

Calendar No. 378

109TH CONGRESS }
2d Session }

SENATE

{ REPORT
109-224 }

COASTAL AND ESTUARINE LAND
PROTECTION ACT

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 1215



MARCH 27, 2006.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

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COASTAL AND ESTUARINE LAND PROTECTION ACT

MARCH 27, 2006.—Ordered to be printed

Mr. STEVENS, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 1215]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1215) to authorize the acquisition of interests in undeveloped coastal areas in order better to ensure their protection from development, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of S. 1215, the Coastal and Estuarine Land Protection Act, as amended, is to establish a Coastal and Estuarine Land Protection Program within the National Oceanic and Atmospheric Administration (NOAA), and to authorize appropriations for such a program for fiscal years 2007 through 2010.

BACKGROUND AND NEEDS

Estuaries, wetlands and the watersheds that flow into them support fisheries and wildlife, and substantially contribute to coastal economies. These areas are critical to many life cycles of organisms and help improve surface water quality by filtering out wastes. The pressures of urbanization and pollution in coastal areas threaten to impair watersheds, undermine natural protections from coastal storms, impact wildlife habitat, and cause irreparable damage to coastal ecology.

Studies have shown that the abundance and diversity of aquatic species decline when the amount of impervious surface increases beyond about 10 percent. As our population grows, more and more people are moving to our coasts to enjoy their beauty and rec-

reational opportunities. By 2010, an estimated 60 percent of Americans will live along our coasts, which represent less than 17 percent of our land area. More than 3,000 people move to coastal areas every day; fourteen of the nation's 20 largest cities are coastal; and coastal areas are five times more densely populated than the interior of the country. Coastal tourism and recreation account for 85 percent of all tourism in the United States.

The Coastal Zone Management Act of 1972 (CZMA) was enacted to provide clear policy objectives for States to establish coordinated coastal zone management programs and to help balance coastal development with preservation. This program has proven to be a successful partnership between the Federal government and the States, and 34 of the 35 coastal States have established approved programs to help preserve and utilize their coastal resources. However, CZMA does not provide authority for Federal assistance for land conservation projects. Rapid coastal development can reduce the habitat and ecological values of coastal areas and increase impermeable surfaces from which polluted runoff can enter coastal waters.

Coastal land protection partnership programs increasingly have gained popularity throughout the nation as a means of meeting a number of diverse priorities: promoting recreation, increasing wildlife, improving or conserving ecological quality and diversity, and preserving historical or cultural resources. Partnership programs among the Federal government, State agencies, local governments, private landowners and non-profits can be effective management tools. These programs have been addressed annually through the Congressional appropriations process, but have not been authorized through enabling legislation. The Forest Legacy Program administered by the Secretary of Agriculture demonstrates the effectiveness of leveraging Federal assistance for State and local land acquisition projects, but this program rarely reaches coastal areas.

SUMMARY OF PROVISIONS

S. 1215 would direct the Secretary of Commerce, through NOAA, to create a Coastal and Estuarine Land Protection Program to protect important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, and that are threatened by conversion to other uses.

To carry out this program, the Secretary would be authorized to make competitive grants to coastal States with either approved coastal zone management programs or National Estuarine Research Reserves (NERRs) for the purpose of acquiring property or interests in property. At least 15 percent of the funds would be reserved for acquisitions that benefit NERRs. Awards would be based on the demonstrated need for protection, ability to effectively manage and protect land in perpetuity for conservation purposes, and ability to leverage the matching share of non-Federal funds among participating entities, including regional organizations, private landowners, corporations, or private organizations such as land trusts. Grants could be allocated by the State to local governments or agencies that are eligible for assistance under section 306A of the CZMA (16 U.S.C. 1455a, the Coastal Resource Improvement Program).

The bill would provide for a Federal-State match requirement, setting the maximum Federal cost share at 75 percent. However, the minimum 25 percent non-Federal share could be waived for underserved communities, communities that have an inability to draw on other sources of funding due to small populations or low per capita income, or for other reasons the Secretary were to deem appropriate. The non-Federal cost share could include non-monetary or in-kind contributions, including land value, remediation, planning, restoration, and enhancement.

S. 1215 would provide that the value of a conservation easement may be used as the non-Federal match, rather than requiring outright ownership of the land by State and local agencies. It also would allow non-government organizations to apply the value of a conservation easement to which such organizations hold title toward the non-Federal match.

S. 1215 explicitly would limit property acquired through this program to that coming from willing sellers.

The Secretary would be directed, as a model for future efforts, to conduct a Regional Watershed Demonstration Project that leverages an equal share of land acquisition funding from other Federal contributions, involves a broad spectrum of partners, creates conservation corridors and preserves unique habitat, protects areas under imminent threat, and helps protect water quality in areas designated as a NERR.

S. 1215 would authorize \$60 million for each of fiscal years 2007 through 2010, and \$5 million for the regional watershed demonstration project, to remain available until expended. Up to five percent of the funds made available to the Secretary or eligible coastal State could be used for the purposes of planning or administration.

LEGISLATIVE HISTORY

S. 1215 was introduced in the Senate on June 9, 2005, by Senator Gregg and referred to the Senate Committee on Commerce, Science, and Transportation. On March 16, 2006, the Committee considered the bill in an open Executive Session. Senators Sununu and Boxer offered a substitute amendment making several changes to the bill such as: assuring that lands purchased with Federal grants under this Act would be from willing sellers, allowing non-government entities to apply the value of their land or conservation easements towards the non-Federal cost-sharing of a project, and making several technical corrections. The Committee, without objection, ordered S. 1215 be reported as amended.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

MARCH 20, 2006.

