

Calendar No. 247

115TH CONGRESS }
1st Session }

SENATE

{ REPORT
115-173 }

TO PROVIDE FOR THE CONVEYANCE OF CERTAIN PROPERTY TO THE SOUTHEAST ALASKA REGIONAL HEALTH CONSORTIUM LOCATED IN SITKA, ALASKA, AND FOR OTHER PURPOSES

OCTOBER 17, 2017.—Ordered to be printed

Mr. HOEVEN, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 825]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 825) to provide for the conveyance of certain property to the Southeast Alaska Regional Health Consortium located in Sitka, Alaska, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill, as amended, do pass.

PURPOSE

S. 825 would direct the Secretary of the U.S. Department of Health and Human Services (HHS) to convey certain property, located in Sitka, Alaska, to the SEARHC. The property transfer authorized by this bill would enable the SEARHC to renovate an existing hospital and construct new health care facilities in order to provide improved health care services to several communities in southeast Alaska.

BACKGROUND

Founded in 1975, the SEARHC is one of the oldest and largest Native-run health organizations in the country. SEARHC is a non-profit tribal health consortium that provides health services to 18 Native communities, including the Tlingit, Haida, and Tsimshian peoples, in Southeast Alaska.

Following passage of the *Indian Self-Determination and Education Assistance Act*, the SEARHC began contracting with the Indian Health Service (IHS) to assume management of the Community Health Aide Program, which serves tribes in the area. The SEARHC operates Sitka's Mt. Edgecumbe Hospital, which provides acute care, critical care, obstetrics, surgery, and perioperative care to residents of Sitka and other areas of Southeast Alaska.

Mt. Edgecumbe was constructed toward the end of World War II by the U.S. Department of War to treat patients with tuberculosis. As the oldest hospital in Alaska, it is in need of renovations to update its infrastructure and ability to provide healthcare services to better serve the community.

In order to make renovations to the MEH, the SEARHC is requesting federal legislation through the enactment of S. 825 to transfer title by warranty deed of the land and facilities where the MEH is located to the SEARHC. The HHS currently holds title to the land.

NEED FOR LEGISLATION

The SEARHC intends to use the transferred land located in Sitka, Alaska for future health care renovations and expansion. Without the conveyance of title by warranty deed, the SEARHC will be less likely to secure needed financing to make renovations to the MEH and construct new health facilities. The land transfer will also provide the SEARHC with more advantage and oversight over the property, as described in S. 825, to provide better and increased access to health care in Southeast Alaska.

The bill, S. 825, would transfer 19.07 acres of land that has been maintained and managed by the SEARHC for more than 20 years. The land to be conveyed is comprised of several parcels of land to be considered for a joint venture project and other expansion opportunities.

LEGISLATIVE HISTORY

On April 4, 2017, Senator Murkowski introduced S. 825, the *Southeast Alaska Regional Health Consortium Land Transfer Act of 2017*. This bill is similar to three bills that were passed by the Committee and signed into law in 2013 and 2015.¹

The Committee received testimony from Charles Clement, President and CEO of the SEARHC, on S. 825 at a listening session held on May 10, 2017. One week later, on May 17, 2017, the Committee entered all testimony and materials received at the May 10, 2017 listening session into the record, granting that testimony the same weight as testimony given at a legislative hearing.

Chris Buchanan, Acting Director of the IHS, submitted written testimony for the May 10, 2017 listening session on S. 825. In that testimony, the Administration stated that it supported the conveyance of land described in S. 825, but had some concerns with the bill; in particular, IHS expressed concern that the language pertaining to the liability and reversionary clauses required technical

¹See A bill to provide for the conveyance of certain property to the Yukon Kuskokwim Health Corporation located in Bethel, Alaska, Pub. L. No. 114–56 (2015); *Alaska Native Tribal Health Consortium Land Transfer Act*, Pub. L. No. 113–68 (2013); To provide for the conveyance of certain property from the United States to the Maniilaq Association located in Kotzebue, Alaska, Pub. L. No. 112–263 (2013).

revision, and that the bill's deadline for transferring title was too soon. Senator Murkowski filed a timely substitute amendment to address these concerns.

The substitute amendment, ROM17296, submitted by Senator Murkowski amends the date of transfer described in Section 3 to "not later than 24 months after enactment of the Act;" the original deadline was within 180 days of enactment. This change was negotiated by the SEARHC and the IHS to satisfy concerns the IHS had about the amount of time needed to complete required environmental assessments, remediation, and surveys to execute the transfer of title.

