

115TH CONGRESS
1ST SESSION

H. R. 1176

To amend the Coastal Zone Management Act of 1972 to establish a Working Waterfront Task Force and a working waterfronts grant program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2017

Ms. PINGREE (for herself and Mr. WITTMAN) introduced the following bill;
which was referred to the Committee on Natural Resources

A BILL

To amend the Coastal Zone Management Act of 1972 to establish a Working Waterfront Task Force and a working waterfronts grant program, and for other purposes.

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 “Keep America’s Water-
5 fronts Working Act”.

6 **SEC. 2. WORKING WATERFRONTS GRANT PROGRAM.**

7 The Coastal Zone Management Act of 1972 (16
8 U.S.C. 1451 et seq.) is amended by adding at the end
9 the following:

1 **“SEC. 320. WORKING WATERFRONTS GRANT PROGRAM.**

2 “(a) FINDINGS AND PURPOSE.—The Congress finds
3 the following:

4 “(1) FINDINGS.—

5 “(A) Water-dependent commercial activi-
6 ties are the economic and cultural heart of
7 many coastal communities. These activities in-
8 clude commercial fishing, recreational fishing
9 businesses, tourism, aquaculture, boatbuilding,
10 transportation, and many other water-depend-
11 ent businesses.

12 “(B) Water-dependent commercial activi-
13 ties depend on coastal access in the form of—

14 “(i) docks, wharfs, boat lifts, wet and
15 dry marinas, and boat ramps;

16 “(ii) boat hauling, repair, and con-
17 struction facilities;

18 “(iii) commercial fishing facilities; and

19 “(iv) other support structures on,
20 over, or adjacent to navigable bodies of
21 water.

22 “(C) The coastal zone of the United States
23 is experiencing rising property values and taxes,
24 and related development pressure, as more peo-
25 ple move to the coastal zone and as coastal

1 areas experience a demographic shift favoring
2 wealthier individuals.

3 “(D) Privately owned access areas for
4 water-dependent commercial activity in many
5 States are under increasing threat from private
6 residential development and other conversion.

7 “(E) Loss of access for water-dependent
8 commercial activity would have economically
9 and culturally devastating consequences for
10 many coastal communities.

11 “(2) PURPOSE.—The purpose of this section is
12 to preserve and protect coastal access for persons
13 engaged in water-dependent commercial activities,
14 including commercial fishing, recreational fishing
15 businesses, aquaculture, boatbuilding, or other
16 water-dependent coastal-related businesses.

17 “(b) WORKING WATERFRONT TASK FORCE.—

18 “(1) ESTABLISHMENT AND FUNCTIONS.—The
19 Secretary of the Interior shall establish a task force
20 to identify and address critical needs with respect to
21 working waterfronts.

22 “(2) MEMBERSHIP.—The members of the task
23 force shall be appointed by the Secretary of the Inte-
24 rior, and shall include—

1 “(A) experts in the unique economic, so-
2 cial, cultural, ecological, geographic, and re-
3 source concerns of working waterfronts; and

4 “(B) representatives from the National
5 Oceanic and Atmospheric Administration’s
6 Coastal Services Center, the United States Fish
7 and Wildlife Service, the Department of Agri-
8 culture, the Environmental Protection Agency,
9 the United States Geological Survey, the Navy,
10 the National Marine Fisheries Service, and such
11 other Federal agencies as the Secretary con-
12 siders appropriate.

13 “(3) FUNCTIONS.—The task force shall—

14 “(A) identify and prioritize critical needs
15 with respect to working waterfronts in States
16 that have a management program approved by
17 the Secretary of Commerce pursuant to section
18 306, in the areas of—

19 “(i) economic and cultural importance
20 of working waterfronts to communities;

21 “(ii) changing environments and
22 threats working waterfronts face from en-
23 vironment changes, trade barriers, and
24 marketplace variables; and

1 “(iii) identifying working waterfronts
2 and highlighting them within communities;

3 “(B) outline options to address such crit-
4 ical needs;

5 “(C) identify Federal agencies that are re-
6 sponsible under existing law for addressing such
7 critical needs; and

8 “(D) recommend Federal agencies best
9 suited to address any critical needs for which
10 no agency is responsible under existing law.

11 “(4) INFORMATION TO BE CONSIDERED.—In
12 identifying and prioritizing policy gaps pursuant to
13 paragraph (3), the task force shall consider the find-
14 ings and recommendations contained in section VI of
15 the report entitled ‘The Sustainable Working Water-
16 fronts Toolkit: Final Report’, dated March 2013.

