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111TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 111-210

CLEANFIELDS INVESTMENT ACT

—————
JUNE 18, 2010.—Ordered to be printed
—————

Mrs. BOXER, from the Committee on Environment and Public Works, submitted the following

R E P O R T

[To accompany S. 3374]

together with

MINORITY VIEWS

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred the bill (S. 3374) to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to establish a grant program to revitalize brownfield sites for the purpose of locating renewable electricity generation facilities on those sites, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

PURPOSES OF THE LEGISLATION

The purpose of the Cleanfields Investment Act (the Act) is to authorize \$50 million annually in grants for the inventory, assessment, planning, and remediation of brownfields for the purpose of locating renewable electricity generation or manufacturing facilities on those sites.

GENERAL STATEMENT AND BACKGROUND

The Act amends the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to establish a grant program to revitalize brownfield sites for the purpose of locating renewable electricity generation or manufacturing facilities on those sites.

The Environmental Protection Agency (EPA) has estimated that over 4,000 brownfield sites have robust renewable resource potential. On all the contaminated sites that EPA tracks, there are about 17,000 megawatts (MW) of utility-scale wind potential and over 915,000 MW of utility-scale solar potential.

According to EPA, brownfields clean-ups have created over 61,000 jobs nationwide, leveraged over \$18.00 per each EPA dollar spent, increased residential property values 2 to 3 percent, and increased overall property values within a one mile radius of the site by \$0.5 million to \$1.5 million. The Act will expand the program to stimulate jobs in the renewable electricity industry, while also helping to preserve open spaces and protect the environment and public health.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 provides that the Act may be cited as the “Cleanfields Investment Act”.

Section 2. Purpose

Section 2 provides that the purpose of this Act is to establish a program to fund grants to inventory, characterize, assess, and conduct planning relating to brownfield sites for the purpose of locating renewable electricity generation or manufacturing facilities on those brownfield sites; or for use in remediating brownfield sites for the purpose of locating renewable electricity generation or manufacturing facilities on those brownfield sites.

Section 3. Definitions

Section 3 amends Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to include definitions for “Renewable Electricity Generation Facility” and “Renewable Energy Manufacturing Facility.”

Section 4. Renewable electricity brownfield site funding

Section 4 amends Section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to authorize a grant program to inventory, characterize, assess, conduct planning, and remediate brownfield sites for the purpose of locating renewable electricity generation or manufacturing facilities on those sites. Section 4 also specifies permissible uses of grants and requires the EPA Administrator to issue guidance and ranking criteria for the awarding of grants. Section 4 authorizes \$50,000,000 annually to fund grants from 2011 through 2016.

LEGISLATIVE HISTORY

On May 13, 2010, Senator Lautenberg introduced S. 3374. On May 20, 2010, the Environment and Public Works Committee held a business meeting to consider the bill. Senator Inhofe offered an amendment to expand the grant program to apply to contaminated sites other than brownfields, and the amendment was rejected with six votes in favor of the amendment and eleven opposed. Senator Merkley offered an amendment to allow renewable energy manufacturing facilities to receive grants under the Act, and the amend-

ment was agreed to by voice vote. S. 3374 was ordered favorably reported as amended by a voice vote.

HEARINGS

No hearings were held to consider the Act.

ROLLCALL VOTES

The Committee on Environment and Public Works ordered S. 3374 favorably reported by voice vote on May 20, 2010. 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 makes evaluation of the regulatory impact of the reported bill. The Committee finds that this legislation, which provides grants to inventory, characterize, assess, conduct planning related to, and to remediate brownfield sites for the purpose of locating renewable electricity generation or manufacturing facilities, does not have substantial regulatory impacts.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), the Committee finds that this legislation does not impose intergovernmental mandates or private sector mandates as those terms are defined in UMRA. The Congressional Budget Office concurs, finding “S. 3374 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.”

MAY 24, 2010.

