

GEOTHERMAL PRODUCTION EXPANSION ACT OF 2013

DECEMBER 22, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany S. 363]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (S. 363) to expand geothermal production, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 363 is to expand geothermal production.

BACKGROUND AND NEED FOR LEGISLATION

Geothermal energy can be used for electricity production, for commercial, industrial, and residential direct heating purposes, and for heating and cooling through geothermal heat pumps. To develop geothermal electricity, the wells bring the geothermal water to the surface, where its heat energy is converted into electricity at a geothermal power plant. Geothermal heat can also be used without involving a power plant or heat pump for applications such as space heating and cooling, food preparation, greenhouses, and agriculture.

The legislation expands the provisions of the Geothermal Steam Act of 1970 to allow for non-competitive geothermal leasing on federal land adjacent to private lands that are identified as primary resources for geothermal energy.

While the process of non-competitive leasing of known valuable resources is controversial, the sponsors have attempted to draft the legislation to address concerns and ensure a fair price for the taxpayer. However, concerns over the fundamental need for non-com-

petitive leasing of valuable properties remains a fundamental question regarding this legislation.

COMMITTEE ACTION

S. 363 was introduced on February 14, 2013, by Senator Ron Wyden (D-OR). On July 9, 2014, the bill passed the Senate by unanimous consent without amendment. The bill was then referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Energy and Mineral Resources. On July 29, 2014, the Subcommittee held a hearing on the House companion bill, H.R. 2004, introduced by Congressman Michael Simpson (R-ID). On September 18, 2014, the Natural Resources Committee met to consider S. 363. The Subcommittee on Energy and Mineral Resources was discharged by unanimous consent. No amendments were offered and the bill was adopted and ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

S. 363—Geothermal Production Expansion Act of 2013

S. 363 would authorize the Bureau of Land Management (BLM) to award leases, on a noncompetitive basis, for the development of geothermal resources on certain federal lands. Based on information provided by BLM, the Department of Energy (DOE), and individuals working in the geothermal industry, CBO estimates that implementing the legislation would have no significant effect on the federal budget over the 2015–2024 period. Enacting S. 363 could affect direct spending; therefore, pay-as-you-go procedures apply. However, CBO estimates that the net effect on direct spending would not be significant in any year. Enacting the legislation would not affect revenues.

S. 363 would authorize BLM to offer noncompetitive leases of up to 640 acres for lands adjacent to known geothermal discoveries. Under the act, a company that identified a geothermal resource that extended onto federal land adjacent to company-controlled

lands could acquire the lease for a specified amount (bonus bid) determined by BLM to be equivalent to the fair market value rather than an amount determined through a competitive auction. In addition to paying fair market value for the parcel, the act would require any company awarded such a noncompetitive lease to make annual rental payments equal to those required for lands that are leased competitively. Finally, a company could receive only one noncompetitive lease for each known geothermal discovery.

CBO estimates that awarding noncompetitive leases for lands adjacent to known geothermal discoveries could reduce bonus bids on those parcels. However, because the legislation would require the companies that are awarded those leases to pay fair market value for them, we estimate that implementing the act would not reduce the amount of receipts deposited in the U.S. Treasury by more than \$500,000 in any year. (Under current law, 75 percent of all receipts from bonus bids, rents, and royalties related to the development of geothermal resources on federal lands is paid to the states and counties in which those lands are located. The remaining 25 percent is deposited in the U.S. Treasury.)

In addition, based on information provided by DOE and individuals working in the geothermal industry, CBO expects that implementing S. 363 could increase receipts from royalties paid on geothermal energy production by reducing the amount of time it takes to develop a known geothermal resource and by reducing the likelihood that lands containing geothermal resources would be acquired for speculative purposes. CBO estimates that any increase in the amount of royalty receipts that would be deposited in the U.S. Treasury would not exceed \$500,000 in any year. Those amounts would offset any reduction in bonus bids from issuing noncompetitive leases under the act. On balance, CBO estimates that implementing S. 363 would have no significant net effect on direct spending through fiscal year 2024.

S. 363 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On June 27, 2013, CBO transmitted a cost estimate for S. 363, the Geothermal Production Expansion Act of 2013, as ordered reported by the Senate Committee on Energy and Natural Resources on May 16, 2013. The two versions of the act are similar and the estimated costs are the same.