The substitute amendment also addresses IHS' concern related to liability for environmental contamination to the property following the transfer of title. The amendment adds a liability limiting provision to the end of Section 4(a)(1), stating, "the Secretary shall not be liable for any contamination which occurred after the date that the Consortium controlled, occupied, and used such property."

On June 13, 2017, the Committee held a duly called business meeting to consider two bills, including S. 825. The Committee passed S. 825, as amended, by voice vote and ordered the bill to be favorably reported.

The House companion bill, H.R. 1901, the *Southeast Alaska Regional Health Consortium Land Transfer Act of 2017*, was introduced by Representative Don Young on April 4, 2017. That bill was referred to the House Committee on Natural Resources Subcommittee on Indian, Insular, and Alaska Native Affairs, which held a hearing on the bill on June 7, 2017, and the House Committee on Energy and Commerce Subcommittee on Environment. No further action has been taken on H.R. 1901.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section cites the short title of the Act.

Sec. 2. Conveyance of property

This section directs the Secretary of the HHS to convey all right, title, and interest of land described in Section 3 by warranty deed to the SEARHC no later than 2 years after the date of enactment of the Act. The land will be used in connection with health and social services programs.

The conveyance of this warranty deed shall supersede and render of no future effect any quitclaim deed to the property described in section 3.

This section provides that the Secretary of the HHS shall not—require any consideration from the SEARHC for the property; impose any obligation, term, or conditions on the SEARHC; or allow for any reversionary interest of the United States in the property.

Sec. 3. Property described

This section describes the 19.07 acres of property, including all land and appurtenances, located in Sitka, Alaska that is to be conveyed to the SEARHC from the HHS.

Sec. 4. Environmental liability

This section provides that the SEARHC shall not be liable for any soil, surface water, groundwater, or other contamination resulting from the disposal, release, or presence of any environmental contamination on any portion of the property on or before the date on which the property is conveyed to them. In addition, the Secretary of the HHS shall not be liable for any contamination that occurred after the date on which the SEARHC controlled, occupied, and used the property to be conveyed.

This section further describes that an environmental contamination includes any oil or petroleum products, hazardous substances, hazardous materials, hazardous waste, pollutants, toxic substances, solid waste, or any other environmental contamination or hazard as defined in federal or Alaska state law.

The Secretary of the HHS shall be accorded any easement or access to the property conveyed under this Act as may be reasonably necessary to satisfy any retained obligation or liability of the Secretary of the HHS.

Finally, this section requires the Secretary of the HHS to comply with subparagraphs (A) and (B) of section 120(h)(3) of the *Comprehensive Environmental Response, Compensation, and Liability Act of 1980* (CERCLA) on the property described.

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate, as provided by the Congressional Budget Office, dated September 11, 2017, was prepared for S. 825:

SEPTEMBER 11, 2017.

Hon. JOHN HOEVEN,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 825, the Southeast Alaska Regional Health Consortium Land Transfer Act of 2017.

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

Sincerely,

KEITH HALL.

Enclosure.

S. 825—Southeast Alaska Regional Health Consortium Land Transfer Act of 2017

S. 825 would authorize the Secretary of Health and Human Services (HHS) to convey a parcel of land in Sitka, Alaska, to the Southeast Alaska Regional Health Consortium (SARHC). The conveyances would be made by a warranty deed, which is a type of deed that guarantees a clear title to the new owner of the property.

The Indian Self-Determination and Education Act (ISDEAA) allows tribal entities to assume responsibility for providing health care services funded by the Indian Health Service (IHS). The SARHC is a non-profit health care consortium that operates health care facilities under the ISDEAA in 20 communities throughout Southeast Alaska. According to IHS, SARHC currently does not pay rent or any other remuneration to IHS for the use of the land

to be transferred. Consequently, CBO estimates that enacting S. 825 would not have a significant effect on the federal budget.

Because enacting S. 825 would not affect direct spending or revenues, pay-as-you-go procedures do not apply. CBO estimates that enacting the bill would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 825 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Robert Stewart. The estimate was approved by Holly Harvey, Deputy Assistant Director for Budget Analysis.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 825 will have minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 825.

CHANGES IN EXISTING LAW

In accordance with Committee Rules, subsection 12 of rule XXVI of the Standing Rules of the Senate is waived.

