (b) REVISION OF PARTNERSHIP AGREEMENT.—The
- 21 Secretary of the Army shall revise the partnership agree-
- 22 ment for any assessment being carried out under section
- 23 729 of the Water Resources Development Act of 1986 to
- 24 take into account the change in non-Federal participation

- 1 in the assessment as a result of the amendments made
- 2 by subsection (a).

3 SEC. 5. CREDIT FOR MATERIALS AND IN-KIND SERVICES.

- 4 (a) IN GENERAL.—The Secretary of the Army is au-
- 5 thorized to allow a non-Federal interest credit toward its
- 6 share of the costs of any authorized water resources devel-
- 7 opment project or study for the cost of materials and in-
- 8 kind services, including planning (including data collec-
- 9 tion), design, management, and construction services, pro-
- 10 vided by the non-Federal interest for implementation of
- 11 the project or study. The credit shall include the cost of
- 12 materials and services provided prior to signing a partner-
- 13 ship or feasibility cost sharing agreement for the project
- 14 or study, including efforts on constructed elements incor-
- 15 porated into the project, and materials and services pro-
- 16 vided after the partnership or feasibility cost sharing
- 17 agreement, subject to the limitations in subsection (b).
- 18 (b) Limitations.—Credit authorized under sub-
- 19 section (a)—
- 20 (1) shall not exceed the non-Federal share of
- 21 project costs;
- (2) shall not alter any other requirements that
- require a non-Federal interest to provide lands, ease-
- 24 ments, rights-of-way, and dredged material disposal
- areas for the project;

1	(3) shall not exceed the actual and reasonable
2	costs of the materials or in-kind services provided by
3	the non-Federal interest, as determined by the Sec-
4	retary; and
5	(4) shall be allowed unless the Secretary has
6	determined that such materials or services, including
7	activities on previously constructed elements, are not
8	compatible with and necessary for the project.
9	SEC. 6. IMPROVING WATER MANAGEMENT AT CORPS OF
10	ENGINEERS RESERVOIRS.
11	(a) Measures to Improve Water Management
12	AT CORPS OF ENGINEERS RESERVOIRS.—In addition to
13	ongoing efforts to assess and address the water resources
14	needs of the Nation, the Secretary of the Army shall un-
15	dertake, as part of the operation and maintenance of all
16	Corps of Engineers reservoirs, measures to more effec-
17	tively and efficiently meet the current water resources
18	needs of the areas impacted by the reservoirs. Such meas-
19	ures shall be undertaken in cooperation and coordination
20	with State, tribal, and local governments and their ongo-
21	ing initiatives and may include the following:
22	(1) reallocation of storage at such reservoirs;
23	(2) review of operational plans and implementa-
24	tion of changes to improve performance of such res-
25	ervoirs in meeting current needs and priorities;

- 1 (3) improvements to data collection systems 2 and forecast models that enhance operational per-
- 3 formance of such reservoirs; and
- 4 (4) sediment studies and implementation of 5 sediment management or removal measures that im-
- 6 prove project operations.
- 7 (b) Costs of Water Supply Storage.—Storage
- 8 charges for future contracts and contract renewals for
- 9 water supply storage at existing Corps of Engineers res-
- 10 ervoirs shall not exceed the net change in receipts or out-
- 11 lays, or both to the Treasury due to the reallocation of
- 12 storage at such reservoirs.

13 SEC. 7. ACCESS TO WATER RESOURCES DATA.

- 14 (a) General.—The Secretary of the Army shall un-
- 15 dertake a program to provide public access to water re-
- 16 sources and related water quality data currently within the
- 17 custody of the Corps of Engineers.
- 18 (b) Data.—The date to which subsection (a) applies
- 19 shall include, but not be limited to, data generated in
- 20 water resources project development and regulation under
- 21 section 404 of the Federal Water Pollution Act (33 U.S.C.
- 22 1344), and the Secretary, in providing access to data
- 23 under subsection (a), shall employ appropriately geo-
- 24 graphic information system technology and linkages to
- 25 water resources models and analytical techniques.

1	(c) Partnerships.—To the maximum extent pos-
2	sible, the Secretary shall integrate State, tribal, and local
3	governments into activities that carry out this section.
4	(d) APPROPRIATIONS.—There is authorized to be ap-
5	propriated \$5,000,000 per fiscal year to carry out this sec-
6	tion.
7	SEC. 8. WRITTEN AGREEMENT FOR WATER RESOURCES
8	PROJECTS.
9	(a) Partnership Agreements.—Section 221 of
10	the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) is
11	amended—
12	(1) in subsection (a)—
13	(A) by striking "under the provisions" and
14	all that follows through "under any other" and
15	inserting "under any";
16	(B) by inserting "partnership" after "writ-
17	ten'';
18	(C) by striking "Secretary of the Army to
19	furnish its required cooperation for" and insert-
20	ing "district engineer for the district of the
21	Corps of Engineers in which the project will be
22	carried out under which each party agrees to
23	carry out its responsibilities and requirements
24	for implementation or construction of":

1	(D) by striking "if the Secretary" and in-
2	serting "if the Secretary of the Army"; and
3	(E) by inserting after "\$25,000." the fol-
4	lowing: "Such agreement may include a provi-
5	sion for liquidated damages in the event of a
6	failure of one or more parties to perform.";
7	(2) by redesignating subsection (e) as sub-
8	section (f); and
9	(3) by inserting after subsection (d) the fol-
10	lowing:
11	"(e) Limitation.—Nothing in subsection (a) shall be
12	construed as limiting the authority of the Secretary to en-
13	sure that a partnership agreement meets all requirements
14	of law and policies of the Secretary in effect on the date
15	of entry into the partnership agreement.".
16	(b) Local Cooperation.—Section 912(b) of the
17	Water Resources Development Act of 1986 (42 U.S.C.
18	1962d–5b; 101 Stat. 4190) is amended—
19	(1) in paragraph (2)—
20	(A) by striking "shall" the first place it
21	appears and inserting "may"; and
22	(B) by striking the last sentence; and
23	(2) in paragraph (4)—
24	(A) by inserting after "injunction, for" the
25	following: "payment of liquidated damages

