

111TH CONGRESS  
2D SESSION

# S. 3073

To amend the Federal Water Pollution Control Act to protect and restore  
the Great Lakes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 4, 2010

Mr. LEVIN (for himself, Mr. VOINOVICH, Ms. KLOBUCHAR, Mr. BROWN of Ohio, Mr. FRANKEN, Ms. STABENOW, and Mr. DURBIN) 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 protect  
and restore the Great Lakes.

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 Eco-  
5 system Protection Act of 2010”.

### 6 **SEC. 2. GREAT LAKES PROVISION MODIFICATIONS.**

7 (a) FINDINGS; PURPOSE.—Section 118(a) of the  
8 Federal Water Pollution Control Act (33 U.S.C. 1268(a))  
9 is amended—

1 (1) in paragraph (1)—

2 (A) by striking subparagraph (B) and in-  
3 serting the following:

4 “(B) the United States should seek to at-  
5 tain the goals embodied in the Great Lakes  
6 Restoration Initiative Action Plan, the Great  
7 Lakes Regional Collaboration Strategy, and the  
8 Great Lakes Water Quality Agreement; and”;  
9 and

10 (B) in subparagraph (C), by inserting “,  
11 tribal,” after “State”; and

12 (2) by striking paragraph (2) and inserting the  
13 following:

14 “(2) PURPOSE.—The purpose of this section is  
15 to achieve the goals established in the Great Lakes  
16 Restoration Initiative Action Plan, the Great Lakes  
17 Regional Collaboration Strategy, and the Great  
18 Lakes Water Quality Agreement through—

19 “(A) improved organization and definition  
20 of mission on the part of the Agency;

21 “(B) the funding of grants for protection,  
22 restoration, and pollution control in the Great  
23 Lakes area; and

24 “(C) improved accountability.”.

1 (b) GREAT LAKES MANAGEMENT.—Section 118(c) of  
 2 the Federal Water Pollution Control Act (33 U.S.C.  
 3 1268(c)) is amended—

4 (1) in paragraph (1)—

5 (A) in subparagraph (A), by striking “;”  
 6 and inserting a semicolon;

7 (B) by striking subparagraph (E);

8 (C) by redesignating subparagraphs (C)  
 9 and (D) as subparagraphs (E) and (F), respec-  
 10 tively;

11 (D) in subparagraph (E) (as so redesign-  
 12 ated), by adding “and” at the end;

13 (E) in subparagraph (F) (as so redesign-  
 14 ated), by striking “; and” and inserting a pe-  
 15 riod; and

16 (F) by inserting after subparagraph (B)  
 17 the following:

18 “(C) provide the support described in para-  
 19 graph (6);

20 “(D) coordinate with the Great Lakes  
 21 Interagency Task Force, as required under  
 22 paragraph (7);”;

23 (2) in paragraph (3)(C), by striking “subpara-  
 24 graph (c)(1)(C) of this section” and inserting “para-  
 25 graph (1)(E)”;

1           (3) by striking paragraph (6) and inserting the  
2           following:

3           “(6) GREAT LAKES GOVERNANCE AND MANAGE-  
4           MENT.—

5           “(A) GREAT LAKES LEADERSHIP COUN-  
6           CIL.—

7           “(i) ESTABLISHMENT.—There is es-  
8           tablished a council, to be known as the  
9           Great Lakes Leadership Council (referred  
10          to in this paragraph as the ‘Council’).

