

106TH CONGRESS
1ST SESSION

H. R. 728

To amend the Watershed Protection and Flood Prevention Act to authorize the Secretary of Agriculture to provide cost share assistance for the rehabilitation of structural measures constructed as part of water resource projects previously funded by the Secretary under such Act or related laws.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 1999

Mr. LUCAS of Oklahoma (for himself and Mr. WATKINS) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committees on Resources, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Watershed Protection and Flood Prevention Act to authorize the Secretary of Agriculture to provide cost share assistance for the rehabilitation of structural measures constructed as part of water resource projects previously funded by the Secretary under such Act or related laws.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “The Small Watershed
3 Rehabilitation Amendments of 1999”.

4 **SEC. 2. REHABILITATION OF WATER RESOURCE STRUC-**
5 **TURAL MEASURES CONSTRUCTED UNDER**
6 **CERTAIN DEPARTMENT OF AGRICULTURE**
7 **PROGRAMS.**

8 The Watershed Protection and Flood Prevention Act
9 (16 U.S.C. 1001 et seq.) is amended by adding at the end
10 the following new section:

11 **“SEC. 14. REHABILITATION OF STRUCTURAL MEASURES**
12 **NEAR, AT, OR PAST THEIR EVALUATED LIFE**
13 **EXPECTANCY.**

14 “(a) DEFINITIONS.—For purposes of this section:

15 “(1) REHABILITATION.—The term ‘rehabilita-
16 tion’, with respect to a structural measure con-
17 structed as part of a covered water resource project,
18 means the completion of all work necessary to ex-
19 tend the service life of the structural measure and
20 meet applicable safety and performance standards.
21 This may include (A) protecting the integrity of the
22 structural measure, or prolonging the useful life of
23 the structural measure, beyond the original evalu-
24 ated life expectancy, (B) correcting damage to the
25 structural measure from a catastrophic event, (C)
26 correcting the deterioration of structural components

1 that are deteriorating at an abnormal rate, or (D)
2 upgrading the structural measure to meet changed
3 land use conditions in the watershed served by the
4 structural measure or changed safety criteria appli-
5 cable to the structural measure.

6 “(2) COVERED WATER RESOURCE PROJECT.—
7 The term ‘covered water resource project’ means a
8 work of improvement carried out under any of the
9 following:

10 “(A) This Act.

11 “(B) Section 13 of the Act of December
12 22, 1944 (Public Law 78–534; 58 Stat. 905).

13 “(C) The pilot watershed program author-
14 ized under the heading ‘FLOOD PREVENTION’
15 of the Department of Agriculture Appropriation
16 Act, 1954 (Public Law 156; 67 Stat. 214).

17 “(D) Subtitle H of title XV of the Agri-
18 culture and Food Act of 1981 (16 U.S.C. 3451
19 et seq.; commonly known as the Resource Con-
20 servation and Development Program).

21 “(3) ELIGIBLE LOCAL ORGANIZATION.—The
22 term ‘eligible local organization’ means a local orga-
23 nization or appropriate State agency responsible for
24 the operation and maintenance of structural meas-

1 ures constructed as part of a covered water resource
2 project.

3 “(4) STRUCTURAL MEASURE.—The term ‘struc-
4 tural measure’ means a physical improvement that
5 impounds water, commonly known as a dam, which
6 was constructed as part of a covered water resource
7 project.

8 “(b) COST SHARE ASSISTANCE FOR REHABILITA-
9 TION.—

10 “(1) ASSISTANCE AUTHORIZED.—The Secretary
11 may provide financial assistance to an eligible local
12 organization to cover a portion of the total costs in-
13 curred for the rehabilitation of structural measures
14 originally constructed as part of a covered water re-
15 source project. The total costs of rehabilitation in-
16 clude the costs associated with all components of the
17 rehabilitation project, including acquisition of land,
18 easements, and rights-of-ways, rehabilitation project
19 administration, the provision of technical assistance,
20 contracting, and construction costs, except that the
21 local organization shall be responsible for securing
22 all land, easements, or rights-of-ways necessary for
23 the project.

24 “(2) AMOUNT OF ASSISTANCE; LIMITATIONS.—

25 The amount of Federal funds that may be made

1 available under this subsection to an eligible local
2 organization for construction of a particular rehabili-
3 tation project shall be equal to 65 percent of the
4 total rehabilitation costs, but not to exceed 100 per-
5 cent of actual construction costs incurred in the re-
6 habilitation. However, the local organization shall be
7 responsible for the costs of water, mineral, and other
8 resource rights and all Federal, State, and local per-
9 mits.

10 “(3) RELATION TO LAND USE AND DEVELOP-
11 MENT REGULATIONS.—As a condition on entering
12 into an agreement to provide financial assistance
13 under this subsection, the Secretary, working in con-
14 cert with the eligible local organization, may require
15 that proper zoning or other developmental regula-
16 tions are in place in the watershed in which the
17 structural measures to be rehabilitated under the
18 agreement are located so that—

19 “(A) the completed rehabilitation project is
20 not quickly rendered inadequate by additional
21 development; and

22 “(B) society can realize the full benefits of
23 the rehabilitation investment.

