

# Union Calendar No. 525

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 1907

[Report No. 110–811]

To authorize the acquisition of land and interests in land from willing sellers to improve the conservation of, and to enhance the ecological values and functions of, coastal and estuarine areas to benefit both the environment and the economies of coastal communities, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 18, 2007

Mr. SAXTON (for himself and Mrs. CAPPS) introduced the following bill; which was referred to the Committee on Natural Resources

JULY 31, 2008

Additional sponsors: Mr. PAYNE, Mr. ALLEN, Mr. FARR, Mr. GILCHREST, Mr. SMITH of New Jersey, Mr. GERLACH, Mr. PALLONE, Mr. GRIJALVA, Mr. DINGELL, Mr. MCINTYRE, Mr. MORAN of Virginia, Mr. GEORGE MILLER of California, Mr. CASTLE, Mr. LOBIONDO, Mr. THOMPSON of California, Ms. MATSUI, Mrs. TAUSCHER, Mr. BLUMENAUER, Mr. STARK, Mr. LANTOS, Mrs. JO ANN DAVIS of Virginia, Mr. KENNEDY, Mr. INSLEE, Ms. DELAURO, and Mr. SHAYS

JULY 31, 2008

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on April 18, 2007]

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## A BILL

To authorize the acquisition of land and interests in land

from willing sellers to improve the conservation of, and to enhance the ecological values and functions of, coastal and estuarine areas to benefit both the environment and the economies of coastal communities, 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 “Coastal and Estuarine*  
 5 *Land Conservation Program Act”.*

6 **SEC. 2. AUTHORIZATION OF COASTAL AND ESTUARINE**  
 7 **LAND CONSERVATION PROGRAM.**

8        *The Coastal Zone Management Act of 1972 (16 U.S.C.*  
 9 *1451 et seq.) is amended by inserting after section 307 the*  
 10 *following new section:*

11 **“AUTHORIZATION OF THE COASTAL AND ESTUARINE LAND**  
 12 **CONSERVATION PROGRAM**

13        **“SEC. 307A. (a) IN GENERAL.—***The Secretary may*  
 14 *conduct a Coastal and Estuarine Land Conservation Pro-*  
 15 *gram, in cooperation with appropriate State, regional, and*  
 16 *other units of government, for the purposes of protecting im-*  
 17 *portant coastal and estuarine areas that have significant*  
 18 *conservation, recreation, ecological, historical, or aesthetic*  
 19 *values, or that are threatened by conversion from their nat-*  
 20 *ural, undeveloped, or recreational state to other uses or*  
 21 *could be managed or restored to effectively conserve, en-*

1 *hance, or restore ecological function. The program shall be*  
2 *administered by the National Ocean Service of the National*  
3 *Oceanic and Atmospheric Administration through the Of-*  
4 *fice of Ocean and Coastal Resource Management.*

5       “(b) *PROPERTY ACQUISITION GRANTS.*—*The Secretary*  
6 *shall make grants under the program to coastal states with*  
7 *approved coastal zone management plans or National Estu-*  
8 *arine Research Reserve units for the purpose of acquiring*  
9 *property or interests in property described in subsection (a)*  
10 *that will further the goals of—*

11               “(1) *a Coastal Zone Management Plan or Pro-*  
12 *gram approved under this title;*

13               “(2) *a National Estuarine Research Reserve*  
14 *management plan;*

15               “(3) *a regional or State watershed protection or*  
16 *management plan involving coastal states with ap-*  
17 *proved coastal zone management programs; or*

18               “(4) *a State coastal land acquisition plan that*  
19 *is consistent with an approved coastal zone manage-*  
20 *ment program.*

21       “(c) *GRANT PROCESS.*—*The Secretary shall allocate*  
22 *funds to coastal states or National Estuarine Research Re-*  
23 *serves under this section through a competitive grant proc-*  
24 *ess in accordance with guidelines that meet the following*  
25 *requirements:*

1           “(1) *The Secretary shall consult with the coastal*  
2           *state’s coastal zone management program, any Na-*  
3           *tional Estuarine Research Reserve in that State, and*  
4           *the lead agency designated by the Governor for coordi-*  
5           *nating the implementation of this section (if different*  
6           *from the coastal zone management program).*

7           “(2) *Each participating coastal state, after con-*  
8           *sultation with local governmental entities and other*  
9           *interested stakeholders, shall identify priority con-*  
10          *servation needs within the State, the values to be pro-*  
11          *ected by inclusion of lands in the program, and the*  
12          *threats to those values that should be avoided.*

13          “(3) *Each participating coastal state shall to the*  
14          *extent practicable ensure that the acquisition of prop-*  
15          *erty or easements shall not impact working water-*  
16          *front needs.*

