

SAN FRANCISCO BAY RESTORATION ACT

NOVEMBER 20, 2019.—Referred to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DEFAZIO, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 1132]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 1132) to amend the Federal Water Pollution Control Act to establish a grant program to support the restoration of San Francisco Bay, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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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 “San Francisco Bay Restoration Act”.

**SEC. 2. SAN FRANCISCO BAY RESTORATION GRANT PROGRAM.**

Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by adding at the end the following:

**“SEC. 124. SAN FRANCISCO BAY RESTORATION GRANT PROGRAM.**

“(a) DEFINITIONS.—In this section:

“(1) ESTUARY PARTNERSHIP.—The term ‘Estuary Partnership’ means the San Francisco Estuary Partnership, designated as the management conference for the San Francisco Bay under section 320.

“(2) SAN FRANCISCO BAY PLAN.—The term ‘San Francisco Bay Plan’ means—

“(A) until the date of the completion of the plan developed by the Director under subsection (d), the comprehensive conservation and management plan approved under section 320 for the San Francisco Bay estuary; and

“(B) on and after the date of the completion of the plan developed by the Director under subsection (d), the plan developed by the Director under subsection (d).

“(b) PROGRAM OFFICE.—

“(1) ESTABLISHMENT.—The Administrator shall establish in the Environmental Protection Agency a San Francisco Bay Program Office. The Office shall be located at the headquarters of Region 9 of the Environmental Protection Agency.

“(2) APPOINTMENT OF DIRECTOR.—The Administrator shall appoint a Director of the Office, who shall have management experience and technical expertise relating to the San Francisco Bay and be highly qualified to direct the development and implementation of projects, activities, and studies necessary to implement the San Francisco Bay Plan.

“(3) DELEGATION OF AUTHORITY; STAFFING.—The Administrator shall delegate to the Director such authority and provide such staff as may be necessary to carry out this section.

“(c) ANNUAL PRIORITY LIST.—

“(1) IN GENERAL.—After providing public notice, the Director shall annually compile a priority list, consistent with the San Francisco Bay Plan, identifying and prioritizing the projects, activities, and studies to be carried out with amounts made available under subsection (e).

“(2) INCLUSIONS.—The annual priority list compiled under paragraph (1) shall include the following:

“(A) Projects, activities, and studies, including restoration projects and habitat improvement for fish, waterfowl, and wildlife, that advance the goals and objectives of the San Francisco Bay Plan, for—

“(i) water quality improvement, including the reduction of marine litter;

“(ii) wetland, riverine, and estuary restoration and protection;

“(iii) nearshore and endangered species recovery; and

“(iv) adaptation to climate change.

“(B) Information on the projects, activities, and studies specified under subparagraph (A), including—

“(i) the identity of each entity receiving assistance pursuant to subsection (e); and

“(ii) a description of the communities to be served.

“(C) The criteria and methods established by the Director for identification of projects, activities, and studies to be included on the annual priority list.

“(3) CONSULTATION.—In compiling the annual priority list under paragraph (1), the Director shall consult with, and consider the recommendations of—

“(A) the Estuary Partnership;

“(B) the State of California and affected local governments in the San Francisco Bay estuary watershed;

“(C) the San Francisco Bay Restoration Authority; and

“(D) any other relevant stakeholder involved with the protection and restoration of the San Francisco Bay estuary that the Director determines to be appropriate.

“(d) SAN FRANCISCO BAY PLAN.—

“(1) IN GENERAL.—Not later than 5 years after the date of enactment of this section, the Director, in conjunction with the Estuary Partnership, shall review and revise the comprehensive conservation and management plan approved under section 320 for the San Francisco Bay estuary to develop a plan to guide

the projects, activities, and studies of the Office to address the restoration and protection of the San Francisco Bay.

“(2) REVISION OF SAN FRANCISCO BAY PLAN.—Not less often than once every 5 years after the date of the completion of the plan described in paragraph (1), the Director shall review, and revise as appropriate, the San Francisco Bay Plan.

“(3) OUTREACH.—In carrying out this subsection, the Director shall consult with the Estuary Partnership and Indian tribes and solicit input from other non-Federal stakeholders.

“(e) GRANT PROGRAM.—

“(1) IN GENERAL.—The Director may provide funding through cooperative agreements, grants, or other means to State and local agencies, special districts, and public or nonprofit agencies, institutions, and organizations, including the Estuary Partnership, for projects, activities, and studies identified on the annual priority list compiled under subsection (c).