Hon. TED STEVENS,
Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1215, the Coastal and Estuarine Land Protection Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

DONALD B. MARRON,
Acting Director.

Enclosure.

S. 1215—Coastal and Estuarine Land Protection Act

Summary: S. 1215 would direct the National Oceanic and Atmospheric Administration (NOAA) to establish a program to protect land near coastal areas and estuaries. Under the proposed new program, NOAA would make grants to coastal states that wish to purchase eligible lands or other property interests. For this purpose, the bill would authorize the appropriation of \$60 million for each of fiscal years 2007 through 2010. S. 1215 also would authorize the appropriation of an additional \$5 million for 2007 for a demonstration project to address the protection of regional watersheds.

Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 1215 would cost the federal government \$210 million over the 2007–2011 period. We estimate that the remaining \$35 million authorized by the bill would be spent in 2012.

S. 1215 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would benefit states and local governments along the coasts; any costs they incur would result from complying with conditions for receiving federal assistance.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1215 is shown in the following table. For this estimate, CBO assumes that the entire amounts authorized by the bill will be appropriated for each fiscal year. Estimated outlays are based on historical patterns for land acquisition grants made by other federal agencies. The costs of this legislation fall within budget function 300 (natural resources and environment).

| | By fiscal year, in millions of dollars— | | | | |
|-----------------------------------|---|------|------|------|------|
| | 2007 | 2008 | 2009 | 2010 | 2011 |
| SPENDING SUBJECT TO APPROPRIATION | | | | | |
| Authorization Level | 65 | 60 | 60 | 60 | 0 |
| Estimated Outlays | 10 | 30 | 50 | 60 | 60 |

Intergovernmental and private-sector impact: S. 1215 contains no intergovernmental or private-sector mandates as defined in UMRA. Much of the money authorized by the bill would fund grant programs that require matching funds from participating governments. Coastal states would be able to allocate a portion of the grant funds received under the program to qualified local entities,

including local governments, to further their coastal management programs. Any costs to those states, including matching funds, would result from complying with conditions for receiving federal assistance.

Estimate prepared by: Federal Costs: Deborah Reis. Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum. Impact on the Private Sector: Craig Cammarata.

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

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

S. 1215 as reported by the Committee would authorize appropriations to continue and expand existing NOAA programs and make a number of changes to current law. The bill would have little, if any, regulatory impact.

ECONOMIC IMPACT

The bill, as reported, would provide authorization levels of \$60 million each year for FY 2007 through FY 2010 for NOAA to carry out the purposes of the bill. The bill also would provide a one-time authorization of \$5 million for the Regional Watershed Demonstration Project, to be available until expended. These funding levels would not be expected to have an inflationary impact on the nation's economy.

PRIVACY

The reported bill would have little, if any, impact on the personal privacy of U.S. citizens.

PAPERWORK

The reported bill would not increase paperwork requirements for the private sector. Those State, local, and non-governmental partners that apply for Federal grants under the Coastal and Estuarine Land Protection Program or Regional Watershed Demonstration Project likely would increase their written communications, data management, and technical expertise capacity related to coastal and estuarine land management.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section specifies that the title of the bill is the "Coastal and Estuarine Land Protection Act".

Section 2. Findings

This section of the bill recognizes the national importance of coastal and estuarine areas and their functions, the need for permanent protection of these areas in light of intense development

pressures, and the role of land acquisition from willing sellers as a cost-effective means to conserve these important areas.

Section 3. Establishment of program

This section would direct the Secretary of Commerce to create a Coastal and Estuarine Land Protection program to protect important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, and that are threatened by conversion to other uses.

This section would also authorize the Secretary to make competitive grants to coastal States with either approved coastal zone management programs or NERRs for the purpose of acquiring property or interests in property. At least 15 percent of the funds would be reserved for acquisitions that benefit NERRs. Awards would be based on the demonstrated need for protection, ability to effectively manage and protect land in perpetuity, and ability to leverage the matching share of non-Federal funds among participating entities, including regional organizations, private landowners, corporations, or private organizations such as land trusts. All lands purchased through grants awarded under this Act would be required to be from willing sellers. The bill would allow States to allocate grants to local governments or agencies that are eligible for assistance under section 306A of the CZMA (16 U.S.C. 1455a, the Coastal Resource Improvement Program).

The bill would provide for a Federal-State match requirement, setting the maximum Federal cost share at 75 percent. However, the minimum 25 percent non-Federal share would be able to be waived for underserved communities, communities that have an inability to draw on other sources of funding due to small populations or low per capita income, or for other reasons the Secretary were to deem appropriate. The non-Federal cost share would be authorized to include non-monetary or in-kind contributions, including land value, remediation, planning, restoration, and enhancement. The value of land that is held by nongovernmental entities would be permitted to be used for this purpose if it is held in perpetuity by a qualified conservation organization.

This section would authorize the Secretary to conduct as a model for future efforts, a Regional Watershed Demonstration Project that leverages an equal share of land acquisition funding from other Federal contributions, involves a broad spectrum of partners, creates conservation corridors and preserves unique habitat, protects areas under imminent threat, and helps protect water quality in areas designated as a NERR.

This section would authorize funding for the Coastal and Estuarine Land Protection Program at a level of \$60 million for fiscal year 2007-2010; and \$5 million for the Regional Watershed Demonstration Project, to remain available until expended. Up to five percent of the funds made available to the Secretary or eligible coastal State could be used for planning or administration.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill as reported would make no change to existing law.

