

NATIONAL ESTUARY PROGRAM

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. 1237]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 1237) to amend the Federal Water Pollution Control Act to permit grants for the national estuary program to be used for the development and implementation of a comprehensive conservation and management plan, to reauthorize appropriations to carry out the program, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend 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. NATIONAL ESTUARY PROGRAM.

(a) ADDITIONS TO NATIONAL ESTUARY PROGRAM.—Section 320(a)(2)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1330(a)(2)(B)) is amended by inserting “Lake Ponchartrain Basin, Louisiana and Mississippi; Mississippi Sound, Mississippi;” before “and Peconic Bay, New York.”.

(b) GRANTS.—Section 320(g) of the Federal Water Pollution Control Act (33 U.S.C. 1330(g)) is amended by striking paragraphs (2) and (3) and inserting the following:

“(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.”.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 320(i) of the Federal Water Pollution Control Act (33 U.S.C. 1330(i)) is amended by striking “\$12,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991” and inserting “\$50,000,000 for each of fiscal years 2000 through 2004”.

PURPOSE AND SUMMARY

The purpose of H.R. 1237 is to reauthorize and improve the National Estuary Program (NEP), contained in Section 320 of the Federal Water Pollution Control Act (Clean Water Act). H.R. 1237 authorizes grants for the development and implementation of comprehensive conservation and management plans, reauthorizes appropriations for the NEP, and adds two additional sites to the list of estuaries receiving priority consideration under the NEP.

BACKGROUND AND NEED FOR LEGISLATION

Overview of estuaries and coastal areas

Estuaries are partially enclosed water bodies where freshwater from land drainage through rivers or streams flows into an open sea or the ocean. Estuaries are also called inlets, bays, harbors, or sounds, and their habitats include shallow open waters, fresh and saltwater marshes, beaches, tidal pools, and wooded swamps, among others.

Estuaries and their surrounding coastal areas provide some of the most diverse and ecologically and economically productive habitat in the country. Many wildlife populations, such as migratory birds, commercially valuable fish species, shellfish and other species depend on estuarine environments. Estuaries also support important commercial activities, provide the primary water supply for many areas, and perform many other essential ecologic and economic functions for the U.S. For example, estuaries provide habitat for more than 75 percent of America’s commercial fish catch at some point during their life cycle, and fisheries dependent on coastal waters were worth more than \$1.9 billion in 1990 (excluding Alaska). Coastal industries, including fishing, boating and tourism, provide more than 28 million jobs, and coastal recreation and tourism generate approximately \$8 to \$12 billion annually. More than 70 percent of Americans visit the coast every year. In addition, more than 110 million people currently live in coastal regions, and this number is expected to reach 127 million by 2010.

Increasing population growth and development have imposed significant stress on our estuaries. Competing and increasing demands on estuaries have led to water quality problems arising from increased non-point source pollution from stormwater and agricultural runoff, wastewater discharges, industrial pollution, and commercial and recreational waste. The nation’s estuaries face increasing eutrophication from over-enrichment of nutrients, contamination from toxic substances and pathogens, loss of habitat, declines in fish and wildlife populations, and intrusion by non-native species. The 1996 National Water Quality Inventory reported that almost 40 percent of the surveyed estuaries are impaired (i.e. not fully meeting one or more designated uses).

Current efforts to restore and maintain estuaries

In 1987, Congress established the NEP by adding Section 320 to the Clean Water Act. The goal of Section 320 is the promotion of comprehensive conservation and management plans (CCMPs) for estuaries of national significance through collaborative voluntary efforts of federal, state, local, non-profit and private interests. Stakeholders involved include local governments, federal officials, private and non-profit interests, industrial, recreational or other user groups, and academic or scientific experts. The goal is for the stakeholders, as equal partners, to develop and implement long-term CCMPs, with technical assistance and grants provided by the Environmental Protection Agency (EPA).

Of the roughly 130 estuaries in the U.S., 28 have been incorporated into the NEP. Of these 28, 21 have begun implementation, and seven are still in the development stage. An estimated \$50 billion will be needed to implement all 28 CCMPs. Although authorization for the NEP expired in FY 1991, Congress has continued to appropriate funds (approximately \$225 million to date).