24 “(c) TECHNICAL ASSISTANCE FOR WATERSHED
25 PROJECT REHABILITATION.—The Secretary, acting

1 through the Natural Resources Conservation Service, may
2 provide technical assistance in planning, designing, and
3 implementing rehabilitation projects should an eligible
4 local organization request such assistance. Such assistance
5 may consist of specialists in such fields as engineering,
6 geology, soils, agronomy, biology, hydraulics, hydrology,
7 economics, water quality, and contract administration.

8 “(d) PROHIBITED USE.—

9 “(1) PERFORMANCE OF OPERATION AND MAIN-
10 TENANCE.—Rehabilitation assistance provided under
11 this section may not be used to perform operation
12 and maintenance activities specified in the agree-
13 ment for the covered water resource project entered
14 into between the Secretary and the eligible local or-
15 ganization responsible for the works of improvement.
16 Such operation and maintenance activities shall re-
17 main the responsibility of the local organization, as
18 provided in the project work plan.

19 “(2) RENEGOTIATION.—Notwithstanding para-
20 graph (1), as part of the provision of financial as-
21 sistance under subsection (b), the Secretary may re-
22 negotiate the original agreement for the covered
23 water resource project entered into between the Sec-
24 retary and the eligible local organization regarding

1 responsibility for the operation and maintenance of
2 the project when the rehabilitation is finished.

3 “(e) APPLICATION FOR REHABILITATION ASSIST-
4 ANCE.—An eligible local organization may apply to the
5 Secretary for technical and financial assistance under this
6 section if the application has also been submitted to and
7 approved by the State agency having supervisory respon-
8 sibility over the covered water resource project at issue
9 or, if there is no State agency having such responsibility,
10 by the Governor of the State. The Secretary shall request
11 the State dam safety officer (or equivalent State official)
12 to be involved in the application process if State permits
13 or approvals are required. The rehabilitation of structural
14 measures shall meet standards established by the Sec-
15 retary and address other dam safety issues. At the request
16 of the eligible local organization, personnel of the Natural
17 Resources Conservation Service of the Department of Ag-
18 riculture may assist in preparing applications for assist-
19 ance.

20 “(f) JUSTIFICATION FOR REHABILITATION ASSIST-
21 ANCE.—In order to qualify for technical or financial as-
22 sistance under this authority, the Secretary shall require
23 the rehabilitation project to be performed in the most cost-
24 effective manner that accomplishes the rehabilitation ob-
25 jective. Since the requirements for accomplishing the reha-

1 bilitation are generally for public health and safety rea-
2 sons, in many instances being mandated by other State
3 or Federal laws, no benefit-cost analysis will be conducted
4 and no benefit-cost ratio greater than one will be required.
5 The benefits of and the requirements for the rehabilitation
6 project shall be documented to ensure the wise and respon-
7 sible use of Federal funds.

8 “(g) RANKING OF REQUESTS FOR REHABILITATION
9 ASSISTANCE.—The Secretary shall establish such system
10 of approving rehabilitation requests, recognizing that such
11 requests will be received throughout the fiscal year and
12 subject to the availability of funds to carry out this sec-
13 tion, as is necessary for proper administration by the De-
14 partment of Agriculture and equitable for all eligible local
15 organizations. The approval process shall be in writing,
16 and made known to all eligible local organizations and ap-
17 propriate State agencies.

18 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to the Secretary
20 \$60,000,000 for each of the fiscal years 2000 through
21 2009 to provide financial and technical assistance under
22 this section.

23 “(i) ASSESSMENT OF REHABILITATION NEEDS.—Of
24 the amount appropriated pursuant to subsection (h) for
25 fiscal years 2000 and 2001, \$5,000,000 shall be used by

1 the Secretary, in concert with the responsible State agen-
2 cies, to conduct an assessment of the rehabilitation needs
3 of covered water resource projects in all States in which
4 such projects are located.

5 “(j) RECORDKEEPING AND REPORTS.—

6 “(1) SECRETARY.—The Secretary shall main-
7 tain a data base to track the benefits derived from
8 rehabilitation projects supported under this section
9 and the expenditures made under this section. On
10 the basis of such data and the reports submitted
11 under paragraph (2), the Secretary shall prepare
12 and submit to Congress an annual report providing
13 the status of activities conducted under this section.

14 “(2) GRANT RECIPIENTS.—Not later than 90
15 days after the completion of a specific rehabilitation
16 project for which assistance is provided under this
17 section, the eligible local organization that received
18 the assistance shall make a report to the Secretary
19 giving the status of any rehabilitation effort under-
20 taken using financial assistance provided under this
21 section.”.

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