

Calendar No. 637

113TH CONGRESS }
2d Session }

SENATE

{ REPORT
113-297

ASHLAND BREAKWATER LIGHT TRANSFER ACT

DECEMBER 10, 2014.—Ordered to be printed

Ms. LANDRIEU, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 2031]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2031) to amend the Act to provide for the establishment of the Apostle Islands National Lakeshore in the State of Wisconsin, and for other purposes, to adjust the boundary of that National Lakeshore to include the lighthouse known as Ashland Harbor Breakwater Light, 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 all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Ashland Breakwater Light Transfer Act”.

SEC. 2. BOUNDARY ADJUSTMENT TO INCLUDE LIGHTHOUSE.

Public Law 91-424 (16 U.S.C. 460w et seq.) is amended as follows:

(1) In the first section as follows:

(A) In the matter preceding subsection (a)—

(i) by striking “islands and shoreline” and inserting “islands, shoreline, and light stations”; and

(ii) by inserting “historic,” after “scenic,”.

(B) In subsection (a)—

(i) by striking “the area” and inserting “The area”; and

(ii) by striking “; and” and inserting a period.

(C) In subsection (b), by striking the final period.

(D) By inserting after “1985.” the following:

“(c) ASHLAND HARBOR BREAKWATER LIGHT.—

“(1) The Ashland Harbor Breakwater Light generally depicted on the map titled ‘Ashland Harbor Breakwater Light Addition to Apostle Islands National Lakeshore’ and dated February 11, 2014, located at the end of the breakwater on Chequamegon Bay, Wisconsin.

“(2) Congress does not intend for the designation of the property under paragraph (1) to create a protective perimeter or buffer zone around the boundary of that property.”.

(2) In section 6 as follows:

(A) By striking “The lakeshore” and inserting:

“(a) IN GENERAL.—The lakeshore”.

(B) By inserting “*this section and*” before “the provisions of”.

(C) By adding after subsection (a) the following:

“(b) FEDERAL USE.—Notwithstanding subsection (c) of the first section—

“(1) the Secretary of the department in which the Coast Guard is operating may operate, maintain, keep, locate, inspect, repair, and replace any Federal aid to navigation located at the Ashland Harbor Breakwater Light for as long as such aid is needed for navigational purposes; and

“(2) in carrying out the activities described in paragraph (1), such Secretary may enter, at any time, the Ashland Harbor Breakwater Light or any Federal aid to navigation at the Ashland Harbor Breakwater Light, for as long as such aid is needed for navigational purposes, without notice to the extent that it is not possible to provide advance notice.

“(c) CLARIFICATION OF AUTHORITY.—Pursuant to existing authorities, the Secretary may enter into agreements with the City of Ashland, County of Ashland, and County of Bayfield, Wisconsin, for the purpose of cooperative law enforcement and emergency services within the boundaries of the lakeshore.”.

PURPOSE

The purpose of S. 2031 is to adjust the boundary of Apostle Island National Lakeshore to include the Ashland Harbor Breakwater Lighthouse.

BACKGROUND AND NEED

Apostle Island National Lakeshore was established in 1970 and includes 69,372 acres in northern Wisconsin. In addition to the mainland shoreline, 21 islands are included in the boundaries of the park. The park preserves significant amounts of wildlife habitat and also preserves cultural resources associated with the region’s history. These resources include eight historic lighthouses on six islands. In 1986, these lighthouses were transferred from the Coast Guard (USCG) to the National Park Service. One lighthouse in the area, however, was not transferred as it lay outside the boundaries of the park and was actively used by the USCG.

Ashland Harbor Breakwater Light is located in Chequamegon Bay, Wisconsin. It was first used in 1915 to light the way into the bay from the main body of Lake Superior. In 2007, the Light was added to the National Register of Historic Places. The lighthouse is currently owned by the United States Coast Guard. The USCG is interested in divesting its ownership of the lighthouse and the National Park Service has expressed interest in its inclusion in Apostle Island National Lakeshore.

Legislation is needed to adjust the boundary of the Apostle Islands National Lakeshore in Wisconsin to include the Ashland Harbor Breakwater Light Addition at the end of the breakwater on Chequamegon Bay, Wisconsin.

LEGISLATIVE HISTORY

S. 2031 was introduced by Senator Baldwin on February 12, 2014. The Subcommittee on National Parks heard the bill on July 23, 2014. At its business meeting on November 13, 2014, the Committee ordered S. 2031 favorably reported.

A similar bill, H.R. 4049, was introduced in the House of Representatives on February 11, 2014 by Representative Duffy. It was referred to the Committee on Natural Resources, and in addition, to the Committee on Transportation and Infrastructure. The Subcommittee on Public Lands and Environmental Regulation held a hearing on the bill on June 10, 2014. The full committee ordered the bill to be reported by unanimous consent.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on November 13, 2014, by a voice vote of a quorum present, recommends that the Senate pass S. 2031, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of S. 2031, the Committee adopted an amendment in the nature of a substitute. The amendment has two elements. The first element provides that the designation does not create a buffer zone around the boundary of the property. The second element authorizes the United States Coast Guard to maintain the Federal aid to navigation on the property. The Committee amendment is explained in detail in the section-by-section analysis below.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title, the “Ashland Breakwater Light Transfer Act.”