Currently, Section 320 does not authorize funding for CCMP implementation. However, for the past three fiscal years, the Veterans Affairs, Housing and Urban Development, and Independent Agencies (VA-HUD) appropriations bill has included language allowing the Section 320 funding provided in that fiscal year to be used for implementation. Additional Clean Water Act funding is available for CCMP development and/or implementation through the Clean Water State Revolving Fund loans, non-point source grants under Section 319, and state water program grants under Section 104(b)(3).

DISCUSSION OF COMMITTEE BILL AND SECTION-BY-SECTION
ANALYSIS

Section 1. National Estuary Program

Subsection (a) amends Section 320(a)(2)(b) of the Clean Water Act by adding the Lake Pontchartrain Basin, Louisiana, and the Mississippi Sound, Mississippi to the list of estuaries of national significance that Congress recommends for priority consideration for the NEP.

Subsection (b) amends Section 320 (g) to permanently allow grants made under this section to be used for development and implementation of CCMPs. This subsection also establishes the federal cost-share for grants not to exceed 75 percent of the annual aggregate costs of CCMP development, and not to exceed 50 percent of the annual aggregate costs of CCMP implementation. Finally, this subsection states that grants shall be made on the condition that non-federal sources provide the non-federal cost share.

Subsection (c) amends Section 320(i) to authorize appropriations of \$50 million for each of fiscal years 2000 through 2004.

Under the reported bill, construction of projects that are treatment works as defined in the Clean Water Act will be subject to the requirements of the Davis-Bacon Act as provided in Section 513 of the Clean Water Act. The Committee is aware that some of the construction authorized by the reported bill may not come within the definition of treatment works. The Committee has not ad-

addressed the issue of whether these construction projects should be covered by the Davis-Bacon Act, and the reported bill should not be considered as a precedent on this issue.

HEARINGS

On July 13, 1999, the Water Resources and Environment Subcommittee held a hearing on H.R. 1237 and several other coastal and estuary bills. Testimony was given by, among others, Representative Saxton (NJ), Representative Shays (CT), Representative Lowey (NY), Representative DeLauro (CT), and Representative Lazio (NY). In addition, testimony was given by Mr. Michael Davis of the U.S. Army Corps of Engineers, Ms. Dana Minerva of the EPA, and Ms. Sally Yozell of the National Oceanic and Atmospheric Administration, as well as representatives of coastal states and several environmental organizations.

COMMITTEE CONSIDERATION

On April 5, 2000 the Subcommittee on Water Resources and Environment adopted an amendment to the bill, and favorably reported the amended bill by voice vote. The amendment amended Section 320 of the Clean Water Act, and included Lake Pontchartrain Basin and Mississippi Sound to the list of estuaries of national significance that Congress recommends for priority consideration for the NEP.

On April 11, 2000, the Committee approved H.R. 1237 as amended by the Subcommittee, and ordered the bill reported to the House by 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 rollcall 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. 1237 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. 1237.

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. 1237 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 19, 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. 1237, a bill to amend the Federal Water Pollution Control Act to permit grants for the national estuary program to be used for the development and implementation of a comprehensive conservation and management plan, to reauthorize appropriations to carry out the program, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Susanne S. Mehlman (for federal costs), and Victoria Heid Hall (for the state and local impact).

Sincerely,

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

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 1237—A bill to amend the Federal Water Pollution Control Act to permit grants for the national estuary program to be used for the development and implementation of a comprehensive conservation and management plan, to reauthorize appropriations to carry out the program, and for other purposes

Summary: H.R. 1237 would authorize the appropriation of \$50 million annually over the 2000–2004 period for the Environmental Protection Agency's (EPA's) National Estuary Program (NEP). Under the bill, the agency would make additional grants to states for the purpose of developing and implementing long-term management plans for various estuaries that are not currently covered under the NEP. CBO estimates that implementing this legislation would increase discretionary spending by \$157 million over the 2000–2005 period.

This bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 1237 contains no intergovernmental or private-sector mandates as defined in the Un-

funded mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: For purposes of this estimate, CBO assumes that the amounts authorized will be appropriated for each fiscal year and that outlays will follow the pattern of past appropriations for EPA activities associated with the NEP. The estimated impact of H.R. 1237 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and the environment).

	By fiscal year, in millions of dollars—					
	2000	2001	2002	2003	2004	2005
SPENDING SUBJECT TO APPROPRIATION						
NEP Spending Under Current Law ¹ :						
Budget Authority	14	0	0	0	0	0
Estimated Outlays	14	7	3	1	0	0
Proposed Changes:						
Authorization Level	36	50	50	50	50	0
Estimated Outlays	2	8	21	36	45	45
NEP Spending Under H.R. 1237:						
NEP Authorization Level	50	50	50	50	50	0
Estimated Outlays	16	15	24	37	45	45

¹ The 2000 level is the amount appropriated for that year for the National Estuary Program.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 1237 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Implementing this bill would benefit state and local governments by allowing jurisdictions to use federal grants made under the National Estuary Program for implementing conservation and management plans. Any costs to match federal grant funds would be incurred voluntarily.

Previous CBO estimate: On October 13, 1999, CBO transmitted a cost estimate for S. 835, the Estuary Habitat Restoration Partnership Act of 1999, as ordered reported by the Senate Committee on Environment and Public Works on September 29, 1999. In contrast to H.R. 1237, S. 835 would increase the authorization of appropriations for the NEP by \$25 million for each of fiscal years 2000 and 2001. In addition, S. 835, unlike H.R. 1237, would authorize additional appropriations for the Corps of Engineers to establish an Estuary Habitat Restoration Collaborative Council.

In addition, on March 27, 2000, CBO transmitted a cost estimate for H.R. 1775, the Estuary Restoration Act of 2000, as ordered reported by the House Committee on Transportation and Infrastructure on March 16, 2000. H.R. 1775 would authorize appropriations for the Corps of Engineers to establish an Estuary Habitat Restoration Council and for other agencies, including EPA, to conduct various studies related to estuary restoration. Differences between the two estimates are the result of differences in the two bills.

Estimate prepared by: Federal costs: Susanne S. Mehlman. Impact on State, Local, and Tribal Governments: Victoria Heid Hall. Impact on the Private Sector: Jean Wooster.

Estimate approved by: Peter H. Fontaine, Deputy 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 *italic*, existing law in which no change is proposed is shown in roman):

SECTION 320 OF THE FEDERAL WATER POLLUTION CONTROL ACT

SEC. 320. NATIONAL ESTUARY PROGRAM.

(a) MANAGEMENT CONFERENCE.—

(1) * * *

(2) CONVENING OF CONFERENCE.—

(A) * * *

(B) **PRIORITY CONSIDERATION.**—The Administrator shall give priority consideration under this section to Long Island Sound, New York and Connecticut; Narragansett Bay, Rhode Island; Buzzards Bay, Massachusetts; Massachusetts Bay, Massachusetts (including Cape Cod Bay and Boston Harbor); Puget Sound, Washington; New York-New Jersey Harbor, New York and New Jersey; Delaware Bay, Delaware and New Jersey; Delaware Inland Bays, Delaware; Albermarle Sound, North Carolina; Sarasota Bay, Florida; San Francisco Bay, California; Santa Monica Bay, California; Galveston Bay, Texas; Barataria-Terrebonne

Bay estuary complex, Louisiana; Indian River Lagoon, Florida; *Lake Pontchartrain Basin, Louisiana and Mississippi*; *Mississippi Sound, Mississippi*; and Peconic Bay, New York.

* * * * *

(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 assisting research, surveys, studies, and modeling and other technical work necessary for the development of a conservation and management plan under this section.]

[(3) FEDERAL SHARE.—The amount of grants to any person (including a State, interstate, or regional agency or entity) under this subsection for a fiscal year shall not exceed 75 percent of the costs of such research, survey, studies, and work and shall be made on condition that the non-Federal share of such costs are provided from non-Federal sources.]

(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.*

* * * * *

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator not to exceed [\$12,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991] \$50,000,000 for each of fiscal years 2000 through 2004 for—

(1) * * *

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