“(2) MAXIMUM AMOUNT OF GRANTS; NON-FEDERAL SHARE.—

“(A) MAXIMUM AMOUNT OF GRANTS.—Amounts provided to any entity under this section for a fiscal year shall not exceed an amount equal to 75 percent of the total cost of any projects, activities, and studies that are to be carried out using those amounts.

“(B) NON-FEDERAL SHARE.—Not less than 25 percent of the cost of any project, activity, or study carried out using amounts provided under this section shall be provided from non-Federal sources.

“(f) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$25,000,000 for each of fiscal years 2020 through 2024.

“(2) ADMINISTRATIVE EXPENSES.—Of the amount made available to carry out this section for a fiscal year, the Director may not use more than 5 percent to pay administrative expenses incurred in carrying out this section.

“(3) PROHIBITION.—No amounts made available under this section may be used for the administration of a management conference under section 320.

“(g) ANNUAL BUDGET PLAN.—The President, as part of the annual budget submission of the President to Congress under section 1105(a) of title 31, United States Code, shall submit information regarding each Federal department and agency involved in San Francisco Bay protection and restoration, including—

“(1) a report that displays for each Federal agency—

“(A) the amounts obligated in the preceding fiscal year for protection and restoration projects, activities, and studies relating to the San Francisco Bay; and

“(B) the proposed budget for protection and restoration projects, activities, and studies relating to the San Francisco Bay; and

“(2) a description and assessment of the Federal role in the implementation of the San Francisco Bay Plan and the specific role of each Federal department and agency involved in San Francisco Bay protection and restoration, including specific projects, activities, and studies conducted or planned to achieve the identified goals and objectives of the San Francisco Bay Plan.”.

#### PURPOSE OF LEGISLATION

The purpose of H.R. 1132, as amended, is to establish and authorize appropriations for a new regional program under the Federal Water Pollution Control Act, commonly known as the Clean Water Act, to support restoration efforts in the San Francisco Bay.

#### BACKGROUND AND NEED FOR LEGISLATION

The San Francisco Bay Estuary spans roughly 1,600 square miles and drains more than 40 percent of the State’s waters. The watershed is critical economically, providing drinking water for millions of Californians, irrigation for farmland, and supporting millions of jobs and the production of \$370 billion in goods and

services.<sup>1</sup> The area also serves as vital ecosystem for bird migration and salmon stocks, as well as a wide range of flora and fauna.

The San Francisco Estuary has been a member of the EPA's National Estuary Program (NEP) since 1993 to address water quality challenges. The Estuary experiences exceedances in California state water quality standards for pesticides, invasive species, mercury, and other metals and toxic substances. Surrounding beaches have elevated levels of bacteria due to sewage spills and crumbling sewage infrastructure. According to the EPA, the Bay has lost more than 90 percent of shoreline wetlands and 40 percent of the total San Francisco Bay aquatic ecosystem in the past 150 years due to habitat destruction.<sup>2</sup>

In August 2018, the Government Accountability Office (GAO) published a report on the coordination of watershed restoration efforts between Federal and nonfederal entities in the San Francisco Bay Delta Watershed.<sup>3</sup> They found that restoration efforts were stratified in such a way as to hinder long-term progress. A centralized program providing improved coordination and communication across efforts, along with dedicated Federal funding, will be the best chance for long-term restoration and protection of this major geographic area on the west coast.

#### HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress, the following hearing was used to develop or consider H.R. 1132:

On June 25, 2019, the Subcommittee on Water Resources and Environment held a hearing, titled, "Protecting and Restoring America's Iconic Waters." The Subcommittee received testimony from: Preston D. Cole, Secretary, Wisconsin Department of Natural Resources; Dave Pine, Supervisor, District 1, San Mateo County Board of Supervisors, Chair of the San Francisco Bay Restoration Authority Governing Board; Laura Blackmore, Executive Director, Puget Sound Partnership; William C. Baker, President, Chesapeake Bay Foundation; Kristi Trail, Executive Director, Lake Pontchartrain Basin Foundation; and Tom Ford, Director, Santa Monica Bay National Estuary Program, The Bay Foundation. Topics discussed included the importance of programs dedicated to restoration of various regional watersheds, including the San Francisco Bay.

#### LEGISLATIVE HISTORY AND CONSIDERATION

H.R. 1132 was introduced in the House on February 8, 2019, by Ms. Speier and 11 original cosponsors and referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Budget. Within the Committee, H.R. 1132 was referred to the Subcommittee on Water Resources and Environment.

<sup>1</sup> <https://www.epa.gov/sfbay-delta/about-watershed#about>.