11          “(ii) DUTIES.—The Council shall—

12                 “(I) develop and establish Great  
13                 Lakes protection and restoration pol-  
14                 icy;

15                 “(II) approve long-term goals  
16                 and objectives relating to Great Lakes  
17                 protection and restoration, including  
18                 the Great Lakes Restoration Initia-  
19                 tive;

20                 “(III) establish annual priorities  
21                 with respect to Great Lakes protec-  
22                 tion and restoration, including prior-  
23                 ities for the Great Lakes Restoration  
24                 Initiative;

1 “(IV) submit to Congress, the  
2 President, and the public reports de-  
3 scribing progress made during the re-  
4 porting period with respect to Great  
5 Lakes protection and restoration;

6 “(V) seek consensus among units  
7 of government and stakeholders re-  
8 garding disputes relating to Great  
9 Lakes protection and restoration;

10 “(VI) determine a process for  
11 participation in relevant international  
12 forums, such as the Great Lakes  
13 Water Quality Agreement; and

14 “(VII) provide input annually re-  
15 garding Federal budget priorities and  
16 levels for Great Lakes protection and  
17 restoration, including the Great Lakes  
18 Restoration Initiative.

19 “(iii) MEMBERSHIP.—

20 “(I) IN GENERAL.—The member-  
21 ship of the Council shall include—

22 “(aa) 8 heads of Federal de-  
23 partments and agencies, to be  
24 appointed by the President, in-  
25 cluding—

1                   “(AA) the Adminis-  
2                   trator;

3                   “(BB) the Chief of En-  
4                   gineers;

5                   “(CC) the Secretary of  
6                   the Interior;

7                   “(DD) the Secretary of  
8                   Agriculture;

9                   “(EE) the Secretary of  
10                  Commerce; and

11                  “(FF) the head of the  
12                  department in which the  
13                  Coast Guard is operating;

14                  “(bb) the governors of the  
15                  Great Lake States;

16                  “(cc) 8 representatives of  
17                  tribal governments, to be ap-  
18                  pointed by the Indian tribes lo-  
19                  cated in the Great Lakes basin;  
20                  and

21                  “(dd) 8 mayors, including  
22                  mayors participating in the Great  
23                  Lakes and St. Lawrence Cities  
24                  Initiative, to be appointed by the

1                   mayors of areas located in the  
2                   Great Lakes basin.

3                   “(II) CHAIRPERSON.—The Ad-  
4                   ministrator shall serve as chairperson  
5                   of the Council.

6                   “(III) SECRETARY.—The Direc-  
7                   tor of the Program Office shall serve  
8                   as secretary of, and provide adminis-  
9                   trative support to, the Council.

10                  “(IV) OBSERVER MEMBERS.—  
11                  The membership of the Council shall  
12                  include 1 observer member from each  
13                  of—

14                         “(aa) the International Joint  
15                         Commission;

16                         “(bb) the Great Lakes Fish-  
17                         ery Commission;

18                         “(cc) the Great Lakes Com-  
19                         mission; and

20                         “(dd) Canada.

21                  “(iv) COMMITTEES.—The Council  
22                  may establish such committees as the  
23                  Council determines to be appropriate for  
24                  issues including—

25                         “(I) executive issues;

1 “(II) science issues;

2 “(III) implementation issues; and

3 “(IV) funding issues.

4 “(v) MEETINGS.—

5 “(I) IN GENERAL.—The Council  
6 shall meet not less frequently than  
7 once each year.

8 “(II) OPEN TO PUBLIC.—The  
9 meetings of the Council shall be held  
10 open to the public.

11 “(vi) OPERATION.—The Council shall  
12 operate on a consensus basis.

13 “(vii) COSTS.—The Agency shall pay  
14 the operating costs of the Council.

15 “(B) GREAT LAKES MANAGEMENT COM-  
16 MITTEE.—

17 “(i) ESTABLISHMENT.—There is es-  
18 tablished within the Council a committee,  
19 to be known as the ‘Great Lakes Manage-  
20 ment Committee’.

21 “(ii) DUTIES.—The Great Lakes  
22 Management Committee shall—

23 “(I) submit reports to the Coun-  
24 cil, including recommendations re-  
25 garding relevant issues;

1 “(II) provide direction for the  
2 planning, assessment, and reporting  
3 efforts of the Council;

4 “(III) monitor and assist in im-  
5 plementation activities relating to  
6 Great Lakes management; and

7 “(IV) engage in ongoing problem  
8 solving regarding Great Lakes man-  
9 agement.

