

109TH CONGRESS
1ST SESSION

S. 1215

To authorize the acquisition of interests in undeveloped coastal areas in order better to ensure their protection from development.

IN THE SENATE OF THE UNITED STATES

JUNE 9, 2005

Mr. GREGG (for himself, Ms. MIKULSKI, Mr. SARBANES, Mr. BIDEN, Mr. CORZINE, Ms. SNOWE, Mr. REED, Ms. CANTWELL, Mrs. MURRAY, Mr. COCHRAN, Mr. KERRY, Mr. INOUE, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To authorize the acquisition of interests in undeveloped coastal areas in order better to ensure their protection from 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 Congress finds the following:

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

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

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

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

24 (5) Protection of undeveloped coastal lands
25 through the acquisition of interests in property from

1 a willing seller are a cost-effective means of pro-
2 viding these areas with permanent protection from
3 development.

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

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

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

19 **SEC. 3. ESTABLISHMENT OF COASTAL AND ESTUARINE**
20 **LAND PROTECTION PROGRAM.**

21 (a) IN GENERAL.—The Secretary of Commerce shall
22 establish a Coastal and Estuarine Land Protection Pro-
23 gram, in cooperation with appropriate State, regional, and
24 other units of government for the purposes of protecting
25 the environmental integrity of important coastal and estu-

1 arine areas, including wetlands and forests, that have sig-
 2 nificant conservation, recreation, ecological, historical, or
 3 aesthetic values, and that are threatened by conversion
 4 from their natural, undeveloped, or recreational state to
 5 other uses. The program shall be administered by the Na-
 6 tional Ocean Service of the National Oceanic and Atmos-
 7 pheric Administration through the Office of Ocean and
 8 Coastal Resource Management.

9 (b) PROPERTY ACQUISITION GRANTS.—The Sec-
 10 retary shall make grants under the program to coastal
 11 States, except coastal States that have lost less than 1
 12 percent of their wetlands to development or conversion to
 13 other land uses by the date of enactment of this Act, with
 14 approved coastal zone management plans or National Es-
 15 tuarine Research Reserve units for the purpose of acquir-
 16 ing property or interests in property described in sub-
 17 section (a) that will further the goals of—

18 (1) a Coastal Zone Management Plan or Pro-
 19 gram approved under the Coastal Zone Management
 20 Act of 1972 (16 U.S.C. 1451 et seq.); or

21 (2) a National Estuarine Research Reserve
 22 management plan; or

23 (3) a regional or State watershed protection
 24 plan involving coastal States with approved coastal
 25 zone management plans.

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

6 (1) The Secretary shall consult with the State's
7 coastal zone management program, any National Es-
8 tuarine Research Reserve in that State, and the lead
9 agency designated by the Governor for coordinating
10 the establishment and implementation of this Act (if
11 different from the coastal zone management pro-
12 gram).

13 (2) Each participating State shall identify pri-
14 ority conservation needs within the State, the values
15 to be protected by inclusion of lands of the program,
16 and the threats to those values that should be avoid-
17 ed.

18 (3) Each participating State shall evaluate how
19 the acquisition of property or easements might im-
20 pact working waterfront needs.

21 (4) The applicant shall identify the values to be
22 protected by inclusion of the lands in the program,
23 management activities that are planned and the
24 manner in which they may affect the values identi-
25 fied, and any other information from the landowner

1 relevant to administration and management of the
2 land.

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

9 (6) Applications must be determined to be con-
10 sistent with the State's or territory's approved coast-
11 al zone plan, program and policies prior to submittal
12 to the Secretary.

13 (7) Priority shall be given to lands described in
14 subsection (a) that can be effectively managed and
15 protected and that have significant ecological or wa-
16 tershed protection value.

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

21 (9) Eligible States or National Estuarine Re-
22 search Reserves may allocate grants to local govern-
23 ments or agencies eligible for assistance under sec-
24 tion 306A(e) of the Coastal Zone Management Act
25 of 1972 (16 U.S.C. 1455a) and may acquire lands

1 in cooperation with nongovernmental entities and
2 Federal agencies.

3 (10) 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 Sec-
20 retary may grant a waiver of the limitation in
21 subparagraph (A) for underserved communities,
22 communities that have an inability to draw on
23 other sources of funding because of the small
24 population or low income of the community, or

1 for other reasons the Secretary deems appro-
2 priate.