17 “(5) REPORT.—Not later than 18 months after
18 the date of the enactment of this section, the task
19 force shall submit a report to Congress on its find-
20 ings.

21 “(6) IMPLEMENTATION.—The head of each
22 Federal agency identified in the report pursuant to
23 paragraph (3)(C) shall take such action as is nec-
24 essary to implement the recommendations contained

1 in the report by not later than 1 year after the date
2 of the issuance of the report.

3 “(c) WORKING WATERFRONT GRANT PROGRAM.—

4 “(1) The Secretary shall establish a Working
5 Waterfront Grant Program, in cooperation with ap-
6 propriate State, regional, and other units of govern-
7 ment, under which the Secretary may make a grant
8 to any coastal state for the purpose of implementing
9 a working waterfront plan approved by the Secretary
10 under subsection (d).

11 “(2) Subject to the availability of appropria-
12 tions, the Secretary shall award matching grants
13 under the program to coastal states with approved
14 working waterfront plans through a regionally equi-
15 table, competitive funding process in accordance
16 with the following:

17 “(A) The Governor, or the lead agency
18 designated by the Governor for coordinating the
19 implementation of this section, where appro-
20 priate in consultation with the appropriate local
21 government, shall determine that the applica-
22 tion is consistent with the State’s or territory’s
23 approved coastal zone plan, program, and poli-
24 cies prior to submittal to the Secretary.

1 “(B) In developing guidelines under this
2 section, the Secretary shall consult with coastal
3 states, other Federal agencies, and other inter-
4 ested stakeholders with expertise in working
5 waterfront planning.

6 “(C) Coastal states may allocate grants to
7 local governments, agencies, or nongovernment
8 organizations eligible for assistance under this
9 section.

10 “(3) In awarding a grant to a coastal state, the
11 Secretary shall consider—

12 “(A) the economic and cultural significance
13 of working waterfront to the coastal state;

14 “(B) the demonstrated working waterfront
15 needs of the coastal state as outlined by a
16 working waterfront plan approved for the coast-
17 al state under subsection (d), and the value of
18 the proposed project for the implementation of
19 such plan;

20 “(C) the ability to successfully leverage
21 funds among participating entities, including
22 Federal programs, regional organizations, State
23 and other government units, landowners, cor-
24 porations, or private organizations;

1 “(D) the potential for rapid turnover in
2 the ownership of working waterfront in the
3 coastal state, and where applicable the need for
4 coastal states to respond quickly when prop-
5 erties in existing or potential working water-
6 front areas or public access areas as identified
7 in the working waterfront plan submitted by
8 the coastal state come under threat or become
9 available;

10 “(E) the impact of the working waterfront
11 plan approved for the coastal state under sub-
12 section (d) on the coastal ecosystem and the
13 users of the coastal ecosystem; and

14 “(F) the extent of the historic connection
15 between working waterfronts and the local com-
16 munities within the coastal state.

17 “(4) The Secretary shall approve or reject an
18 application for such a grant within 60 days after re-
19 ceiving an application for the grant.

20 “(d) WORKING WATERFRONT PLANS.—

21 “(1) To be eligible for a grant under subsection
22 (c), a coastal state must submit and have approved
23 by the Secretary a comprehensive working water-
24 front plan in accordance with this subsection or be
25 in the process of developing such a plan and have an

1 established working waterfront program at the State
2 or local level.

3 “(2) Such plan—

4 “(A) must provide for preservation and ex-
5 pansion of access to coastal waters to persons
6 engaged in commercial fishing, recreational
7 fishing businesses, aquaculture, boatbuilding, or
8 other water-dependent, coastal-related business;

9 “(B) shall include—

10 “(i) an assessment of the economic,
11 social, cultural, and historic value of work-
12 ing waterfront to the coastal state;

13 “(ii) a description of relevant State
14 and local laws and regulations affecting
15 working waterfront in the geographic areas
16 identified in the working waterfront plan;

17 “(iii) identification of geographic
18 areas where working waterfronts are cur-
19 rently under threat of conversion to uses
20 incompatible with commercial fishing, rec-
21 reational fishing businesses, aquaculture,
22 boatbuilding, or other water-dependent,
23 coastal-related business, and the level of
24 that threat;