- under a partnership agreement entered into by
 a district engineer of the Corps of Engineers or,
 for";

 (B) by striking "to collect a civil penalty
- 4 (B) by striking "to collect a civil penalty 5 imposed under this section,"; and
- 6 (C) by striking "any civil penalty imposed 7 under this section," and inserting "any liq-8 uidated damages,".
- 9 (c) APPLICABILITY.—The amendments made by sub-10 sections (a) and (b) only apply to partnership agreements 11 entered into after the date of enactment of this Act; except 12 that at the request of a non-Federal interest for a project the district engineer for the district of the Corps of Engineers in which the project is located may amend a project 14 15 partnership agreement entered into on or before such date and under which construction on the project has not been 16 initiated as of such date of enactment for the purpose of 18 incorporating such amendments.

(d) References.—

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(1) To COOPERATION AGREEMENTS.—Any reference in a law, regulation, document, or other paper of the United States to a cooperation agreement or project cooperation agreement shall be treated to be a reference to a partnership agreement or a project partnership agreement, respectively.

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             (2) To partnership agreements.—Any ref-
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        erence to a partnership agreement or project part-
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        nership agreement in this Act (other than this sec-
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        tion) shall be treated as a reference to a cooperation
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        agreement or a project cooperation agreement, re-
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        spectively.
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   SEC. 9. ENVIRONMENTAL INFRASTRUCTURE.
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        Section 219 of the Water Resources Development Act
   of 1992 (106 Stat. 4835–4836; 110 Stat. 3957; 113 Stat.
   334) is amended—
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             (1) in subsection (b)—
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                 (A)
                                      "(b)
                       by
                            striking
                                            Non-Federal
             SHARE.—The" and inserting the following:
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14
        "(b) Non-Federal Share.—
             "(1) IN GENERAL.—The"; and
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                  (B) by inserting after paragraph (1) (as so
17
             designated by subparagraph (A)) the following:
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             "(2)
                   In-kind
                              CREDITS.—The
                                               non-Federal
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        share may be provided in the form of materials and
20
        in-kind services, including design, construction, and
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        management services, that the Secretary has deter-
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        mined are compatible with and necessary for the
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        project.".
             (2) in subsection (e)—
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1	(A) by striking "and" at the end of para-
2	graph (7);
3	(B) by striking the period at the end of
4	paragraph (8) and inserting "; and"; and
5	(C) by adding at the end the following:
6	(9) \$40,000,000 for the project described in
7	subsection $(c)(18)$.".
8	SEC. 10. TEXAS ENVIRONMENTAL INFRASTRUCTURE PRO-
9	GRAM.
10	(a) Establishment of Program.—The Secretary
11	of the Army shall establish a program to provide environ-
12	mental assistance to non-Federal interests in the State of
13	Texas.
14	(b) FORM OF ASSISTANCE.—Assistance under this
15	section may be in the form of planning, design, and con-
16	struction assistance for water-related environmental infra-
17	structure and resource protection and development
18	projects in the State of Texas, including projects for water
19	supply, storage, treatment and related facilities, water
20	quality protection, wastewater treatment and related fa-
21	cilities, environmental restoration, and surface water re-
22	source protection and development as identified by the
23	Texas Water Development Board.

- 1 (c) Public Ownership Requirement.—The Sec-2 retary may provide assistance for a project under this sec-3 tion only if the project is publicly owned. 4 (d) Partnership Agreements.—Before providing
- 5 assistance under this section, the Secretary shall enter 6 into a partnership agreement with a non-Federal interest.

7 (e) Cost Sharing.—

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- 8 (1) IN GENERAL.—The Federal share of project
 9 costs under each agreement entered into under this
 10 section shall be 75 percent. The Federal share may
 11 be in the form of grants or reimbursements of
 12 project costs.
 - (2) IN-KIND SERVICES.—The non-Federal share may be provided in the form of materials and inkind services, including planning, design, construction, and management services, that the Secretary has determined are compatible with and necessary for the project.
 - (3) CREDIT FOR DESIGN WORK.—The non-Federal interest shall receive credit for the reasonable costs of planning, design, construction work completed by the non-Federal interest before entering into a partnership agreement with the Secretary.
- 24 (4) Lands, easements, rights-of-way and 25 relocations.—The non-Federal interest shall re-

- ceive credit for lands, easements, rights-of-way, and relocations provided by the non-Federal interest toward the non-Federal share of project costs.
- 4 (5) OPERATION AND MAINTENANCE.—The non-5 Federal share of operation and maintenance costs 6 for projects constructed under an agreement entered 7 into under this section shall be 100 percent.
- 8 (f) APPLICABILITY OF OTHER FEDERAL AND STATE
 9 LAWS.—Nothing in this section shall be construed as
 10 waiving, limiting, or otherwise affecting the applicability
 11 of any provision of Federal or State law that would other12 wise apply to a project to be carried out with assistance
- 14 (g) AUTHORIZATION OF APPROPRIATIONS.—There is 15 authorized to be appropriated to carry out this section 16 \$40,000,000.

provided under this section.

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