10 “(iii) MEMBERSHIP.—

11 “(I) MEMBERSHIP.—The Great  
12 Lakes Management Committee shall  
13 consist of 11 members, of whom—

14 “(aa) 1 shall be appointed  
15 by each unit of government in-  
16 cluded in the membership of the  
17 Council;

18 “(bb) 1 shall be appointed  
19 by the Great Lakes Commission;

20 “(cc) 1 shall be appointed by  
21 the International Joint Commis-  
22 sion;

23 “(dd) 1 shall be appointed  
24 by the Great Lakes Fishery Com-  
25 mission;

1 “(ee) 1 shall be a represent-  
2 ative of the environmental com-  
3 munity in the Great Lakes, to be  
4 appointed by the Administrator,  
5 after soliciting advice from that  
6 community;

7 “(ff) 1 shall be a representa-  
8 tive of the agricultural commu-  
9 nity, to be appointed by the Ad-  
10 ministrator, after soliciting ad-  
11 vice from that community;

12 “(gg) 1 shall be a represent-  
13 ative of Great Lakes industry, to  
14 be appointed by the Adminis-  
15 trator, after soliciting advice  
16 from that industry;

17 “(hh) 1 shall be a represent-  
18 ative of the scientific community,  
19 to be appointed by the Adminis-  
20 trator, after soliciting advice  
21 from that community; and

22 “(ii) 1 shall be a representa-  
23 tive of Canada, who shall serve  
24 as an observer member.

1           “(II) CHAIRPERSON.—The senior  
2           advisor on Great Lakes of the Agency  
3           (or a designee) shall serve as chair-  
4           person of the Great Lakes Manage-  
5           ment Committee.

6           “(III) SECRETARY.—The Direc-  
7           tor of the Program Office shall serve  
8           as secretary of, and provide adminis-  
9           trative support to, the Great Lakes  
10          Management Committee.

11          “(iv) MEETINGS.—

12           “(I) IN GENERAL.—The Great  
13           Lakes Management Committee shall  
14           meet not less frequently than once  
15           each quarter.

16           “(II) OPEN TO PUBLIC.—

17           “(aa) IN GENERAL.—Sub-  
18           ject to item (bb), the meetings of  
19           the Great Lakes Management  
20           Committee shall be held open to  
21           the public.

22           “(bb) EXECUTIVE SES-  
23           SIONS.—The Great Lakes Man-  
24           agement Committee may hold ex-

1                   ecutive sessions that are closed to  
2                   the public.

3                   “(v) OPERATION.—The Great Lakes  
4                   Management Committee shall operate on a  
5                   consensus basis.

6                   “(vi) COSTS.—The Agency shall pay  
7                   the operating costs of the Great Lakes  
8                   Management Committee.”;

9                   (4) by striking paragraph (7) and inserting the  
10                  following:

11                  “(7) GREAT LAKES INTERAGENCY TASK  
12                  FORCE.—

13                   “(A) ESTABLISHMENT.—There is estab-  
14                   lished a task force, to be known as the ‘Great  
15                   Lakes Interagency Task Force’.

16                   “(B) COORDINATION.—The Program Of-  
17                   fice shall coordinate, to the maximum extent  
18                   practicable, with the Great Lakes Interagency  
19                   Task Force established by subparagraph (A).”;  
20                   (5) in paragraph (8)—

21                   (A) by redesignating subparagraphs (A)  
22                   through (C) as clauses (i) through (iii), respec-  
23                   tively, and indenting the clauses appropriately;

24                   (B) by striking “The Administrator” and  
25                   inserting the following:

1 “(A) IN GENERAL.—The Administrator”;

2 and

3 (C) by adding at the end the following:

4 “(B) ANNUAL REPORTS.—Not later than  
5 30 days after the date of publication of the  
6 budget for a fiscal year, the Administrator shall  
7 submit to Congress a report that describes—

