

112TH CONGRESS
2D SESSION

S. 3588

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

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 20, 2012

Mr. LEVIN (for himself, Mr. KIRK, Ms. STABENOW, Mr. DURBIN, Mr. CASEY,
Mr. SCHUMER, Mr. BROWN of Ohio, and Mrs. GILLIBRAND) introduced
the following bill; which was read twice and referred to the Committee
on Environment and Public Works

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 2012”.

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 of 1978
9 (including subsequent amendments); and”;

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

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, contracts, and
22 interagency agreements for protection, restora-
23 tion, and pollution control in the Great Lakes
24 area; and

25 “(C) improved accountability.”; and

1 (3) in paragraph (3), by striking subparagraph
2 (H) and inserting the following:

3 “(H) ‘Great Lakes Water Quality Agree-
4 ment’ means the Agreement on Great Lakes
5 Water Quality, 1978, signed at Ottawa on No-
6 vember 22, 1978 (30 UST 1383; TIAS 9257),
7 between the United States and Canada.”.

8 (b) GREAT LAKES MANAGEMENT.—Section 118(c) of
9 the Federal Water Pollution Control Act (33 U.S.C.
10 1268(c)) is amended—

11 (1) in paragraph (1)—

12 (A) in subparagraph (A), by striking “;”
13 and inserting a semicolon;

14 (B) by striking subparagraph (E);

15 (C) by redesignating subparagraphs (C)
16 and (D) as subparagraphs (D) and (E), respec-
17 tively;

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

20 (E) in subparagraph (E) (as so redesign-
21 ated), by striking “; and” and inserting a pe-
22 riod; and

23 (F) by inserting after subparagraph (B)
24 the following:

1 “(C) coordinate with the Great Lakes
2 Interagency Task Force, as required under
3 paragraph (8);”;

4 (2) in paragraph (3)(C), by striking “subpara-
5 graph (c)(1)(C) of this section” and inserting “para-
6 graph (1)(D)”;

7 (3) by striking paragraph (6) and inserting the
8 following:

9 “(6) GREAT LAKES GOVERNANCE AND MANAGE-
10 MENT.—

11 “(A) GREAT LAKES ADVISORY BOARD.—

12 “(i) ESTABLISHMENT.—The Adminis-
13 trator shall establish an advisory board, to
14 be known as the ‘Great Lakes Advisory
15 Board’, to provide advice and recommenda-
16 tions to the Administrator on matters per-
17 taining to Great Lakes restoration and
18 protection.

19 “(ii) DUTIES.—The Great Lakes Ad-
20 visory Board shall develop and submit re-
21 ports and information to the Administrator
22 and the Great Lakes Interagency Task
23 Force that include recommendations on
24 planning, assessment, reporting, and ac-

1 countability matters relating to the Great
2 Lakes.

3 “(iii) MEMBERSHIP.—The Great
4 Lakes Advisory Board shall consist of not
5 less than 12 and not more than 20 mem-
6 bers, who shall—

7 “(I) be appointed by the Admin-
8 istrator; and

9 “(II) include representatives of
10 or individuals affiliated with—

11 “(aa) environmental groups;

12 “(bb) hunting, fishing, and
13 conservation organizations;

14 “(cc) businesses;

15 “(dd) agricultural groups;

16 “(ee) foundations;

17 “(ff) environmental justice
18 organizations;

19 “(gg) academia; and

20 “(hh) State, local, and tribal
21 governments.

22 “(iv) MEETINGS.—

23 “(I) IN GENERAL.—The Great
24 Lakes Advisory Board shall meet not

1 less frequently than once every 180
2 days.

3 “(II) OPEN TO PUBLIC.—

4 “(aa) IN GENERAL.—Sub-
5 ject to item (bb), the meetings of
6 the Great Lakes Advisory Board
7 shall be open to the public.

8 “(bb) EXECUTIVE SES-
9 SIONS.—The Great Lakes Advi-
10 sory Board may hold executive
11 sessions that are closed to the
12 public.

13 “(v) OPERATION.—The Great Lakes
14 Advisory Board shall operate on a con-
15 sensus basis.