Section 2 amends various sections of the Act entitled “An Act to provide for the establishment of the Apostle Islands National Lakeshore in the State of Wisconsin, and for other purposes”, approved September 26, 1970 (16 U.S.C. 460w et seq.). Paragraph (1) adds historic light stations to the resources to be preserved at the park. It also adds a new subsection (c) to section 1 of the 1970 act to include the Ashland Harbor Breakwater Light within the boundaries of Apostle Islands National Seashore.

Paragraph (2) adds a subsection (b) to section 6 of the 1970 act to grant rights to the Army Corps of Engineers to utilize land and facilities for breakwater maintenance. It also grants rights to the Coast Guard to use land and facilities for Federal aids to navigation.

In addition, paragraph (2) adds a new subsection (c) to section 6 of the bill to allow the Secretary to enter into agreements with local authorities for cooperative law enforcement and emergency boundaries within the boundaries of Apostle Island National Lakeshore.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

S. 2031—Ashland Breakwater Light Transfer Act

S. 2031 would transfer the Ashland Harbor Breakwater Light from the U.S. Coast Guard to the National Park Service (NPS) to

become part of the Apostle Island National Lakeshore in Wisconsin. Based on information provided by the NPS, CBO estimates that implementing the legislation would not have a significant effect on the federal budget. The transfer would not significantly change federal costs to manage the Apostle Island National Lakeshore or to continue to renovate and maintain the lighthouse. Enacting S. 2031 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 2031 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

On July 18, 2014, CBO transmitted a cost estimate for H.R. 4049, the Ashland Breakwater Light Transfer Act, as ordered reported by the House Committee on Natural Resources on June 19, 2014. The two pieces of legislation are similar and the CBO cost estimates are the same.

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

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2031.

The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 2031, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 2031, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the National Park Service at the July 23, 2014, Subcommittee on National Parks hearing on S. 2031 follows:

STATEMENT OF CHRISTINA GOLDFUSS, DEPUTY DIRECTOR,
CONGRESSIONAL AND EXTERNAL RELATIONS, NATIONAL
PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before your committee to present the views of the Department of the Interior on S. 2031, a bill to amend the act to provide for the establishment of the Apostle Islands National Lakeshore in the state of Wisconsin, and for other purposes, to adjust the boundary of that National Lake-

shore to include the lighthouse known as Ashland Harbor Breakwater Light, and for other purposes.

The Department supports the enactment of S. 2031 with the amendments discussed below.

S. 2031 would adjust the boundary of the Apostle Island National Lakeshore (Lakeshore) to include the Ashland Harbor Breakwater Light, thereby transferring ownership of the historic 1915 lighthouse to the National Park Service (NPS) from the U.S. Coast Guard in accordance with previously enacted legislation which mandates that any Federal property located within the boundaries of the Lakeshore be transferred to the Secretary of the Interior without further administrative action. S. 2031 ensures that the U.S. Army Corps of Engineers can maintain the breakwater, and, in accordance with the terms of the previously enacted legislation, the U.S. Coast Guard can continue to maintain a Federal aid to navigation in the lighthouse. All three agencies would be required to cooperate in their operations so that each of their agency missions is served.

Apostle Islands National Lakeshore, located on the south shore of Lake Superior, is responsible for the care of what renowned lighthouse historian F. Ross Holland, Jr., has described as “the largest and finest single collection of lighthouses in the country.” The park manages six historic light stations, and a total of eight standing light towers—more than in any other unit in the National Park System. All of the lighthouses currently located within the boundary of the Lakeshore, as well as the Ashland Harbor Breakwater Light, are listed on the National Register of Historic Places.

The Lakeshore has developed into one of the premier locations in the National Park System for historic preservation and education centered on lighthouses, including interpretive programs highlighting the stories of light keepers and the expansion of the United States in the late 19th century through maritime commerce. In 2006, Apostle Islands rehabilitated the 1863 Raspberry Island Lighthouse, which is a very popular visitor attraction. This year, the Lakeshore is concluding a major historic preservation project that will rehabilitate the 1856 Old Michigan Island Light, the oldest in the park, and significantly improve conditions at four other light stations.

All of the lighthouses currently managed by Apostle Islands National Lakeshore were transferred from the U.S. Coast Guard to the National Park Service as part of a Congressionally authorized boundary adjustment and land transfer in 1986 that mandated that any Federal property located within the boundaries of the Lakeshore be transferred to the administrative jurisdiction of the Secretary of the Interior. At the time of the 1986 transfer, the future of the Ashland Light was not in question.

In May 2012, the Coast Guard announced its intent to dispose of the Ashland Light under the National Historic Lighthouse Preservation Act (NHLPA). The NHLPA, en-

acted in 2000 as an amendment to the National Historic Preservation Act, provides a public process for the disposal of Federally owned historic light stations by allowing them to be transferred at no cost to Federal agencies, State and local governments, nonprofit corporations, educational agencies, and community development organizations. The first step is the determination of the property as “excess to service requirements” by the U.S. Coast Guard and its identification as a historic structure. This determination is reported to the General Services Administration and notice is given that applications may be made for the structure. If an application is accepted, the lighthouse is simply transferred to the applicant subject to compliance with requirements to maintain the light and make it available to the public.

