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2d Session }

SENATE

{ REPORT
113-309

CORPS OF ENGINEERS COOPERATIVE JOINT MANAGEMENT RESTORATION ACT

DECEMBER 12, 2014.—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. 2055]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 2055), to allow for the collection of certain user fees by non-Federal entities, having considered the same, reports favorably thereon with amendments, and recommends that the bill, as amended, do pass.

GENERAL STATEMENT AND BACKGROUND

Current law (33 U.S.C. § 2328) enables the Corps of Engineers to enter into cooperative agreements with non-Federal public and private entities to provide for operation and management of recreation facilities and natural resources at civil works projects. These partnerships help ensure that Corps recreation facilities are well-maintained and remain open. These agreements also help ensure that natural resources are conserved and protected.

For many years, the Corps used its authority in Section 2328 to enter into Cooperative Joint Management agreements and leases allowing partners to collect and reinvest recreation user fees. On September 12, 2013, Corps Headquarters released new guidance disallowing this practice. Based on a legal review, the Corps determined that this practice exceeds existing statutory authority by allowing partners to collect user fees and reinvest the proceeds to maintain and improve Corps facilities.

S. 2055 restores the practice that existed before the September 2013 guidance was issued.

OBJECTIVES OF THE LEGISLATION

S. 2055 permits non-federal public or private entities to charge and keep fees for the operation, maintenance, and management at the recreation site where they were collected.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 creates the short title for this act to be: “Corps of Engineers Cooperative Joint Management Restoration Act”.

Section 2. Challenge cost-sharing program for management of recreation facilities

Section 2 amends Section 225 of the Water Resources Development Act of 1992 (33 U.S.C. 2328) to allow non-federal public or private entity that have entered into a cooperative agreement with the Secretary of the Army to charge fees and retain up to 100% of the fees collected and use them for operation, maintenance, and management at the recreation site where they were collected. The section also permits the Secretary to use visitor reservation services, such as the National Recreation Reservation Service.

LEGISLATIVE HISTORY

S. 2055 was introduced by Senators Boozman, Blunt, McCaskill, and Pryor on February 27, 2014. The bill was read twice and referred to the Senate Committee on Environment and Public Works. The Committee met on April 3, 2014 to consider the bill. Senators Boozman and Carper introduced an amendment to permit the Secretary to use the National Recreation Reservation Service. S. 2055, as amended, was ordered favorably reported by voice vote.

HEARINGS

The Committee did not hold hearings on S. 2055 during the 113th Congress.

ROLLCALL VOTES

There were no roll call votes. The Committee on Environment and Public Works met and considered S. 2055 on April 3, 2014. S. 2055, as amended, was reported favorably by a voice vote.

REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee finds that S. 2055 does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), the Committee notes that the Congressional Budget Office finds, “S. 2055 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.”.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office.

MAY 15, 2014.

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. 2055, the Corps of Engineers Cooperative Joint Management Restoration Act.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 2055—Corps of Engineers Cooperative Joint Management Restoration Act

Summary: S. 2055 would authorize the Corps of Engineers to enter into cooperative agreements with nonfederal entities to jointly manage parks and recreational facilities currently managed by the Corps. Under current law, all fees charged and collected by the Corps for public access to those sites are required to be deposited in the Treasury. Under the bill, the agreements would allow nonfederal entities, instead of the Corps, to charge fees for the use of those parks and facilities. Those nonfederal entities would retain the proceeds for operation and maintenance expenses at those sites.

Based on information from the Corps, CBO estimates that enacting S. 2055 would increase direct spending (by reducing offsetting receipts) by \$20 million over the 2015–2024 period. Because the legislation would affect direct spending, pay-as-you-go procedures apply. Enacting S. 2055 would not affect revenues.

S. 2055 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of S. 2055 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—													
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2015– 2019	2015– 2024		
CHANGES IN DIRECT SPENDING ^a														
Estimated Budget Authority	1	1	2	2	2	2	2	2	3	3	7	20		
Estimated Outlays	1	1	2	2	2	2	2	2	3	3	7	20		

Note: Components may not sum to totals because of rounding.

^a CBO also expects that discretionary costs could be reduced over this period because fewer parks and facilities would be operated by the Corps.

Basis of estimate: For this estimate, CBO assumes that S. 2055 will be enacted near the end of 2014. Estimates of receipts collected

from the use of parks and facilities under current law are based on information provided by the Corps of Engineers.