1 “(iv) identification of geographic areas
2 with a historic connection to working wa-
3 terfronts where working waterfronts are
4 not currently available, and, where appro-
5 priate, an assessment of the environmental
6 impacts of any expansion or new develop-
7 ment of working waterfronts on the coastal
8 ecosystem;

9 “(v) identification of other working
10 waterfront needs including improvements
11 to existing working waterfronts and work-
12 ing waterfront areas;

13 “(vi) a strategic and prioritized plan
14 for the preservation, expansion, and im-
15 provement of working waterfronts in the
16 coastal state;

17 “(vii) for areas identified under
18 clauses (iii), (iv), (v), and (vi), identifica-
19 tion of current availability and potential
20 for expansion of public access to coastal
21 waters;

22 “(viii) a description of the degree of
23 community support for such strategic plan;
24 and

1 “(ix) a contingency plan for properties
2 that revert to the coastal state pursuant to
3 determinations made by the coastal state
4 under subsection (h)(4)(C);

5 “(C) may be part of the management pro-
6 gram approved under section 306;

7 “(D) shall utilize to the maximum extent
8 practicable existing information contained in
9 relevant surveys, plans, or other strategies to
10 fulfill the information requirements under this
11 paragraph; and

12 “(E) shall incorporate the policies and reg-
13 ulations adopted by communities under local
14 working waterfront plans or strategies in exist-
15 ence prior to the date of enactment of this sec-
16 tion.

17 “(3) A working waterfront plan—

18 “(A) shall be effective for purposes of this
19 section for the 5-year period beginning on the
20 date it is approved by the Secretary;

21 “(B) must be updated and re-approved by
22 the Secretary before the end of such period; and

23 “(C) shall be complimentary to and incor-
24 porate the policies and objectives of regional or
25 local working waterfront plans as in effect be-

1 fore the date of enactment of this section or as
2 subsequently revised.

3 “(4) The Secretary may—

4 “(A) award planning grants to coastal
5 states for the purpose of developing or revising
6 comprehensive working waterfront plans; and

7 “(B) award grants consistent with the pur-
8 poses of this section to States undertaking the
9 working waterfront planning process under this
10 section, for the purpose of preserving and pro-
11 tecting working waterfronts during such proc-
12 ess.

13 “(5) Any coastal state applying for a working
14 waterfront grant under this title shall—

15 “(A) develop a working waterfront plan,
16 using a process that involves the public and
17 those with an interest in the coastal zone;

18 “(B) coordinate development and imple-
19 mentation of such a plan with other coastal
20 management programs, regulations, and activi-
21 ties of the coastal state; and

22 “(C) if the coastal state allows qualified
23 holders (other than the coastal state) to enter
24 into working waterfront covenants, provide as
25 part of the working waterfront plan under this

1 subsection a mechanism or procedure to ensure
2 that the qualified holders are complying their
3 duties to enforce the working waterfront cov-
4 enant.

5 “(e) USES, TERMS, AND CONDITIONS.—

6 “(1) Each grant made by the Secretary under
7 this section shall be subject to such terms and condi-
8 tions as may be appropriate to ensure that the grant
9 is used for purposes consistent with this section.

10 “(2) A grant under this section may be used—

11 “(A) to acquire a working waterfront, or
12 an interest in a working waterfront; or

13 “(B) to make improvements to a working
14 waterfront, including the construction or repair
15 of wharfs, boat ramps, or related facilities.

16 “(f) PUBLIC ACCESS REQUIREMENT.—A working
17 waterfront project funded by grants made under this sec-
18 tion must provide for expansion or improvement of reason-
19 able and appropriate public access to coastal waters at or
20 in the vicinity of a working waterfront, except for commer-
21 cial fishing or other industrial access points where the
22 coastal state determines that public access would be un-
23 safe.

24 “(g) LIMITATIONS.—

1 “(1) Except as provided in paragraph (2), a
2 grant awarded under this section may be used to
3 purchase working waterfront or an interest in work-
4 ing waterfront, including an easement, only from a
5 willing seller and at fair market value.

6 “(2) A grant awarded under this section may
7 be used to acquire working waterfront or an interest
8 in working waterfront at less than fair market value
9 only if the owner certifies to the Secretary that the
10 sale is being entered into willingly and without coer-
11 cion.

12 “(3) No Federal, State, or local entity may ex-
13 ercise the power of eminent domain to secure title to
14 any property or facilities in connection with a
15 project carried out under this section.

