

110TH CONGRESS  
2D SESSION

# S. 2994

To amend the Federal Water Pollution Control Act to provide for the remediation of sediment contamination in areas of concern.

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IN THE SENATE OF THE UNITED STATES

MAY 8, 2008

Mr. LEVIN (for himself, Mr. VOINOVICH, Ms. STABENOW, Mr. OBAMA, Mr. BROWN, Mrs. CLINTON, Mr. SCHUMER, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Federal Water Pollution Control Act to provide for the remediation of sediment contamination in areas of concern.

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 “Great Lakes Legacy  
5 Act of 2008”.

6 **SEC. 2. REMEDIATION OF SEDIMENT CONTAMINATION IN**  
7 **AREAS OF CONCERN.**

8 Section 118(e)(12) of the Federal Water Pollution  
9 Control Act (33 U.S.C. 1268(e)(12)) is amended—

1 (1) in subparagraph (B)—

2 (A) by redesignating clauses (i), (ii), and  
3 (iii) as clauses (v), (i), and (ii), respectively,  
4 and moving the clauses so as to appear in nu-  
5 merical order;

6 (B) in clause (i) (as redesignated by sub-  
7 paragraph (A)), by striking “or” at the end;  
8 and

9 (C) by inserting after clause (ii) (as redesi-  
10 gnated by subparagraph (A)) the following:

11 “(iii) is a demonstration or pilot  
12 project that uses innovative approaches,  
13 technologies, or techniques for the remedi-  
14 ation of sediment contamination;

15 “(iv) restores aquatic habitat after re-  
16 mediation; or”;

17 (2) by striking subparagraph (C) and inserting  
18 the following:

19 “(C) PRIORITY.—

20 “(i) IN GENERAL.—In selecting  
21 projects to carry out under this paragraph,  
22 the Administrator shall give priority to a  
23 project that—

24 “(I) constitutes remedial action  
25 for contaminated sediment;

1 “(II)(aa) has been identified in a  
2 remedial action plan submitted under  
3 paragraph (3); and

4 “(bb) is ready to be implemented;

5 “(III) will use an innovative ap-  
6 proach, technology, or technique that  
7 may provide greater environmental  
8 benefits, or equivalent environmental  
9 benefits at a reduced cost; or

10 “(IV) includes remediation to be  
11 commenced not later than 1 year after  
12 the date of receipt of funds for the  
13 project.

14 “(ii) ENVIRONMENTAL SIGNIFI-  
15 CANCE.—Notwithstanding any regulation  
16 promulgated or guidance issued to imple-  
17 ment this section, the Administrator may  
18 provide additional consideration to a  
19 project that is—

20 “(I) funded by a potentially re-  
21 sponsible party; and

22 “(II) determined to be of greater  
23 environmental significance than a  
24 competing proposal.”;

25 (3) in subparagraph (E)—

1 (A) in clause (iii)—

2 (i) in subclause (I)—

3 (I) by inserting “(including any  
4 in-kind services or funds provided in  
5 implementing the administrative order  
6 on consent or judicial consent de-  
7 cree)” after “judicial consent decree”;  
8 and

9 (II) by striking “but” at the end;

10 (ii) by redesignating subclause (II) as  
11 subclause (III); and

12 (iii) by inserting after subclause (I)  
13 the following:

14 “(II) may include funds paid, or  
15 the value of any in-kind service per-  
16 formed, by a potentially responsible  
17 party, subject to the condition that  
18 the eligibility of the potentially re-  
19 sponsible party to contribute to the  
20 non-Federal share is evaluated on the  
21 merits on a site-specific basis, in the  
22 context of added value, such as at  
23 sites at which an orphan share exists  
24 or the remedy will be enhanced (such  
25 as where the qualitative or quan-

1           titative scope of the remediation is im-  
2           proved, innovative methods are em-  
3           ployed, or the remediation will be ac-  
4           celerated); but”; and

5           (B) by adding at the end the following:

6           “(v) PAYMENT AND RETENTION OF  
7           NON-FEDERAL SHARE.—The non-Federal  
8           sponsor for a project under this paragraph  
9           may pay to the Administrator, for reten-  
10          tion and use by the Administrator in car-  
11          rying out the project, the non-Federal  
12          share of the cost of the project.”;

13          (4) by striking subparagraph (F);

14          (5) by redesignating subparagraph (G) as sub-  
15          paragraph (F);

16          (6) by redesignating subparagraph (H) as sub-  
17          paragraph (I);

18          (7) by inserting after subparagraph (F) (as re-  
19          designated by paragraph (5)) the following:

20                 “(G) ADVANCE PAYMENT AND REIMBURSE-  
21                 MENT COSTS.—The Administrator, acting  
22                 through the Program Office, may enter into an  
23                 agreement with a non-Federal sponsor to carry  
24                 out a project under this paragraph under which  
25                 the non-Federal sponsor may, as appropriate—

1 “(i) pay in advance the non-Federal  
2 share of the cost of the project; and

3 “(ii) receive from the Administrator  
4 reimbursement for amounts (other than  
5 the non-Federal share) expended by the  
6 non-Federal sponsor for the project.

7 “(H) DEFINITION OF POTENTIALLY RE-  
8 SPONSIBLE PARTY.—In this paragraph, the  
9 term ‘potentially responsible party’ means an  
10 individual or entity that may be liable under  
11 any Federal or State environmental remediation  
12 law (including regulations) with respect to a  
13 project carried out under this paragraph.”; and

14 (8) in subparagraph (I) (as redesignated by  
15 paragraph (6)), by striking “\$50,000,000 for each  
16 of fiscal years 2004 through 2008” and inserting  
17 “\$150,000,000 for each of fiscal years 2009 through  
18 2013”.

19 **SEC. 3. PUBLIC INFORMATION PROGRAM.**

20 Section 118(e)(13) of the Federal Water Pollution  
21 Control Act (33 U.S.C. 1268(e)(13)) is amended—

22 (1) in the paragraph heading, by inserting  
23 “AND PARTICIPATION” after “INFORMATION”;

24 (2) by striking subparagraph (A) and inserting  
25 the following:

1           “(A) IN GENERAL.—The Administrator,  
2           acting through the Program Office and in co-  
3           ordination with States, Indian tribes, local gov-  
4           ernments, and other entities, shall carry out a  
5           public information and participation program,  
6           including by providing grants to States, Indian  
7           tribes, corporations, nongovernmental organiza-  
8           tions, and other appropriate entities, for the  
9           provision to the public of information and out-  
10          reach activities relating to the remediation of  
11          contaminated sediment in areas of concern that  
12          are located wholly or partially in the United  
13          States.”; and

14          (3) in subparagraph (B), by striking “2004  
15          through 2008” and inserting “2009 through 2013”.

16 **SEC. 4. RESEARCH AND DEVELOPMENT PROGRAM.**

17          Section 106(b)(1) of the Great Lakes Legacy Act of  
18          2002 (33 U.S.C. 1271a(b)(1)) is amended by striking  
19          “2004 through 2008” and inserting “2009 through  
20          2013”.

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