3 (3) OTHER FEDERAL FUNDS.—Where financial
4 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 following:

14 (A) Land value may be used as non-Fed-
15 eral match if the lands are identified in project
16 plans and acquired within three years prior to
17 the submission of the project application or
18 after the submission of a project application
19 until the project grant is closed (not to exceed
20 3 years). The appraised value of the land at the
21 time of project closing will be considered the
22 non-Federal cost share.

23 (B) Costs associated with land acquisition,
24 land management planning, remediation, res-
25 toration, and enhancement may be used as non-

1 Federal match if the activities are identified in
2 the plan and expenses are incurred within the
3 period of the grant award. These costs may in-
4 clude either case or in-kind contributions.

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

9 (1) leverages land acquisition funding from
10 other Federal land conservation or acquisition pro-
11 grams such that other Federal contributions, at a
12 minimum, equal the amounts provided by the Sec-
13 retary;

14 (2) involves partnerships from a broad spec-
15 trum of Federal, State, and non-governmental enti-
16 ties;

17 (3) provides for the creation of conservation
18 corridors and preservation of unique coastal habitat;

19 (4) protects largely unfragmented habitat under
20 imminent threat of development or conversion;

21 (5) provides water quality protection for areas
22 set aside for research under the National Estuarine
23 Research Reserve program; and

24 (6) provides a model for future regional water-
25 shed protection projects.

1 (f) RESERVATION OF FUNDS FOR NATIONAL ESTUA-
2 RINE RESEARCH RESERVE SITES.—No less than 15 per-
3 cent of funds made available under this section shall be
4 available for acquisitions benefiting National Estuarine
5 Research Reserve acquisitions.

6 (g) LIMIT ON ADMINISTRATIVE COSTS.—No more
7 than 5 percent of the funds made available to the Sec-
8 retary under this section shall be used by the Secretary
9 for planning or administration of the program. The Sec-
10 retary shall provide a report to Congress with an account
11 of all expenditures under this section for fiscal year 2006,
12 fiscal year 2007, and triennially thereafter.

13 (h) TITLE AND MANAGEMENT OF ACQUIRED PROP-
14 ERTY.—

15 (1) IN GENERAL.—If any property is acquired
16 in whole or in part with funds made available
17 through a grant under this section, the grant recipi-
18 ent shall provide such assurances as the Secretary
19 may require that—

20 (A) the title to the property will be held by
21 the grant recipient or other appropriate public
22 agency designated by the recipient in per-
23 petuity;

24 (B) the property will be managed in a
25 manner that is consistent with the purposes for

1 which the land entered into the program and
2 shall not convert such property to other uses;
3 and

4 (C) if the property or interest in land is
5 sold, exchanged, or divested, funds equal to the
6 correct value will be returned to the Secretary,
7 for re-distribution in the grant process.

8 (2) CONSERVATION EASEMENT.—In this sub-
9 section, the term “conservation easement” includes
10 an easement, recorded deed, or interest deed where
11 the grantee acquires all rights, title, and interest in
12 a property, that do not conflict with the goals of this
13 Act except those rights, title, and interests that may
14 run with the land that are expressly reserved by a
15 grantor and are agreed to at the time of purchase.

16 (i) DEFINITIONS.—In this section, the term “coastal
17 State” has the meaning given that term by section 304(4)
18 of the Coastal Zone Management Act of 1972 (16 U.S.C.
19 1453(4)), and any other term used in this section that
20 is defined in section 304 of that Act has the meaning given
21 that term in that section.

22 (j) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to the Secretary—

1 (1) such sums as may be necessary for each of
2 fiscal years 2006 through 2009 to carry out this sec-
3 tion (other than subsection (e)); and

4 (2) \$5,000,000 for fiscal year 2006 to carry out
5 subsection (e), such sum to remain available without
6 fiscal year limitation.

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

8 Section 310(a) of the Coastal Zone Management Act
9 of 1972 (16 U.S.C. 1456c(a)) is amended by striking “any
10 qualified person for the purposes of carrying out this sub-
11 section.” and inserting “any other Federal agencies (in-
12 cluding interagency financing of Coastal America activi-
13 ties) and any other qualified person for the purposes of
14 carrying out this section.”.

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