16 “(vi) COSTS.—The members of the
17 Great Lakes Advisory Board shall be al-
18 lowed travel expenses, including per diem
19 in lieu of subsistence, at rates authorized
20 for employees of agencies under subchapter
21 I of chapter 57 of title 5, United States
22 Code, while away from their homes or reg-
23 ular places of business in the performance
24 of services for the Board.”;

1 (4) by striking paragraph (7) and inserting the
2 following:

3 “(7) GREAT LAKES RESTORATION INITIA-
4 TIVE.—

5 “(A) FINDINGS.—Congress finds that—

6 “(i) the goal of the Great Lakes pro-
7 gram of the Agency is to restore and main-
8 tain the chemical, physical, and biological
9 integrity of the Great Lakes basin eco-
10 system; and

11 “(ii) in 2010, the Agency, in coordina-
12 tion with Federal partners, commenced im-
13 plementation of a new Great Lakes Res-
14 toration Initiative (referred to in this para-
15 graph as the ‘Initiative’), which is de-
16 signed—

17 “(I) to identify programs and
18 projects that are strategically selected
19 to target the most significant environ-
20 mental problems in the Great Lakes
21 ecosystem;

22 “(II) to be based on the work
23 of—

1 “(aa) the Great Lakes Inter-
2 agency Task Force established by
3 paragraph (8)(A); and

4 “(bb) the Great Lakes Advi-
5 sory Board, stakeholders, and
6 nongovernmental partners; and

7 “(III) to represent the commit-
8 ment of the Federal Government to
9 significantly advancing Great Lakes
10 protection and restoration.

11 “(B) FOCUS AREAS.—The Initiative shall
12 prioritize work done by non-Federal partners
13 using funding made available for the Great
14 Lakes for priority areas for each fiscal year,
15 such as—

16 “(i) the remediation of toxic sub-
17 stances and areas of concern;

18 “(ii) the prevention and control of
19 invasive species and the impacts of invasive
20 species;

21 “(iii) the protection and restoration of
22 nearshore health and the prevention and
23 mitigation of nonpoint source pollution;

1 “(iv) habitat and wildlife protection
2 and restoration, including wetlands res-
3 toration and preservation;

4 “(v) accountability, monitoring, eval-
5 uation, communication, and partnership
6 activities; and

7 “(vi) other areas prioritized by the
8 Great Lakes Advisory Board.

9 “(C) PROJECTS.—Pursuant to the Initia-
10 tive, the Agency shall consult with Federal
11 partners, including the Great Lakes Inter-
12 agency Task Force, and take into consideration
13 the recommendations of the Great Lakes Advi-
14 sory Board to select the best combination of
15 programs and projects for Great Lakes protec-
16 tion and restoration using principles and cri-
17 teria such as—

18 “(i) the ability to achieve strategic
19 and measurable environmental outcomes;

20 “(ii) the feasibility of—

21 “(I) prompt implementation;

22 “(II) timely achievement of re-
23 sults; and

24 “(III) the ability to leverage re-
25 sources; and

1 “(iii) opportunities for improved inter-
2 agency and inter-organizational coordina-
3 tion and collaboration to reduce duplication
4 and streamline efforts.

5 “(D) IMPLEMENTATION OF PROJECTS.—

6 “(i) IN GENERAL.—Funds made avail-
7 able to carry out the Initiative shall be
8 used to strategically implement—

9 “(I) Federal projects; and

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

14 “(ii) TRANSFER OF FUNDS.—Of
15 amounts made available for environmental
16 programs and management for the Great
17 Lakes Restoration Initiative, the Adminis-
18 trator may—

19 “(I) transfer not more than
20 \$475,000,000 to the head of any Fed-
21 eral department or agency, with the
22 concurrence of the department or
23 agency head, to carry out activities to
24 support the Initiative and the Great
25 Lakes Water Quality Agreement;

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

6 “(III) make grants to govern-
7 mental entities, nonprofit organiza-
8 tions, institutions, and educational in-
9 stitutions for use in carrying out plan-
10 ning, research, monitoring, outreach,
11 training, studies, surveys, investiga-
12 tions, experiments, demonstration
13 projects, and implementation relating
14 to 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 Lakes-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 (other than a green infrastructure project
2 that improves habitat and other ecosystem
3 functions in the Great Lakes) for which
4 amounts are made available from—

5 “(I) a State water pollution con-
6 trol revolving fund established under
7 title VI; or

8 “(II) a State drinking water re-
9 volving loan fund established under
10 section 1452 of the Safe Drinking
11 Water Act (42 U.S.C. 300j–12).

12 “(F) ACTIVITIES BY OTHER FEDERAL
13 AGENCIES.—Each relevant Federal department
14 and agency shall, to the maximum extent prac-
15 ticable—

16 “(i) maintain the base level of funding
17 for the Great Lakes activities of the agen-
18 cy; and

19 “(ii) identify new activities and
20 projects to support the environmental goals
21 of the Initiative.

22 “(G) FUNDING.—

23 “(i) AUTHORIZATION OF APPROPRIA-
24 TIONS.—There is authorized to be appro-
25 priated to carry out the Initiative

1 \$475,000,000 for each of fiscal years 2013
2 through 2017.