16 “(h) ALLOCATION OF GRANTS TO LOCAL GOVERN-
17 MENTS AND OTHER ENTITIES.—

18 “(1) The Secretary shall encourage coastal
19 states to broadly allocate amounts received as grants
20 under this section among working waterfronts iden-
21 tified in working waterfront plans approved under
22 subsection (d).

23 “(2) Subject to the approval of the Secretary,
24 a coastal state may, as part of an approved working
25 waterfront plan, designate as a qualified holder any

1 unit of State or local government or nongovernment
2 organization, if the coastal state is ultimately re-
3 sponsible for ensuring that the property will be man-
4 aged in a manner that is consistent with the pur-
5 poses for which the land entered into the program.

6 “(3) A coastal state or a qualified holder des-
7 ignated by a coastal state may allocate to a unit of
8 local government, nongovernmental organization,
9 fishing cooperative, or other entity, a portion of any
10 grant made under this section for the purpose of
11 carrying out this section, except that such an alloca-
12 tion shall not relieve the coastal state of the respon-
13 sibility for ensuring that any funds so allocated are
14 applied in furtherance of the coastal state’s approved
15 working waterfront plan.

16 “(4) A qualified holder may hold title to or in-
17 terest in property acquired under this section, except
18 that—

19 “(A) all persons holding title to or interest
20 in working waterfront affected by a grant under
21 this section, including a qualified holder, private
22 citizen, private business, nonprofit organization,
23 fishing cooperative, or other entity, shall enter
24 into a working waterfront covenant;

1 “(B) such covenant shall be held by the
2 coastal state or a qualified holder designated
3 under paragraph (2);

4 “(C) if the coastal state determines, on the
5 record after an opportunity for a hearing, that
6 the working waterfront covenant has been vio-
7 lated—

8 “(i) all right, title, and interest in and
9 to the working waterfront covered by such
10 covenant shall, except as provided in sub-
11 paragraph (D), revert to the coastal state;
12 and

13 “(ii) the coastal state shall have the
14 right of immediate entry onto the working
15 waterfront;

16 “(D) if a coastal state makes a determina-
17 tion under subparagraph (C), the coastal state
18 may convey or authorize the qualified holder to
19 convey the working waterfront or interest in
20 working waterfront to another qualified holder;
21 and

22 “(E) nothing in this subsection waives any
23 legal requirement under any Federal or State
24 law.

25 “(i) MATCHING CONTRIBUTIONS.—

1 “(1) Except as provided in paragraph (2), the
2 Secretary shall require that each coastal state that
3 receives a grant under this section, or a qualified
4 holder designated by that coastal state under sub-
5 section (h), shall provide matching funds in an
6 amount equal to at least 25 percent of the total cost
7 of the project carried out with the grant.

8 “(2) The Secretary may waive the application
9 of paragraph (1) for any qualified holder that is an
10 underserved community, a community that has an
11 inability to draw on other sources of funding because
12 of the small population or low income of the commu-
13 nity, or for other reasons the Secretary considers ap-
14 propriate.

15 “(3) A local community designated as a quali-
16 fied holder under subsection (h) may utilize funds or
17 other in-kind contributions donated by a nongovern-
18 mental partner to satisfy the matching funds re-
19 quirement under this subsection.

20 “(4) As a condition of receipt of a grant under
21 this section, the Secretary shall require that a coast-
22 al state provide to the Secretary such assurances as
23 the Secretary determines are sufficient to dem-
24 onstrate that the share of the cost of each eligible

1 project that is not funded by the grant awarded
2 under this section has been secured.

3 “(5) If financial assistance under this section
4 represents only a portion of the total cost of a
5 project, funding from other Federal sources may be
6 applied to the cost of the project. Each portion shall
7 be subject to match requirements under the applica-
8 ble provision of law.

9 “(6) The Secretary shall treat as non-Federal
10 match the value of a working waterfront or interest
11 in a working waterfront, including conservation and
12 other easements, that is held in perpetuity by a
13 qualified holder, if the working waterfront or inter-
14 est is identified in the application for the grant and
15 acquired by the qualified holder within 3 years of
16 the grant award date, or within 3 years after the
17 submission of the application and before the end of
18 the grant award period. Such value shall be deter-
19 mined by an appraisal performed at such time before
20 the award of the grant as the Secretary considers
21 appropriate.

