
AN ACT TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT TO
REAUTHORIZE THE NATIONAL ESTUARY PROGRAM, AND FOR OTHER
PURPOSES

OCTOBER 29, 2015.—Ordered to be printed

Mr. INHOFE, from the Committee on Environment and Public
Works, submitted the following

R E P O R T

[To accompany S. 1523]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred the bill (S. 1523) to amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program, and for other purposes, having considered the same, and recommends the bill do pass.

GENERAL STATEMENT AND BACKGROUND

The most simplistic definition of an estuary is a place where fresh water meets the sea. In its broader meaning, an estuary is defined as a semi-enclosed coastal body of water with freshwater flowing into it and a connection to the open sea.

In 1987, Congress established the National Estuary Program (NEP) by adding section 320 to the Clean Water Act (CWA) through amendments to that Act sponsored by the late Senator John Chafee (R-RI). Section 320 authorizes states to nominate and the Environmental Protection Agency (EPA) to identify estuaries of national significance and to convene a management conference for that estuary.

Each management conference is made up of representatives from federal, state and local government agencies responsible for managing the estuary's resources, as well as members of the community—citizens, business leaders, educators, and researchers. These stakeholders work together using a consensus-based approach to identify problems in the estuary, and to create and implement a formal management plan, called a Comprehensive Conservation and Management Plan (CCMP), that recommends specific targeted actions designed to address water quality, a balanced indigenous

population of shellfish, fish, and wildlife, and recreational activities and assure that the designated uses of the estuary are protected.

Section 320 authorizes EPA to make cost-shared grants for the development and implementation of CCMPs. The federal share for the development of a plan may not exceed 75 percent of the costs and the federal share for plan implementation may not exceed 50 percent of the costs.

In 2004, in P.L. 108–399, Congress extended the authorization of appropriations for section 320 of the CWA through fiscal year 2010 at \$35,000,000 per year. Although the authorization for this program expired in 2010, the program has continued to receive annual appropriations, including \$26 million in 2015. With this funding, EPA typically allocates approximately \$600,000 to each of the 28 estuaries in the program, totaling approximately \$16,800,000.

OBJECTIVES OF THE LEGISLATION

The objective of S. 1523 is to amend section 320 of the Federal Water Pollution Control Act to revise and reauthorize the National Estuary Program.

SECTION-BY-SECTION ANALYSIS

S. 1523 as it passed the Senate on August 5, 2015.

SEC. 1. NATIONAL ESTUARY PROGRAM REAUTHORIZATION; COMPETITIVE AWARDS.

Paragraph (1) of section 1 of S. 1523 amends subsection (g) section 320 of the Clean Water Act. Subsection (g) authorizes grants for CCMP development and implementation. S. 1523 adds new paragraph (4) to this subsection.

New paragraph (4) authorizes competitive awards to states, interstate, and regional water pollution control agencies and entities, state coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals, to address issues that threaten the water quality, ecological, and economic well-being of coastal areas, including loss of seagrasses, recurring harmful algae blooms; unusual marine mammal mortalities; invasive exotic species, jellyfish proliferation, flooding that may be related to sea level rise or wetland degradation or loss, and low dissolved oxygen conditions.

Paragraph (2) of section 1 of S. 1523 revises Clean Water Act section 320(i), “Authorization of Appropriations.”

As amended, paragraph (1) of subsection (i) authorizes appropriations for each of fiscal years 2016 through 2020, at an amount of \$26 million per year, for the making grants under subsection (g) and for EPA administrative expenses. This authorization level is consistent with recent appropriations. The amendment also places a new limit in paragraph (1) on EPA’s administrative expenses of not to exceed 5 percent of the total amount appropriated.

As amended, paragraph (2) of subsection (i) provides that not less than 80 percent of each year’s appropriation must be used for grants under subsection (g)(2) for the development, implementation, and monitoring of CCMPs and not less than 15 percent must be used for grants to address coastal areas under new subsection (g)(4).

These amendments to subsection (i) have the effect of ensuring that a greater amount of each year's federal appropriations is directed to local efforts. If \$26,000,000 is appropriated then each of the 28 estuaries currently in the program would receive nearly \$743,000 a year. In addition, these allocations would provide \$3,900,000 annually for local actions to address the ecological and economic well-being of coastal areas.

LEGISLATIVE HISTORY

Senator Whitehouse and Senator Vitter introduced S. 1523 on June 8, 2015. The bill was referred to the Committee on Environment and Public Works. On August 5, 2015 the Committee on Environment and Public Works held a business meeting to consider S. 1523. The bill was approved by the Committee by voice vote without amendment. On August 5, 2015, S. 1523 passed the Senate with an amendment (S. Amdt. 2639—To modify the authorization of appropriations) by Unanimous Consent.

HEARINGS

No committee hearings were held on S. 1523.

ROLLCALL VOTES

The Committee on Environment and Public Works met to consider S. 1523 on August 5, 2015. The bill was ordered favorably reported by voice vote. No rollcall votes were taken.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee finds that S. 1523 does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104-4), the committee notes that the Congressional Budget Office found that S. 1523 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA), and any costs incurred by state, local, or tribal governments, including matching contributions, would result from participation in a voluntary federal program.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

AUGUST 20, 2015.

Hon. JIM INHOFE, *Chairman,*
Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1523, an act to amend the

Federal Water Pollution Control Act to reauthorize the National Estuary Program, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Aurora Swanson.

Sincerely,

KEITH HALL.

Enclosure.

S. 1523—An act to amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program, and for other purposes

Summary: S. 1523 would authorize the appropriation of \$26 million annually over the 2016–2020 period for the Environmental Protection Agency’s (EPA) National Estuary Program. The legislation also would amend the Clean Water Act to require that grants awarded to state, local, and private entities by EPA are awarded in a competitive manner. CBO estimates that implementing this legislation would cost \$112 million over the 2016–2020 period, assuming appropriation of the authorized amounts.

