

WAR MEMORIAL PROTECTION ACT

JULY 8, 2013.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 1497]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1497) to amend title 36, United States Code, to ensure that memorials commemorating the service of the United States Armed Forces may contain religious symbols, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “War Memorial Protection Act”.

SEC. 2. INCLUSION OF EMBLEMS OF BELIEF AS PART OF MILITARY MEMORIALS.

(a) **AUTHORITY.**—Chapter 21 of title 36, United States Code, is amended by adding at the end the following:

“§ 2115. Inclusion of emblems of belief as part of military memorials

“(a) **AUTHORIZED INCLUSION.**—For the purpose of honoring the sacrifices of members of the United States Armed Forces, including those members who make the ultimate sacrifice in defense of the United States, emblems of belief may be included as part of—

“(1) a military memorial that is established or acquired by the United States Government; or

“(2) a military memorial that is not established by the United States Government, but for which the American Battle Monuments Commission cooperated in the establishment of the memorial.

“(b) **SCOPE OF INCLUSION.**—When including emblems of belief as part of a military memorial, any approved emblem of belief may be included on such a memorial. The list of approved emblems of belief shall include, at a minimum, all those emblems of belief authorized by the National Cemetery Administration.

“(c) **DEFINITIONS.**—In this section:

“(1) The terms ‘emblem of belief’ and ‘emblems of belief’ refer to the emblems of belief contained on the list maintained by the National Cemetery Administration for placement on Government-provided headstones and markers.

“(2) The term ‘military memorial’ means a memorial or monument commemorating the service of the United States Armed Forces. The term includes works of architecture and art described in section 2105(b) of this title.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

“2115. Inclusion of emblems of belief as part of military memorials.”.

Amend the title to read:

A bill to amend title 36, United States Code, to ensure that memorials commemorating the service of the United States Armed Forces may contain emblems of belief, and for other purposes.

PURPOSE OF THE BILL

The purpose of H.R. 1497, as ordered reported, is to amend title 36, United States Code, to ensure that memorials commemorating the service of the United States Armed Forces may contain emblems of belief.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 1497 would allow the inclusion of religious symbols as part of military monuments. This legislation was originally introduced after the 9th Circuit Court of Appeals found that the Mount Soledad Cross in La Jolla, California, violated the Constitution because it displayed a religious preference and was not solely a war memorial.

In 1913, a 43-foot cross was placed on Mount Soledad in La Jolla, California. Starting in 1989, the City of San Diego was sued over the cross. The plaintiffs claimed a violation of the First Amendment to the U.S. Constitution and the California Constitution which bars the State or local government from using funds to assist religious sects or churches, or from showing preference to one religion over another.

Several remedies were attempted over the years to avoid having the cross removed by order of the courts. These included transferring the property to a non-profit, for which San Diego was sued for showing a preference; and the federal government taking the land by eminent domain (the Department of Defense took possession of the property in 2006). Subsequently, the federal government was sued and the Ninth Circuit Court of Appeals ruled the cross unconstitutional in January 2011.

While the legislation does not specifically address the Mount Soledad situation, its purpose is to statutorily protect religious symbols in all war memorials.

Section 2 of the legislation states that inclusion of emblems of belief is authorized as part of a military memorial. These symbols may be included as part of a military memorial that is established or acquired by the United States Government; or a military memorial that is not established by the United States Government, but for which the American Battle Monuments Commission cooperated in the establishment of the memorial.

During Full Committee consideration of H.R. 1497, Congressman Rob Bishop (R-UT) offered an amendment to conform the legislation to terminology used by the Department of Defense with re-

spect to religious symbols. The amendment was adopted by unanimous consent.

COMMITTEE ACTION

H.R. 1497 was introduced on April 11, 2013, by Congressman Duncan Hunter (R-CA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Public Lands and Environmental Regulation. On June 6, 2013, the Subcommittee on Public Lands and Environmental Regulation held a hearing on the bill. On June 12, 2013, the Full Natural Resources Committee met to consider the bill. The Subcommittee on Public Lands and Environmental Regulation was discharged by unanimous consent. Congressman Rob Bishop (R-UT) offered an amendment designated #1 to the bill; the amendment was adopted by unanimous consent. The bill, as amended, was then adopted and ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

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H.R. 1497 would allow emblems of belief to be included as part of any military monument established or acquired by the U.S. government or military memorials established in cooperation with the American Battle Monuments Commission (ABMC).

Under current law, emblems of belief are not barred from any military memorials and have been allowed in a number of instances; thus, H.R. 1497 would codify current practice. According to the Department of Defense, the National Park Service, and the ABMC, implementing H.R. 1497 would not require any new memorials to be built or current memorials to be changed. On that basis, CBO estimates that there would be no federal costs associated with implementing H.R. 1497.

Enacting H.R. 1497 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 1497 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Dwayne M. Wright. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. CBO estimates that there would be no federal costs associated with implementing H.R. 1497.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill, as ordered reported, is to amend title 36, United States Code, to ensure that memorials commemorating the service of the United States Armed Forces may contain emblems of belief.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in *italic* and existing law in which no change is proposed is shown in *roman*):

TITLE 36, UNITED STATES CODE

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SUBTITLE I—PATRIOTIC AND NATIONAL OBSERVANCES AND CEREMONIES

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PART B—UNITED STATES GOVERNMENT OR- GANIZATIONS INVOLVED WITH OBSERV- ANCES AND CEREMONIES

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CHAPTER 21—AMERICAN BATTLE MONUMENTS COMMISSION

Sec.
2101. Membership.

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2115. *Inclusion of emblems of belief as part of military memorials.*

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SEC. 2115. INCLUSION OF EMBLEMS OF BELIEF AS PART OF MILITARY MEMORIALS

(a) *AUTHORIZED INCLUSION.*—For the purpose of honoring the sacrifices of members of the United States Armed Forces, including those members who make the ultimate sacrifice in defense of the United States, emblems of belief may be included as part of—

(1) a military memorial that is established or acquired by the United States Government; or

(2) a military memorial that is not established by the United States Government, but for which the American Battle Monuments Commission cooperated in the establishment of the memorial.

(b) *SCOPE OF INCLUSION.*—When including emblems of belief as part of a military memorial, any approved emblem of belief may be included on such a memorial. The list of approved emblems of belief shall include, at a minimum, all those emblems of belief authorized by the National Cemetery Administration.

(c) *DEFINITIONS.*—In this section:

(1) The terms “emblem of belief” and “emblems of belief” refer to the emblems of belief contained on the list maintained by the National Cemetery Administration for placement on Government-provided headstones and markers.

(2) The term “military memorial” means a memorial or monument commemorating the service of the United States Armed Forces. The term includes works of architecture and art described in section 2105(b) of this title.

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