8 “(i) with respect to each organiza-  
9 tional element of the Agency referred to in  
10 subparagraph (A)—

11 “(I) the budget of the element  
12 for Great Lakes restoration activities  
13 for the applicable fiscal year;

14 “(II) each Great Lakes restora-  
15 tion activity to be carried out by the  
16 element during the applicable fiscal  
17 year; and

18 “(III) the means by which  
19 progress made on those activities will  
20 be evaluated; and

21 “(ii) with respect to each rec-  
22 ommendation submitted by the Great  
23 Lakes Leadership Council during the pre-  
24 ceding fiscal year, the reasons why the Ad-

1           ministrator approved or disapproved the  
2           recommendation.”;

3           (6) in paragraph (12)(H), by striking clause (i)  
4           and inserting the following:

5                   “(i) AUTHORIZATION.—In addition to  
6                   other amounts authorized to be appro-  
7                   priated pursuant to this section, there are  
8                   authorized to be appropriated to carry out  
9                   this paragraph—

10                           “(I) \$50,000,000 for each of fis-  
11                           cal years 2004 through 2010; and

12                           “(II) \$150,000,000 for each of  
13                           fiscal years 2011 through 2015.”; and

14           (7) by adding at the end the following:

15                   “(14) GREAT LAKES RESTORATION INITIA-  
16           TIVE.—

17                           “(A) FINDINGS.—Congress finds that—

18                                   “(i) the goal of the Great Lakes pro-  
19                                   gram of the Agency is to restore and main-  
20                                   tain the chemical, physical, and biological  
21                                   integrity of the Great Lakes basin eco-  
22                                   system; and

23                                   “(ii) in 2010, the Agency, in coordina-  
24                                   tion with Federal partners, will commence  
25                                   implementation of a new Great Lakes Res-

1           toration Initiative (referred to in this para-  
2           graph as the ‘Initiative’), which will—

3                   “(I) identify programs and  
4                   projects that are strategically selected  
5                   to target the most significant environ-  
6                   mental problems in the Great Lakes  
7                   ecosystem;

8                   “(II) be based on the work of—

9                           “(aa) the Great Lakes Inter-  
10                          agency Task Force established by  
11                          paragraph (7)(A); and

12                           “(bb) the stakeholders and  
13                          nongovernmental partners of the  
14                          Great Lakes Leadership Council;  
15                          and

16                   “(III) represent the commitment  
17                   of the Federal Government to signifi-  
18                   cantly advancing Great Lakes protec-  
19                   tion and restoration.

20                   “(B) PRIORITY.—The Initiative shall give  
21                   priority to work done by non-Federal partners  
22                   using funding made available for the Great  
23                   Lakes for—

24                           “(i) the remediation of toxic sub-  
25                          stances in Areas of Concern;

1 “(ii)(I) the prevention of invasive spe-  
 2 cies; and

3 “(II) the mitigation and restoration of  
 4 the impacts of invasive species;

5 “(iii)(I) the protection and restoration  
 6 of nearshore health; and

7 “(II) the prevention of nonpoint  
 8 source pollution;

9 “(iv) habitat and wildlife protection  
 10 and restoration; and

11 “(v) accountability, monitoring, eval-  
 12 uation, communication, and partnership  
 13 activities.

14 “(C) PROJECTS.—Pursuant to the Initia-  
 15 tive, the Agency shall consult with Federal  
 16 partners and take into consideration the rec-  
 17 ommendations of the Council to select the best  
 18 combination of programs and projects for Great  
 19 Lakes protection and restoration using prin-  
 20 ciples and criteria such as—

21 “(i) the ability to achieve strategic  
 22 and measurable environmental outcomes;

23 “(ii) the feasibility of—

24 “(I) prompt implementation;

1 “(II) timely achievement of re-  
2 sults; and

3 “(III) the ability to leverage re-  
4 sources; and

5 “(iii) opportunities for interagency  
6 and interorganizational coordination and  
7 collaboration.