Hon. BARBARA BOXER,
Chairman, Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3374, the Cleanfields Investment Act.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 3374—Cleanfields Investment Act

Summary: S. 3374 would authorize the Environmental Protection Agency to provide grants to nonprofit organizations, units of local government, and other eligible entities for locating renewable energy facilities (including renewable energy manufacturing facilities) on brownfield sites. This legislation would authorize the appropriation of \$50 million annually over the 2011–2015 period for such grants. Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 3374 would cost \$195 million over the 2011–2015 period.

Pay-as-you-go procedures would not apply to this legislation because it would not affect direct spending or revenues.

S. 3374 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 3374 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—					
	2011	2012	2013	2014	2015	2011–2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	50	50	50	50	50	250
Estimated Outlays	3	43	49	50	50	195

Basis of estimate: For this estimate, CBO assumes that S. 3374 will be enacted near the beginning of fiscal year 2011 and that authorized amounts will be appropriated in each year starting in 2011. Estimated outlays are based on historical spending patterns for similar programs.

Intergovernmental and private-sector impact: S. 3374 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on State, local, or tribal governments.

Estimate prepared by: Federal costs: Susanne S. Mehlman; Impact on State, local, and tribal governments: Ryan Miller; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

MINORITY VIEWS OF SENATOR INHOFE

I agree with the overall intention of Senator Lautenberg's S. 3374, the Cleanfields Investment Act. I believe, however, the scope of contaminated lands that are considered within this bill is far too narrow. Brownfields redevelopment should be and is encouraged. Cleaning up our contaminated lands is always a winning proposition and coupling that cleanup with renewable energy development is a smart choice. Limiting this bill to just brownfields properties denies other contaminated lands an opportunity to be developed.

According to the U.S. Energy Information Administration's Annual Energy Outlook 2008, by 2030 U.S. electricity production will need to increase by nearly 30 percent to meet growing demand. Looking to develop contaminated lands is a practical idea that should be strived for and encouraged.

Even the Environmental Protection Agency believes in this ideal. EPA's RE-Powering America's Land Initiative seeks to develop renewable energy on contaminated land. Under this initiative EPA does not limit contaminated land to just brownfields. Resource Conservation and Recovery Act lands, abandoned mine lands, landfills and superfund sites are all considered under this initiative. In fact, EPA tracks approximately 490,000 sites and 15 million acres of potentially contaminated land across the United States.

Under EPA's initiative, there are 65 contaminated sites in my home state of Oklahoma that could be used for renewable energy development. S. 3374 would only consider 35 brownfields sites in Oklahoma. In California, EPA's initiative identified 205 contaminated sites. S. 3374 would only consider the 6 brownfields sites and exclude the 199 other contaminated sites. EPA's initiative identifies 75 sites in New Mexico, of which only 9 brownfields would be eligible under S. 3374.

Brownfields are typically located in urban areas and are much smaller in size and acreage as compared to other contaminated lands. I feel that on the issue of location and size alone, all contaminated land should be considered. There is no logical reason to limit the choices, especially considering that under S. 3374, EPA will be the agency determining and awarding the grants.

JAMES M. INHOFE.

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:

**COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT OF 1980**

* * * * *
SEC. 101. For purpose of this title—
(1) * * *

* * * * *
(42) *RENEWABLE ELECTRICITY GENERATION FACILITY.*—*The term ‘renewable electricity generation facility’ means a facility that generates renewable electricity from wind energy, solar energy, or geothermal energy.*

(43) *RENEWABLE ENERGY MANUFACTURING FACILITY.*—*The term ‘renewable energy manufacturing facility’ means a facility that manufactures components or systems for use in generating renewable electricity from wind energy, solar energy, or geothermal energy.*

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SEC. 104. (a)(1)* * *

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(k) **BROWNFIELDS REVITALIZATION FUNDING.**—
(1) **DEFINITION OF ELIGIBLE ENTITY.**—In this subsection, the term “eligible entity” means—
(A) * * *