Prior to September 2013, the Corps had cooperative agreements with nonfederal entities to manage 34 federal parks and recreational facilities. Those nonfederal entities charged fees for public access to those sites totaling about \$3 million annually and retained those proceeds for operation and maintenance expenses.

Beginning in September 2013, the Corps discontinued the use of cooperative agreements at all sites because the Corps determined it did not have explicit statutory authority to enter into such agreements. Since that time, the Corps has continued to operate some of those parks and public access sites and to charge fees for their use; however, it has closed some of the parks and facilities permanently and anticipates more closures because of insufficient funding to operate all of the sites.

Under the bill, many of the parks that have been closed or will be closed under current law would probably be reopened and operated by nonfederal entities. In addition, some of the public access sites that the Corps would continue to operate itself under current law would probably be operated instead by nonfederal entities who would enter into the cooperative agreements authorized under the bill. Those entities would retain fees charged in connection with those sites they operate, rather than those fees being collected by the federal government as under current law. CBO estimates that change would reduce offsetting receipts (thus increasing net direct spending) by \$20 million over the 2014–2024 period.

The Corps would no longer need appropriated funds to maintain the parks and facilities that would be operated by private entities under the bill. Therefore, implementing the legislation could lead to a reduction in discretionary costs over this period if future appropriations are reduced because the Corps would no longer operate some parks and facilities itself. The Corps spent about \$250 million last year for recreation-related expenses, but the agency does not have information about the operating costs for individual parks that would be affected by this legislation, so the amount of the potential reduction in discretionary costs is unclear.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The changes in direct spending that are subject to those pay-as-you-go procedures are shown in the following table.

		By fiscal year, in millions of dollars—													2014– 2019	2014– 2024
		2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024				
NET INCREASE IN THE DEFICIT																
Statutory Pay-As-You-Go Impact		0	1	1	2	2	2	2	2	2	3	3	7	20		

Intergovernmental and Private-sector impact: S. 2055 contains no intergovernmental or private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Aurora Swanson; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Amy Petz.

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

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:

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WATER RESOURCES DEVELOPMENT ACT OF 1992

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Water Resources Development Act of 1992”.

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SEC. 225. CHALLENGE COST-SHARING PROGRAM FOR THE MANAGEMENT OF RECREATION FACILITIES.

(a) IN GENERAL.—The Secretary is authorized to develop and implement a program to share the cost of managing recreation facilities and natural resources at water resource development projects under the Secretary’s jurisdiction.

(b) COOPERATIVE AGREEMENTS.—To implement the program under this section, the Secretary is authorized to enter into cooperative agreements with non-Federal public and private entities to provide for operation and management of recreation facilities and natural resources at civil works projects under the Secretary’s jurisdiction where such facilities and resources are being maintained at complete Federal expense.

(c) USER FEES.—

[(1) COLLECTION OF FEES.—*The Secretary*]

(1) COLLECTION OF FEES.—

(A) IN GENERAL.—*The Secretary may allow a non-Federal public or private entity that has entered into an agreement pursuant to subsection (b) to collect user fees for the use of developed recreation sites and facilities, whether developed or constructed by that entity or the Department of the Army.*

(B) USE OF VISITOR RESERVATION SERVICES.—*A public or private entity described in subparagraph (A) may use to manage fee collections and reservations under this section any visitor reservation service that the Secretary has provided for by contract or interagency agreement, subject to such terms and conditions as the Secretary determines to be appropriate.*

(2) USE OF FEES.—*A non-Federal public or private entity that collects user fees under paragraph (1) may—*

(A) *retain up to 100 percent of the fees collected, as determined by the Secretary; and*

(B) *notwithstanding section 210(b)(4) of the Flood Control Act of 1968 (16 U.S.C. 460d–3(b)(4)), use that amount for operation, maintenance, and management at the recreation site at which the fee is collected.*

(3) TERMS AND CONDITIONS.—*The authority of a non-Federal public or private entity under this subsection shall be subject to such terms and conditions as the Secretary determines necessary to protect the interests of the United States.*

[(c)](d) CONTRIBUTIONS.—For purposes of carrying out this section the Secretary may accept contributions of funds, materials, and services from non-Federal public and private entities. Any funds received by the Secretary under this section shall be deposited into the account in the Treasury of the United States entitled “Contributions and Advances, Rivers and Harbors, Corps of Engineers (8662)” and shall be available until expended to carry out the purposes of this section.

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