The CBO staff contact for this estimate is Jeff LaFave. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, spending authority, or an increase or decrease in revenues or tax expenditures. Based on information provided by the Bureau of Land Management, the Department of Energy, and individuals working in the geothermal industry, CBO estimates that implementing the legislation would have no significant effect on the federal budget over the 2015–2024 period. While enacting S. 363 could affect direct spending, the net effect on direct spending would not be significant in any year.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to expand geothermal production.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman estimates that this bill directs the Secretary of the Interior to conduct one rulemaking.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

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 (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

GEOTHERMAL STEAM ACT OF 1970

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SEC. 4. LEASING PROCEDURES.

(a) * * *

(b) COMPETITIVE LEASE SALE REQUIRED.—

(1) * * *

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(4) ADJOINING LAND.—

(A) DEFINITIONS.—*In this paragraph:*

(i) *FAIR MARKET VALUE PER ACRE.*—*The term “fair market value per acre” means a dollar amount per acre that—*

(I) except as provided in this clause, shall be equal to the market value per acre (taking into account the determination under subparagraph (B)(iii) regarding a valid discovery on the adjoin-

ing land) as determined by the Secretary under regulations issued under this paragraph;

(II) shall be determined by the Secretary with respect to a lease under this paragraph, by not later than the end of the 180-day period beginning on the date the Secretary receives an application for the lease; and

(III) shall be not less than the greater of—

(aa) 4 times the median amount paid per acre for all land leased under this Act during the preceding year; or

(bb) \$50.

(ii) *INDUSTRY STANDARDS.*—The term “industry standards” means the standards by which a qualified geothermal professional assesses whether downhole or flowing temperature measurements with indications of permeability are sufficient to produce energy from geothermal resources, as determined through flow or injection testing or measurement of lost circulation while drilling.

(iii) *QUALIFIED FEDERAL LAND.*—The term “qualified Federal land” means land that is otherwise available for leasing under this Act.

(iv) *QUALIFIED GEOTHERMAL PROFESSIONAL.*—The term “qualified geothermal professional” means an individual who is an engineer or geoscientist in good professional standing with at least 5 years of experience in geothermal exploration, development, or project assessment.

(v) *QUALIFIED LESSEE.*—The term “qualified lessee” means a person that may hold a geothermal lease under this Act (including applicable regulations).

(vi) *VALID DISCOVERY.*—The term “valid discovery” means a discovery of a geothermal resource by a new or existing slim hole or production well, that exhibits downhole or flowing temperature measurements with indications of permeability that are sufficient to meet industry standards.

(B) *AUTHORITY.*—An area of qualified Federal land that adjoins other land for which a qualified lessee holds a legal right to develop geothermal resources may be available for a noncompetitive lease under this section to the qualified lessee at the fair market value per acre, if—

(i) the area of qualified Federal land—

(I) consists of not less than 1 acre and not more than 640 acres; and

(II) is not already leased under this Act or nominated to be leased under subsection (a);

(ii) the qualified lessee has not previously received a noncompetitive lease under this paragraph in connection with the valid discovery for which data has been submitted under clause (iii)(I); and

(iii) sufficient geological and other technical data prepared by a qualified geothermal professional has been submitted by the qualified lessee to the applicable

Federal land management agency that would lead individuals who are experienced in the subject matter to believe that—

(I) there is a valid discovery of geothermal resources on the land for which the qualified lessee holds the legal right to develop geothermal resources; and

(II) that thermal feature extends into the adjoining areas.

(C) DETERMINATION OF FAIR MARKET VALUE.—

(i) IN GENERAL.—The Secretary shall—

(I) publish a notice of any request to lease land under this paragraph;

(II) determine fair market value for purposes of this paragraph in accordance with procedures for making those determinations that are established by regulations issued by the Secretary;

(III) provide to a qualified lessee and publish, with an opportunity for public comment for a period of 30 days, any proposed determination under this subparagraph of the fair market value of an area that the qualified lessee seeks to lease under this paragraph; and

(IV) provide to the qualified lessee and any adversely affected party the opportunity to appeal the final determination of fair market value in an administrative proceeding before the applicable Federal land management agency, in accordance with applicable law (including regulations).

(ii) LIMITATION ON NOMINATION.—*After publication of a notice of request to lease land under this paragraph, the Secretary may not accept under subsection (a) any nomination of the land for leasing unless the request has been denied or withdrawn.*

(iii) ANNUAL RENTAL.—*For purposes of section 5(a)(3), a lease awarded under this paragraph shall be considered a lease awarded in a competitive lease sale.*

(D) REGULATIONS.—*Not later than 270 days after the date of enactment of the Geothermal Production Expansion Act of 2013, the Secretary shall issue regulations to carry out this paragraph.*

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