17          “(4) *The applicant shall identify the values to be*  
18          *protected by inclusion of the lands in the program,*  
19          *management activities that are planned and the man-*  
20          *ner in which they may affect the values identified,*  
21          *and any other information from the landowner rel-*  
22          *evant to administration and management of the land.*

23          “(5) *Awards shall be based on demonstrated need*  
24          *for protection and ability to successfully leverage*  
25          *funds among participating entities, including Federal*

1 *programs, regional organizations, State and other*  
2 *governmental units, landowners, corporations, or pri-*  
3 *vate organizations.*

4 *“(6) The governor, or the lead agency designated*  
5 *by the governor for coordinating the implementation*  
6 *of this section, where appropriate in consultation*  
7 *with the appropriate local government, shall deter-*  
8 *mine that the application is consistent with the*  
9 *State’s or territory’s approved coastal zone plan, pro-*  
10 *gram, and policies prior to submittal to the Sec-*  
11 *retary.*

12 *“(7) Priority shall be given to lands described in*  
13 *subsection (a) that can be effectively managed and*  
14 *protected and that have significant ecological value.*

15 *“(8) In developing guidelines under this section,*  
16 *the Secretary shall consult with coastal states, other*  
17 *Federal agencies, and other interested stakeholders*  
18 *with expertise in land acquisition and conservation*  
19 *procedures.*

20 *“(9) Eligible coastal states or National Estua-*  
21 *rine Research Reserves may allocate grants to local*  
22 *governments or agencies eligible for assistance under*  
23 *section 306A(e).*

24 *“(10) The Secretary shall develop performance*  
25 *measures that the Secretary shall use to evaluate and*

1 *report on the program’s effectiveness in accomplishing*  
2 *its purposes, and shall submit such evaluations to*  
3 *Congress triennially.*

4 “(11) *For projects that rank equally under the*  
5 *guidelines, priority shall be given to projects that le-*  
6 *verage a higher percentage of non-Federal matching*  
7 *funds.*

8 “(d) *LIMITATIONS.—*

9 “(1) *A grant awarded under this section may be*  
10 *used to purchase land or an interest in land, includ-*  
11 *ing an easement, only from a willing seller.*

12 “(2) *All acquisitions of land with a grant under*  
13 *this section shall be made in a voluntary manner and*  
14 *shall not be the result of a forced taking.*

15 “(3) *Any interest in land, including any ease-*  
16 *ment, acquired with a grant under this section shall*  
17 *not be considered to create any liability, or have any*  
18 *effect on liability under any other law, of any private*  
19 *property owner with respect to any person injured on*  
20 *the private property.*

21 “(e) *PRIVATE PROPERTY PROTECTIONS.—Nothing in*  
22 *this title—*

23 “(1) *requires a private property owner to par-*  
24 *ticipate in the program under this section;*

1           “(2) requires any private property owner to  
2 allow public access (including Federal, State, or local  
3 government access) to the private property; or

4           “(3) modifies the application of any provision of  
5 Federal, State, or local law with regard to public ac-  
6 cess to or use of private property, except as provided  
7 by a voluntary agreement entered into by the owner  
8 or custodian of the property.

9           “(f) *RECOGNITION OF AUTHORITY TO CONTROL LAND*  
10 *USE.*—Nothing in this title modifies the authority of Fed-  
11 eral, State, or local governments to regulate land use.

12           “(g) *MATCHING REQUIREMENTS.*—

13           “(1) *IN GENERAL.*—The Secretary may not make  
14 a grant under the program unless the Federal funds  
15 are matched by non-Federal funds in accordance with  
16 this subsection.

17           “(2) *COST SHARE REQUIREMENT.*—

18           “(A) *IN GENERAL.*—Grant funds under the  
19 program shall require a 100 percent match from  
20 other non-Federal sources.

21           “(B) *WAIVER OF REQUIREMENT.*—The Sec-  
22 retary may grant a waiver of subparagraph (A)  
23 for underserved communities, communities that  
24 have an inability to draw on other sources of  
25 funding because of the small population or low

1           *income of the community, or for other reasons*  
2           *the Secretary deems appropriate and consistent*  
3           *with the purposes of the program.*

4           “(3) *OTHER FEDERAL FUNDS.*—Where financial  
5           *assistance awarded under this section represents only*  
6           *a portion of the total cost of a project, funding from*  
7           *other Federal sources may be applied to the cost of the*  
8           *project. Each portion shall be subject to match re-*  
9           *quirements under the applicable provision 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) *The value of land or a conservation*  
15                   *easement may be used by a project applicant as*  
16                   *non-Federal match, if the Secretary determines*  
17                   *that—*