3 “(ii) PARTNERSHIPS.—Of the
4 amounts made available to carry out the
5 Initiative, the Administrator shall transfer
6 expeditiously to the Federal partners of the
7 Initiative such sums as are necessary for
8 subsequent use and distribution by the
9 Federal partners in accordance with this
10 section.”;

11 (5) by striking paragraph (8) and inserting the
12 following:

13 “(8) GREAT LAKES INTERAGENCY TASK
14 FORCE.—

15 “(A) ESTABLISHMENT.—There is estab-
16 lished a task force, to be known as the ‘Great
17 Lakes Interagency Task Force’ as described in
18 Executive Order 13340 (33 U.S.C. 1268 note),
19 relating to the establishment of Great Lakes
20 Interagency Task Force and promotion of re-
21 gional collaboration of national significance for
22 Great Lakes.

23 “(B) COORDINATION.—The Program Of-
24 fice shall coordinate, to the maximum extent

1 practicable, with the Great Lakes Interagency
2 Task Force.

3 “(C) DUTIES.—The Great Lakes Inter-
4 agency Task Force, as a body or through mem-
5 ber agencies, shall—

6 “(i) collaborate with Canada, prov-
7 inces of Canada, and binational bodies in-
8 volved in the Great Lakes region regarding
9 policies, strategies, projects, and priorities
10 for the Great Lakes System;

11 “(ii)(I) coordinate the development of
12 Federal policies, strategies, projects, and
13 priorities for addressing the restoration
14 and protection of the Great Lakes System
15 consistent with—

16 “(aa) the Great Lakes Water
17 Quality Agreement;

18 “(bb) the Great Lakes Restora-
19 tion Initiative Action Plan; and

20 “(cc) the Great Lakes Regional
21 Collaboration Strategy;

22 “(II) take into consideration any rec-
23 ommendations of the Great Lakes Advisory
24 Board; and

1 “(III) assist in the appropriate man-
2 agement of the Great Lakes System;

3 “(iii) develop outcome-based goals for
4 the Great Lakes System (relying on exist-
5 ing data and science-based indicators of
6 water quality, related environmental fac-
7 tors, and other information) that—

8 “(I) focus on outcomes such as
9 cleaner water, sustainable fisheries,
10 and biodiversity of the Great Lakes
11 System;

12 “(II) ensure that Federal poli-
13 cies, strategies, projects, and priorities
14 support measurable results; and

15 “(III) are consistent with the
16 Great Lakes Regional Collaboration
17 Strategy and the Great Lakes Res-
18 toration Initiative Action Plan;

19 “(iv) exchange information regarding
20 policies, strategies, projects, and activities
21 of the agencies represented on the Task
22 Force relating to—

23 “(I) the Great Lakes System;

24 “(II) the Great Lakes Water
25 Quality Agreement;

1 “(III) the Great Lakes Restora-
2 tion Initiative Action Plan; and

3 “(IV) the Great Lakes Regional
4 Collaboration Strategy;

5 “(v) coordinate government action as-
6 sociated with the Great Lakes System;

7 “(vi) ensure coordinated Federal sci-
8 entific and other research associated with
9 the Great Lakes System;

10 “(vii) provide assistance and support
11 to agencies represented on the Task Force
12 in activities relating to the Great Lakes
13 System;

14 “(viii) establish annual priorities with
15 respect to Great Lakes protection and res-
16 toration, including priorities for the Great
17 Lakes Restoration Initiative; and

18 “(ix) not later than 1 year after the
19 date of enactment of the Great Lakes Eco-
20 system Protection Act of 2012 and every 5
21 years thereafter—

22 “(I) review the Great Lakes Re-
23 gional Collaboration Strategy and the
24 Great Lakes Restoration Initiative Ac-
25 tion Plan; and

1 “(II) update and revise the Great
2 Lakes Regional Collaboration Strat-
3 egy and the Great Lakes Restoration
4 Initiative Action Plan to reflect the
5 most comprehensive scientific infor-
6 mation available.”;

7 (6) by striking paragraph (10) and inserting
8 the following:

9 “(10) REPORTS.—

10 “(A) ANNUAL COMPREHENSIVE RESTORA-
11 TION REPORT.—Not later than 90 days after
12 the end of each fiscal year, the Administrator
13 shall submit to Congress and make publicly
14 available a comprehensive report on the overall
15 health of the Great Lakes that includes—

16 “(i) a description of the achievements
17 during the fiscal year in implementing the
18 Great Lakes Water Quality Agreement and
19 any other applicable agreements and
20 amendments that—

21 “(I) demonstrate, by category
22 (including categories for judicial en-
23 forcement, research, State cooperative
24 efforts, and general administration)
25 the amounts expended on Great Lakes

1 water quality initiatives for the fiscal
2 year;

3 “(II) describe the progress made
4 during the fiscal year in implementing
5 the system of surveillance of the water
6 quality in the Great Lakes System, in-
7 cluding the monitoring of groundwater
8 and sediment, with a particular focus
9 on toxic pollutants;

