

LONG ISLAND SOUND PRESERVATION AND PROTECTION
ACT

MAY 2, 2000.—Committed to the Committee of the Whole House on the State of the
Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 855]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 855) to amend the Marine Protection, Research, and Sanctuaries Act of 1972 relating to the dumping of dredged material in Long Island Sound, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Long Island Sound Preservation and Protection Act”.

SEC. 2. DUMPING OF DREDGED MATERIALS IN LONG ISLAND SOUND.

Section 106(f) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1416(f)) is amended to read as follows:

“(f) DUMPING OF DREDGED MATERIAL IN LONG ISLAND SOUND.—In addition to other provisions of law, the transportation of dredged material from—

“(1) a dredging project exceeding 25,000 cubic yards by a non-Federal applicant;

“(2) any dredging project by a Federal applicant; or

“(3) any Federal project,

for the purpose of dumping it into the waters of Long Island Sound (including Fisher’s Island Sound) must satisfy all applicable provisions of this title as if the waters of Long Island Sound, which are internal waters of the United States, were ocean waters under this title.”.

PURPOSE AND SUMMARY

The purpose of H.R. 855, the “Long Island Sound Preservation and Protection Act,” is to amend title I of the Marine Protection, Research, and Sanctuaries Act (commonly referred to as the Ocean Dumping Act) to clarify environmental criteria governing the disposal of dredged material in Long Island Sound, including Fisher’s Island Sound.

BACKGROUND AND NEED FOR LEGISLATION

The disposal of dredged material in ocean waters is regulated under the Marine Protection, Research, and Sanctuaries Act (MPRSA). Disposal of dredged materials in other waters of the United States is governed by Section 404 of the Clean Water Act. The Long Island Sound is not included in the statutory definition of ocean waters. However, in 1980, former Representative Ambro (NY) authored an amendment to the MPRSA (Section 106(f)) to require that the disposal of dredged material into the Long Island Sound from any federal project, or from any non-federal project exceeding 25,000 cubic yards, comply with the environmental criteria for ocean dumping under the MPRSA, in addition to the requirements of Section 404 of the Clean Water Act. Congress made additional revisions to Section 106(f) in 1990.

Some have expressed the concern that EPA and the Corps of Engineers have not always complied with the Ambro amendment’s intent and requirements for the disposal of dredged materials in the Long Island Sound. H.R. 855 responds to this concern by amending section 106(f) of the MPRSA to clarify its original purpose.

DISCUSSION OF COMMITTEE BILL AND SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Provides that the Act may be cited as the “Long Island Sound Preservation and Protection Act.”

Section 2. Dumping of dredged materials in Long Island Sound

Amends section 106(f) of the MPRSA to require that the disposal of dredged material from federal projects, including dredging projects by federal applicants, and any nonfederal project exceeding 25,000 cubic yards into the waters of Long Island Sound (including Fisher’s Island Sound) comply with the requirements of the Ocean Dumping Act, even though those waters are internal waters of the United States. Disposal of such dredged material also remains subject to regulation under section 404 of the Clean Water Act, which applies to internal waters of the United States.

The purpose of this amendment is to require that the transportation of dredged material for the purpose of dumping it into Long Island Sound (including Fisher’s Island Sound) from the listed categories of projects receive a permit (or “authorization” for Federal projects) under section 103 of the MPRSA, in addition to the permit (or authorization) required under section 404 of the Clean Water Act. Permits or authorizations issued for such categories of projects must satisfy all provisions of section 103 and all applicable regula-

tions promulgated under title I of the MPRSA. As required by MPRSA section 103, all sites for disposal must either be designated by the Administrator of EPA in accordance with section 102 of the MPRSA, or selected by the Secretary of the Army in accordance with section 103. Sites in Long Island Sound that have been used in the past for dredged material disposal may continue to be used in the future, but only if they are either designated by EPA, or selected by the Corps of Engineers, prior to such use.

The waters of Block Island Sound are ocean waters and already subject to the provisions of the MPRSA. This amendment clarifies that Fisher's Island Sound, as part of Long Island Sound, is subject to section 106(f).

The Committee takes note of the Letter of Agreement of April 1998 between EPA and the Corps of Engineers, and considers that implementation of that Letter of Agreement would fully comply with the requirements imposed under this amendment.

HEARINGS

On July 13, 1999, the Subcommittee on Water Resources and Environment held a hearing on "Estuaries and Coastal Water Quality Legislation," and received testimony on H.R. 855, as well as other coastal and estuary bills. The hearing included testimony from Members of Congress, including Representative Forbes (NY), Representative Shays (CT), Representative DeLauro (CT), Representative Ackerman (NY), and Representative Johnson (CT). Testimony was also heard from the U.S. Army Corps of Engineers, the EPA, the National Oceanic and Atmospheric Administration, as well as representatives of coastal states and several environmental organizations.

COMMITTEE CONSIDERATION

On April 5, 2000, the Water Resources and Environment Subcommittee reported H.R. 855, by unanimous voice vote, favorably to the Full Committee. The Subcommittee adopted an amendment to (a) restate and clarify the current requirements and environmental criteria for the disposal of dredged materials in Long Island Sound and (b) clarify that Fisher's Island Sound is part of Long Island Sound.

On April 11, 2000, the Full Committee met in open session and ordered the bill reported to the House by unanimous voice vote.

ROLLCALL VOTES

Clause 3(b) of Rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each roll call vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with ordering H.R. 855 reported.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 855.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 855 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 2, 2000.

Hon. BUD SHUSTER,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 855, the Long Island Sound Preservation and Protection Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Susanne S. Mehlman and Megan Carroll.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 855—Long Island Sound Preservation and Protection Act

H.R. 855 would amend currently law to clarify that the requirements of the Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA) apply to certain activities in Fisher's Island Sound. Under that act, the Environmental Protection Agency (EPA) and

the U.S. Army Corps of Engineers regulate the disposal of dredged material in ocean waters, including Long Island Sound. Those agencies already consider Fisher's Island Sound to be part of Long Island Sound. Hence, we expect that enacting H.R. 855 would not affect the federal budget.

Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply. H.R. 855 contains no inter-governmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contracts for this estimate are Susanne S. Mehlman and Megan Carroll. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of Rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act. (Public Law 104-4.)

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act. (Public Law 104-1.)

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 (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

**SECTION 106 OF THE MARINE PROTECTION, RESEARCH,
AND SANCTUARIES ACT OF 1972**

RELATIONSHIP TO OTHER LAWS

SEC. 106. (a) * * *

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[(f) In addition to other provisions of law and notwithstanding the specific exclusion relating to dredged material in the first sentence in section 102(a) of this Act, the dumping of dredged material in Long Island Sound from any Federal project (or pursuant to Federal authorization) or from a dredging project by a non-Federal applicant exceeding 25,000 cubic yards shall comply with the requirements of this title.]

(f) DUMPING OF DREDGED MATERIAL IN LONG ISLAND SOUND.—
In addition to other provisions of law, the transportation of dredged material from—

- (1) a dredging project exceeding 25,000 cubic yards by a non-Federal applicant;*
- (2) any dredging project by a Federal applicant; or*
- (3) any Federal project,*

for the purpose of dumping it into the waters of Long Island Sound (including Fisher's Island Sound) must satisfy all applicable provisions of this title as if the waters of Long Island Sound, which are internal waters of the United States, were ocean waters under this title.

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