8 “(D) IMPLEMENTATION OF PROJECTS.—

9 “(i) IN GENERAL.—Funds made avail-  
10 able to carry out the Initiative shall be  
11 used to strategically implement—

12 “(I) Federal projects; and

13 “(II) projects carried out in co-  
14 ordination with States, Indian tribes,  
15 municipalities, institutions of higher  
16 education, and other organizations.

17 “(ii) TRANSFER OF FUNDS.—Of  
18 amounts made available for environmental  
19 programs and management for the Great  
20 Lakes Initiative, the Administrator may—

21 “(I) transfer not more than  
22 \$475,000,000 to the head of any Fed-  
23 eral department or agency, with the  
24 concurrence of the department or  
25 agency head, to carry out activities to

1 support the Great Lakes Restoration  
2 Initiative and the Great Lakes Water  
3 Quality Agreement of 1978;

4 “(II) enter into an interagency  
5 agreement with the head of any Fed-  
6 eral department or agency to carry  
7 out activities described in subclause  
8 (I); and

9 “(III) make grants to govern-  
10 mental entities, nonprofit organiza-  
11 tions, institutions, and individuals for  
12 planning, research, monitoring, out-  
13 reach, and implementation relating to  
14 the activities described in subclause  
15 (I).

16 “(E) SCOPE.—

17 “(i) IN GENERAL.—Projects shall be  
18 carried out pursuant to the Initiative on  
19 multiple levels, including—

20 “(I) local;

21 “(II) Great Lake-wide; and

22 “(III) Great Lakes basin-wide.

23 “(ii) LIMITATION.—No funds made  
24 available to carry out the Initiative may be  
25 used for any water infrastructure activity

1 that is carried out using funds made avail-  
 2 able under the clean water or drinking  
 3 water State revolving fund program.

4 “(F) ACTIVITIES BY OTHER FEDERAL  
 5 AGENCIES.—Each relevant Federal department  
 6 and agency shall, to the maximum extent prac-  
 7 ticable—

8 “(i) maintain the base level of funding  
 9 for the Great Lakes activities of the agen-  
 10 cy; and

11 “(ii) identify new activities and  
 12 projects to support the environmental goals  
 13 of the Initiative.

14 “(G) FUNDING.—

15 “(i) AUTHORIZATION OF APPROPRIA-  
 16 TIONS.—There is authorized to be appro-  
 17 priated to carry out the Initiative  
 18 \$475,000,000 for each of fiscal years 2011  
 19 through 2016.

20 “(ii) PARTNERSHIPS.—Of the  
 21 amounts made available to carry out the  
 22 Initiative, the Administrator shall transfer  
 23 expeditiously to the Federal partners of the  
 24 Initiative such sums as are necessary for  
 25 subsequent use and distribution by the

1 Federal partners in accordance with this  
 2 section.”.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—Section  
 4 118 of the Federal Water Pollution Control Act (33  
 5 U.S.C. 1268) is amended by striking subsection (h) and  
 6 inserting the following:

7 “(h) AUTHORIZATION OF APPROPRIATIONS FOR PRO-  
 8 GRAM OFFICE.—There is authorized to be appropriated  
 9 to the Administrator to carry out this section \$25,000,000  
 10 for each of fiscal years 2011 through 2016.”.

11 (d) EFFECT OF SECTION.—Nothing in this section  
 12 or an amendment made by this section affects—

13 (1) the jurisdiction, powers, or prerogatives  
 14 of—

15 (A) any department, agency, or officer  
 16 of—

17 (i) the Federal Government; or

18 (ii) any State or tribal government; or

19 (B) any international body established by  
 20 treaty with authority relating to the Great  
 21 Lakes (as defined in section 118(a)(3) of the  
 22 Federal Water Pollution Control Act (33 U.S.C.  
 23 1268(a)(3))); or

- 1           (2) any other Federal or State authority that is
- 2       being used or may be used to facilitate the cleanup
- 3       and protection of the Great Lakes (as so defined).