* * * * *
(11) **EFFECT ON FEDERAL LAWS.**—Nothing in this subsection affects any liability or response authority under any Federal law, including—
(A) this Act (including the last sentence of section 101(14));
(B) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);
(C) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);
(D) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and
(E) the Safe Drinking Water Act (42 U.S.C. 300f et seq.).
(12) *RENEWABLE ELECTRICITY BROWNFIELD SITE FUNDING.*—

(A) *IN GENERAL.*—The Administrator shall establish a program to provide grants to—

(i) eligible entities, to be used for capitalization of revolving loan funds to provide assistance in accordance with subparagraph (B); and

(ii) eligible entities or nonprofit organizations, as determined by the Administrator in accordance with subparagraph (C), to be used directly—

(I) to inventory, characterize, assess, and conduct planning relating to 1 or more brownfield sites for the purpose of locating a renewable electricity generation facility or a renewable energy manufacturing facility on those brownfield sites; or

(II) for remediation of 1 or more brownfield sites for the purpose of locating a renewable electricity generation facility or a renewable energy manufacturing facility on those brownfield sites.

(B) *USE OF LOAN AND GRANT FUNDS PROVIDED BY ELIGIBLE ENTITIES.*—An eligible entity that receives a grant under subparagraph (A)(i) shall use the grant to provide assistance for a purpose described in subparagraph (A)(ii) in the form of 1 or more—

(i) loans to an eligible entity, site owner, site developer, or other person; or

(ii) grants to an eligible entity or other nonprofit organization, where warranted, as determined in accordance with subparagraph (C) by the eligible entity that is providing the assistance.

(C) *CONSIDERATIONS.*—

(i) *IN GENERAL.*—Not later than 90 days after the date of enactment of the Cleanfields Investment Act, the Administrator shall issue guidance describing the considerations to be used in determining whether a grant under subparagraph (A) is warranted for a purpose described in subparagraph (A)(ii).

(ii) *USE OF GUIDANCE.*—The guidance issued under clause (i) shall be used by the Administrator or an eligible entity, as the case may be, to determine whether a grant under subparagraph (A) is warranted.

(D) *RANKING CRITERIA.*—

(i) *IN GENERAL.*—The Administrator shall issue ranking criteria to be used in determining whether a grant under subparagraph (A) is warranted for a purpose described in subparagraph (A)(ii).

(ii) *USE OF RANKING CRITERIA.*—The ranking criteria issued under clause (i) shall be used by the Administrator or an eligible entity, as the case may be, to determine whether a grant under subparagraph (A) is warranted.

(E) *IMPLEMENTATION.*—Paragraphs (4), (5)(A), (5)(B), and (6) through (11) shall apply to the implementation of this paragraph.

[(12)](13) *FUNDING.*—

(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection 200,000,000 for each of fiscal years 2002 through 2006.

(B) USE OF CERTAIN FUNDS.—Of the amount made available under subparagraph (A), \$50,000,000, or, if the amount made available is less than 200,000,000, 25 percent of the amount made available, shall be used for site characterization, assessment, and remediation of facilities described in section 101(39)(D)(ii)(II).

(C) AUTHORIZATION OF APPROPRIATIONS FOR RENEWABLE ELECTRICITY GENERATION FACILITY AND RENEWABLE ENERGY MANUFACTURING FACILITY BROWNFIELDS FUNDING.—*There is authorized to be appropriated to the Administrator, to fund grants to inventory, characterize, assess, and conduct planning relating to brownfield sites for the purpose of locating renewable electricity generation facilities or renewable energy manufacturing facilities on those brownfield sites, or for remediation of brownfield sites for the purpose of locating renewable electricity generation facilities or renewable energy manufacturing facilities on those brownfield sites, \$50,000,000 for each of fiscal years 2011 through 2016.*