10 “(III) describe the prospects of
11 meeting the goals and objectives of
12 the Great Lakes Water Quality Agree-
13 ment; and

14 “(IV) provide a comprehensive
15 assessment of the planned efforts to
16 be pursued in the succeeding fiscal
17 year for implementing the Great
18 Lakes Water Quality Agreement and
19 any other applicable agreements and
20 amendments that—

21 “(aa) indicate, by category
22 (including categories for judicial
23 enforcement, research, State co-
24 operative efforts, and general ad-
25 ministration) the amount antici-

1 pated to be expended on Great
2 Lakes water quality initiatives
3 for the applicable fiscal year; and

4 “(bb) include a report on
5 programs administered by other
6 Federal agencies that make re-
7 sources available for Great Lakes
8 water quality management ef-
9 forts;

10 “(ii) a detailed list of accomplish-
11 ments of the Great Lakes Restoration Ini-
12 tiative with respect to each organizational
13 element of the Initiative and the means by
14 which progress will be evaluated;

15 “(iii) recommendations for stream-
16 lining the work of existing advisory and co-
17 ordinating committees (such as the Great
18 Lakes Regional Collaboration and the
19 United States Policy Committee), including
20 a recommendation for eliminating any such
21 entity if the work of the entity—

22 “(I) is duplicative; or

23 “(II) complicates the protection
24 and restoration of the Great Lakes;
25 and

1 “(iv) with respect to each priority es-
2 tablished under paragraph (8)(C)(viii) dur-
3 ing the fiscal year, the reasons why the
4 Administrator implemented, or did not im-
5 plement, the priorities and recommenda-
6 tions.

7 “(B) CROSSCUT BUDGET.—Not later than
8 45 days after the date of submission of the
9 budget of the President to Congress, the Direc-
10 tor of the Office of Management and Budget, in
11 coordination with the Governor of each Great
12 Lakes State and the Great Lakes Interagency
13 Task Force, shall submit to Congress and make
14 publicly available a financial report, certified by
15 the head of each agency that has budget au-
16 thority for Great Lakes restoration activities,
17 containing—

18 “(i) an interagency budget crosscut
19 report that—

20 “(I) describes the budget pro-
21 posed, including funding allocations
22 by each agency for the Great Lakes
23 Restoration Initiative;

24 “(II) identifies any adjustments
25 from the budget request;

1 “(III) identifies the funding in
2 any amount for each of the Federal
3 agencies that carry out restoration
4 and protection activities in the subse-
5 quent fiscal year, separately reporting
6 the amount of funding to be provided
7 under each law pertaining to the
8 agency;

9 “(IV) compares specific funding
10 levels allocated for participating Fed-
11 eral agencies from fiscal year to fiscal
12 year; and

13 “(V) identifies all expenditures
14 since fiscal year 2004 by the Federal
15 Government and State governments
16 for Great Lakes restoration activities;

17 “(ii) a detailed accounting of all funds
18 received and obligated by all Federal agen-
19 cies and, to the maximum extent prac-
20 ticable, State agencies using Federal
21 funds, for Great Lakes restoration activi-
22 ties during the current and previous fiscal
23 years;

24 “(iii) a budget for the proposed
25 projects (including a description of the

1 project, authorization level, and project
2 status) to be carried out in the subsequent
3 fiscal year with the Federal share of funds
4 for activities; and

5 “(iv) a listing of all projects to be un-
6 dertaken in the subsequent fiscal year with
7 the Federal share of funds for activities.”;
8 and

9 (7) in paragraph (12)(H), by striking clause (i)
10 and inserting the following:

11 “(i) AUTHORIZATION.—In addition to
12 other amounts authorized to be appro-
13 priated pursuant to this section, there are
14 authorized to be appropriated to carry out
15 this paragraph—

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

18 “(II) \$150,000,000 for each of
19 fiscal years 2013 through 2017.”.

20 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
21 118(h) of the Federal Water Pollution Control Act (33
22 U.S.C. 1268(h)) is amended—

23 (1) by redesignating paragraphs (1) through
24 (3) as subparagraphs (A) through (C), respectively,
25 and indenting the subparagraphs appropriately;

1 (2) by striking “There are authorized” and in-
2 serting the following:

3 “(1) IN GENERAL.—There are authorized”; and

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

5 “(2) PROGRAM OFFICE.—There is authorized to
6 be appropriated to the Program Office to carry out
7 this section \$25,000,000 for each of fiscal years
8 2013 through 2017.”.

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

11 (1) the jurisdiction, powers, or prerogatives
12 of—

13 (A) any department, agency, or officer
14 of—

15 (i) the Federal Government; or

16 (ii) any State or tribal government; or

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

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

○