22 “(7) The Secretary shall treat as non-Federal
23 match the costs associated with acquisition of a
24 working waterfront or an interest in a working wa-
25 terfront, and the costs of restoration, enhancement,

1 or other improvement to a working waterfront, if the
2 activities are identified in the project application and
3 the costs are incurred within the period of the grant
4 award, or, for working waterfront described in para-
5 graph (6), within the same time limits described in
6 that paragraph. These costs may include either cash
7 or in-kind contributions.

8 “(j) LIMIT ON ADMINISTRATIVE COSTS.—No more
9 than 5 percent of the funds made available to the Sec-
10 retary under this section may be used by the Secretary
11 for planning or administration of the program under this
12 section.

13 “(k) OTHER TECHNICAL AND FINANCIAL ASSIST-
14 ANCE.—

15 “(1) Up to 5 percent of the funds appropriated
16 under this section may be used by the Secretary for
17 purposes of providing technical assistance as de-
18 scribed in this subsection.

19 “(2) The Secretary shall—

20 “(A) provide technical assistance to coastal
21 states and local governments in identifying and
22 obtaining other sources of available Federal
23 technical and financial assistance for the devel-
24 opment and revision of a working waterfront

1 plan and the implementation of an approved
2 working waterfront plan;

3 “(B) provide technical assistance to States
4 and local governments for the development, im-
5 plementation, and revision of comprehensive
6 working waterfront plans, which may include,
7 subject to the availability of appropriations,
8 planning grants and assistance, pilot projects,
9 feasibility studies, and other projects necessary
10 to further the purposes of this section;

11 “(C) assist States in developing other tools
12 to protect working waterfronts; and

13 “(D) collect and disseminate to States
14 guidance for best storm water management
15 practices in regards to working waterfronts.

16 “(I) REPORTS.—

17 “(1) The Secretary shall—

18 “(A) develop performance measures to
19 evaluate and report on the effectiveness of the
20 program under this section in accomplishing the
21 purpose of this section; and

22 “(B) submit to Congress a biennial report
23 that includes such evaluations, an account of all
24 expenditures, and descriptions of all projects

1 carried out using grants awarded under this
2 section.

3 “(2) The Secretary may submit the biennial re-
4 port under paragraph (1)(B) by including it in the
5 biennial report required under section 316.

6 “(m) DEFINITIONS.—In this section:

7 “(1) The term ‘qualified holder’ means a coast-
8 al state or a unit of local or coastal state govern-
9 ment or a non-State organization designated by a
10 coastal state under subsection (h).

11 “(2) The term ‘Secretary’ means the Secretary,
12 acting through the National Oceanic and Atmos-
13 pheric Administration.

14 “(3) The term ‘working waterfront’ means real
15 property (including support structures over water
16 and other facilities) that provides access to coastal
17 waters to persons engaged in commercial fishing,
18 recreational fishing businesses, boatbuilding, aqua-
19 culture, or other water-dependent, coastal-related
20 business and is used for, or that supports, commer-
21 cial fishing, recreational fishing businesses, boat-
22 building, aquaculture, or other water-dependent,
23 coastal-related business.

24 “(4) The term ‘working waterfront covenant’
25 means an agreement in recordable form between the

1 owner of working waterfront and one or more quali-
2 fied holders, that provides such assurances as the
3 Secretary may require that—

4 “(A) the title to or interest in the working
5 waterfront will be held by a grant recipient or
6 qualified holder in perpetuity, except as pro-
7 vided in subparagraph (C);

8 “(B) the working waterfront will be man-
9 aged in a manner that is consistent with the
10 purposes for which the property is acquired
11 pursuant to this section, and the property will
12 not be converted to any use that is inconsistent
13 with the purpose of this section;

14 “(C) if the title to or interest in the work-
15 ing waterfront is sold or otherwise exchanged—

16 “(i) all working waterfront owners
17 and qualified holders involved in such sale
18 or exchange shall accede to such agree-
19 ment; and

20 “(ii) funds equal to the fair market
21 value of the working waterfront or interest
22 in working waterfront shall be paid to the
23 Secretary by parties to the sale or ex-
24 change, and such funds shall, at the dis-
25 cretion of the Secretary, be paid to the

1 coastal state in which the working water-
2 front is located for use in the implementa-
3 tion of the working waterfront plan of the
4 State approved by the Secretary under this
5 section; and

6 “(D) such covenant is subject to enforce-
7 ment and oversight by the coastal state or by
8 another person as determined appropriate by
9 the Secretary.”.

○