No public or private entity, aside from the NPS, expressed interest in obtaining and maintaining the Ashland Light through the NHLPA process. However, as the Ashland Light is not within the existing park boundary, a boundary adjustment is needed to clarify that the property will be administered as part of the park.

The Ashland Light sits in Lake Superior’s Chequamegon Bay, less than two miles offshore of the small city of Ashland, Wisconsin. The tower is visible from most of the city’s waterfront, and the light shines brightly at night. Images of the Ashland Light are everywhere in the city; they adorn the logos of the local newspaper, the Chamber of Commerce, and many local businesses. Few residents, however, have actually visited the Ashland Light or understand the vital role it played in one of the busiest ports on Lake Superior a century ago.

The Ashland Light is currently in fair condition, but its long-term survival as part of the nation’s maritime heritage is not assured. The NPS and the local community are optimistic that the condition could be improved and appropriate visitor educational opportunities could be provided in the future if the Ashland Light were managed as part of Apostle Island National Lakeshore. With the addition of the Ashland Light, the NPS would manage all of the nationally significant historic lights in the region, further enhancing the park’s role in historic lighthouse preservation and education.

The Department would recommend two amendments.

The Department recommends deleting the portion of the amendment made in Section 2 that provides buffer zone language. The park boundary adjustment in S. 2031 includes only the lighthouse itself, not any of the waters of the Bay. The NPS has no authority to manage or permit activities outside of park boundaries. Fishing, boating, snowmobiling, and all other existing uses of the Bay’s waters are not affected by this bill. The buffer zone language is unnecessary.

The Department also recommends that the portion of Section 2 of the bill directing the Federal agencies to cooperate in their operations be amended to clarify Congress-

sional intent. The bill does not otherwise alter the statutory standards or other mandates of the three agencies, nor does it affect the ongoing need for them to work cooperatively to carry out those mandates in the area, as they currently do with respect to other lighthouses within the boundary. We would be glad to work with the Subcommittee to amend the existing language to ensure that the bill does not affect the missions of these agencies.

Mr. Chairman, this concludes my testimony. I am prepared to answer any questions from members of the Committee.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 2031, as ordered 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):

PUBLIC LAW 91-424

AN ACT To provide for the establishment of the Apostle Island National Lakeshore in the State of Wisconsin, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to conserve and develop for the benefit, inspiration, education, recreational use, and enjoyment of the public certain significant [islands and shoreline] *islands, shoreline, and light stations* of the United States and their related geographic, scenic, *historic*, and scientific values, there is hereby established the Apostle Islands National Lakeshore (hereinafter referred to as the "lakeshore") in Ashland and Bayfield Counties, Wisconsin, consisting of:

(a) IN GENERAL.—[the area] *The area* generally depicted on the map entitled "Apostle Islands National Lakeshore", numbered NL-AI-91,000, sheets 1 and 2, and dated June 1970 [; and] .

(b) LONG ISLAND ADDITION.—Approximately 200 acres of land at the mouth of Chequamegon Bay known as "Long Island", as depicted on the map numbered NL-AI-91,001 and dated December, 1985.[.]

(c) ASHLAND HARBOR BREAKWATER LIGHT.—

(1) *The Ashland Harbor Breakwater Light generally depicted on the map titled "Ashland Harbor Breakwater Light Addition to Apostle Islands National Lakeshore" and dated February 11, 2014, located at the end of the breakwater on Chequamegon Bay, Wisconsin.*

(2) *Congress does not intend for the designation of the property under paragraph (1) to create a protective perimeter or buffer zone around the boundary of that property.*

* * * * *

SEC. 6. [The lakeshore] (a) IN GENERAL.—*The lakeshore* shall be administered, protected, and developed in accordance with *this section* and the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), as amended and supplemented; and the Act of April 9, 1924 (43 Stat. 90; 16 U.S.C. 8a et seq.); as amended, except

that any other statutory authority available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of the Act.

(b) *FEDERAL USE*—Notwithstanding subsection (c) of the first section—

(1) *the Secretary of the department in which the Coast Guard is operating may operate, maintain, keep, locate, repair, and replace any Federal aid to navigation located at the Ashland Harbor Breakwater Light for as long as such aid is needed for navigational purposes; and*

(2) *in carrying out the activities described in paragraph (1), such Secretary may enter, at any time, the Ashland Harbor Breakwater Light or any Federal aid to navigation at the Ashland Harbor Breakwater Light, for as long as such aid is needed for navigational purposes, without notice to the extent that it is not possible to provide advance notice.*

(c) *CLARIFICATION OF AUTHORITY*—Pursuant to existing authorities, the Secretary may enter into agreements with the City of Ashland, County of Ashland, and County of Bayfield, Wisconsin, for the purpose of cooperative law enforcement and emergency services within the boundaries of the lakeshore.

* * * * *