Enacting S. 1523 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 1523 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA), and any costs incurred by state, local, or tribal governments, including matching contributions, would result from participation in a voluntary federal program.

Estimated cost to the Federal Government: The estimated budgetary effect of this legislation is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

| | By Fiscal Year, in Millions of Dollars | | | | | |
|--|--|------|------|------|------|-----------|
| | 2016 | 2017 | 2018 | 2019 | 2020 | 2016–2020 |
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION | | | | | | |
| Authorization Level | 26 | 26 | 26 | 26 | 26 | 130 |
| Estimated Outlays | 12 | 22 | 26 | 26 | 26 | 112 |

Basis of Estimate: CBO assumes that S. 1523 will be enacted near the start of 2016 and that the amounts authorized will be appropriated each fiscal year. Estimated outlays are based on historical spending patterns for the National Estuary Program. The authorization for this program expired at the end of 2010, but \$26 million was appropriated for the program for 2015. Under the National Estuary Program, EPA develops plans for attaining or maintaining water quality in an estuary.

Intergovernmental and Private-Sector Impact: S. 1523 contains no intergovernmental or private-sector mandates as defined in UMRA, and any costs incurred by state, local, or tribal governments, including matching contributions, would result from participation in a voluntary federal program.

Previous CBO Estimate: On April 22, 2015, CBO transmitted a cost estimate for H.R. 944, a bill to reauthorize the National Estuary Programs, and for other purposes, as ordered reported by the House Committee on Transportation and Infrastructure on April

14, 2015. Both H.R. 944 and S. 1523 would reauthorize the National Estuary Program, although H.R. 944 would authorize the appropriation of \$1 million more annually over the 2016–2020 period.

Estimate prepared by: Federal Costs: Aurora Swanson; Impact on state, local, and tribal governments: Jon Sperl; Impact on the private sector: Amy Petz.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in [black brackets], new matter is printed in *italic*, existing law in which no change is proposed is shown in roman:

* * * * *

Federal Water Pollution Control Act

* * * * *

SEC. 101. (a) The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective it is hereby declared that, consistent with the provisions of this Act—

* * * * *

SEC. 320. NATIONAL ESTUARY PROGRAM.

(a) **MANAGEMENT CONFERENCE.**—

* * * * *

(g) **GRANTS.**—

(1) **RECIPIENTS.**—The Administrator is authorized to make grants to State, interstate, and regional water pollution control agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals.

(2) **PURPOSES.**—Grants under this subsection shall be made to pay for activities necessary for the development and implementation of a comprehensive conservation and management plan under this section.

(3) **FEDERAL SHARE.**—The Federal share of a grant to any person (including a State, interstate, or regional agency or entity) under this subsection for a fiscal year—

(A) shall not exceed—

(i) 75 percent of the annual aggregate costs of the development of a comprehensive conservation and management plan; and

(ii) 50 percent of the annual aggregate costs of the implementation of the plan; and

(B) shall be made on condition that the non-Federal share of the costs are provided from non-Federal sources.

(4) **COMPETITIVE AWARDS.**—

(A) *IN GENERAL.*—Using the amounts made available under subsection (i)(2)(B), the Administrator shall make competitive awards under this paragraph.

(B) APPLICATION FOR AWARDS.—The Administrator shall solicit applications for awards under this paragraph from State, interstate, and regional water pollution control agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals.

(C) SELECTION OF RECIPIENTS.—The Administrator shall select award recipients under this paragraph that, as determined by the Administrator, are best able to address urgent and challenging issues that threaten the ecological and economic well-being of coastal areas, including—

- (i) extensive seagrass habitat losses resulting in significant impacts on fisheries and water quality;*
- (ii) recurring harmful algae blooms;*
- (iii) unusual marine mammal mortalities;*
- (iv) invasive exotic species that may threaten wastewater systems and cause other damage;*
- (v) jellyfish proliferation limiting community access to water during peak tourism seasons;*
- (vi) flooding that may be related to sea level rise or wetland degradation or loss; and*
- (vii) low dissolved oxygen conditions in estuarine waters and related nutrient management.*

* * * * *

[(i) AUTHORIZATION OF APPROPRIATIONS.— There are authorized to be appropriated to the Administrator not to exceed \$35,000,000 for each of fiscal years 2001 through 2010 for—

[(1) expenses related to the administration of management conferences under this section, not to exceed 10 percent of the amount appropriated under this subsection;

[(2) making grants under subsection (g); and

[(3) monitoring the implementation of a conservation and management plan by the management conference or by the Administrator, in any case in which the conference has been terminated.

[(The Administrator shall provide up to \$5,000,000 per fiscal year of the sums authorized to be appropriated under this subsection to the Administrator of the National Oceanic and Atmospheric Administration to carry out subsection (j).]

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Administrator \$27,000,000 for each of fiscal years 2016 through 2020 for—

(A) making grants and awards under subsection (g); and

(B) expenses relating to the administration of grants or awards by the Administrator under this section, including the award and oversight of grants and awards, subject to the condition that such expenses may not exceed 5 percent of the amount appropriated under this subsection for a fiscal year.

(2) ALLOCATIONS.—

(A) CONSERVATION AND MANAGEMENT PLANS.—Not less than 80 percent of the amount made available under this subsection for a fiscal year shall be used by the Adminis-

trator for the development, implementation, and monitoring of each conservation and management plan eligible for grant assistance under subsection (g)(2).

(B) COMPETITIVE AWARDS.—Not less than 15 percent of the amount made available under this subsection for a fiscal year shall be used by the Administrator for making competitive awards under subsection (g)(4).