18                           “(i) *the land meets the criteria set*  
19                           *forth in section 2(b) and is acquired in the*  
20                           *period beginning 3 years before the date of*  
21                           *the submission of the grant application and*  
22                           *ending 3 years after the date of the award*  
23                           *of the grant;*

24                           “(ii) *the value of the land or easement*  
25                           *is held by a non-governmental organization*



1           *included in the grant application in per-*  
2           *petuity for conservation purposes of the pro-*  
3           *gram; and*

4           *“(iii) the land or easement is connected*  
5           *either physically or through a conservation*  
6           *planning process to the land or easement*  
7           *that would be acquired.*

8           *“(B) The appraised value of the land or*  
9           *conservation easement at the time of the grant*  
10          *closing will be considered and applied as the*  
11          *non-Federal cost share.*

12          *“(C) Costs associated with land acquisition,*  
13          *land management planning, remediation, res-*  
14          *toration, and enhancement may be used as non-*  
15          *Federal match if the activities are identified in*  
16          *the plan and expenses are incurred within the*  
17          *period of the grant award, or, for lands described*  
18          *in (A), within the same time limits described*  
19          *therein. These costs may include either cash or*  
20          *in-kind contributions.*

21          *“(h) RESERVATION OF FUNDS FOR NATIONAL ESTUA-*  
22          *RINE RESEARCH RESERVE SITES.—No less than 15 percent*  
23          *of funds made available under this section shall be available*  
24          *for acquisitions benefitting National Estuarine Research*  
25          *Reserves.*

1       “(i) *LIMIT ON ADMINISTRATIVE COSTS.*—No more  
2 *than 5 percent of the funds made available to the Secretary*  
3 *under this section shall be used by the Secretary for plan-*  
4 *ning or administration of the program. The Secretary shall*  
5 *provide a report to Congress with an account of all expendi-*  
6 *tures under this section for fiscal year 2009 and triennially*  
7 *thereafter.*

8       “(j) *TITLE AND MANAGEMENT OF ACQUIRED PROP-*  
9 *ERTY.*—*If any property is acquired in whole or in part*  
10 *with funds made available through a grant under this sec-*  
11 *tion, the grant recipient shall provide—*

12               “(1) *such assurances as the Secretary may re-*  
13 *quire that—*

14                       “(A) *the title to the property will be held by*  
15 *the grant recipient or another appropriate public*  
16 *agency designated by the recipient in perpetuity;*

17                       “(B) *the property will be managed in a*  
18 *manner that is consistent with the purposes for*  
19 *which the land entered into the program and*  
20 *shall not convert such property to other uses; and*

21                       “(C) *if the property or interest in land is*  
22 *sold, exchanged, or divested, funds equal to the*  
23 *current value will be returned to the Secretary in*  
24 *accordance with applicable Federal law for re-*  
25 *distribution in the grant process; and*

1           “(2) certification that the property (including  
2           any interest in land) will be acquired from a willing  
3           seller.

4           “(k) *REQUIREMENT FOR PROPERTY USED FOR NON-*  
5 *FEDERAL MATCH.*—If the grant recipient elects to use any  
6 land or interest in land held by a non-governmental organi-  
7 zation as a non-Federal match under subsection (g), the  
8 grant recipient must to the Secretary’s satisfaction dem-  
9 onstrate in the grant application that such land or interest  
10 will satisfy the same requirements as the lands or interests  
11 in lands acquired under the program.

12           “(l) *DEFINITIONS.*—In this section:

13           “(1) *CONSERVATION EASEMENT.*—The term ‘con-  
14           servation easement’ includes an easement or restric-  
15           tion, recorded deed, or a reserve interest deed where  
16           the grantee acquires all rights, title, and interest in  
17           a property, that do not conflict with the goals of this  
18           section except those rights, title, and interests that  
19           may run with the land that are expressly reserved by  
20           a grantor and are agreed to at the time of purchase.

21           “(2) *INTEREST IN PROPERTY.*—The term ‘inter-  
22           est in property’ includes a conservation easement.

23           “(m) *APPLICATION.*—Only States with coastal popu-  
24           lations with at least 85 people per square mile may be eligi-  
25           ble for grants under this program. For purposes of this sub-

1 *section, coastal population shall be calculated using the*  
2 *most recent Census Bureau numbers for the population of*  
3 *coastal counties that are wholly or partially within the*  
4 *State’s legally defined coastal zones.*

5       “(n) *AUTHORIZATION OF APPROPRIATIONS.—There*  
6 *are authorized to be appropriated to the Secretary to carry*  
7 *out this section \$60,000,000 for each of fiscal years 2009*  
8 *through 2013.”.*



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110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 1907**

[Report No. 110-811]

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## **A BILL**

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