<sup>2</sup> <https://www.epa.gov/sfbay-delta/what-are-challenges>.

<sup>3</sup> GAO-18-473, *San Francisco Bay Delta Watershed: Wide Range of Restoration Efforts Need Updated Federal Reporting and Coordination Roles*.

The Chair discharged the Subcommittee on Water Resources and Environment from further consideration of H.R. 1132 on September 19, 2019.

The Committee met in open session to consider H.R. 1132 on September 19, 2019 and ordered the measure to be reported to the House with a favorable recommendation, as amended, by voice vote a quorum being present.

An Amendment in the Nature of a Substitute offered by Mr. DeFazio (#1); was AGREED TO by voice vote.

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Huffman (#1A); Page 6, line 20, strike "\$25,000,000" and insert "\$50,000,000"; was WITHDRAWN by unanimous consent.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against.

There were no recorded votes taken during consideration of H.R. 1132, as amended.

#### COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 1132, as amended, from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, November 14, 2019.*

Hon. PETER A. DEFAZIO,  
*Chairman, Committee on Transportation and Infrastructure,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1132, the San Francisco Bay Restoration Act.

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

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

<b>H.R. 1132, San Francisco Bay Restoration Act</b>			
As ordered reported by the House Committee on Transportation and Infrastructure on September 19, 2019			
By Fiscal Year, Millions of Dollars	2020	2020-2024	2020-2029
<b>Direct Spending (Outlays)</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Revenues</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Increase or Decrease (-) in the Deficit</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Spending Subject to Appropriation (Outlays)</b>	<b>6</b>	<b>109</b>	<b>125</b>
Statutory pay-as-you-go procedures apply?	No	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

H.R. 1132 would authorize the appropriation of \$25 million annually through 2024 for the Environmental Protection Agency (EPA) to establish and operate the San Francisco Bay Program Office. The office would identify annual priorities and would provide grants for projects and activities that support and protect the San Francisco Bay. The bill also would require the office to ensure the San Francisco Bay's current management plan, approved under EPA's National Estuary Program, is revised at least every five years. Under the bill, up to 5 percent of the appropriated funds could be used to pay for the San Francisco Bay Program Office's administrative costs.

CBO estimates that implementing the bill would cost \$109 million over the 2020–2024 period and \$16 million after 2024, assuming appropriation of the specified amounts. Estimated outlays are based on spending patterns for similar programs, though estimated spending in the first year is lower to account for the time required to establish the office. The costs of the legislation, detailed in Table 1, fall within budget function 300 (natural resources and environment).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 1132

	By fiscal year, millions of dollars—					
	2020	2021	2022	2023	2024	2020–2024
Authorization .....	25	25	25	25	25	125
Estimated Outlays .....	5	28	26	25	25	109

The CBO staff contact for this estimate is Stephen Rabent. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

#### PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to provide dedicated funding for a centralized program to coordinate restoration efforts for the San Francisco Bay Delta Watershed.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 1132, as amended, establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9 of rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee finds that H.R. 1132, as amended, does not preempt any state, local, or tribal law.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Sec. 1. Short title*

This section provides that this bill may be cited as the “San Francisco Bay Restoration Grant Program”.

*Sec. 2. San Francisco Bay Restoration Grant Program*

This section establishes a San Francisco Program Office with a director and staff. It also establishes a process for the development of and annual priority list for projects. This section establishes the process for the development of the San Francisco Bay Plan and for its regular update. Further, this section authorizes appropriations at \$25 million for each fiscal year 2020–2024; caps administrative expenses at five percent; caps grants to entities at 75 percent of the total cost of a project; requires a minimum of a 25 percent match from the non-federal entity for any project; and establishes an annual budget plan.

## 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):

**FEDERAL WATER POLLUTION CONTROL ACT****TITLE I—RESEARCH AND RELATED PROGRAMS**

\* \* \* \* \*

**SEC. 124. SAN FRANCISCO BAY RESTORATION GRANT PROGRAM.***(a) DEFINITIONS.—In this section:*

*(1) ESTUARY PARTNERSHIP.—The term “Estuary Partnership” means the San Francisco Estuary Partnership, designated as the management conference for the San Francisco Bay under section 320.*

*(2) SAN FRANCISCO BAY PLAN.—The term “San Francisco Bay Plan” means—*

*(A) until the date of the completion of the plan developed by the Director under subsection (d), the comprehensive conservation and management plan approved under section 320 for the San Francisco Bay estuary; and*

*(B) on and after the date of the completion of the plan developed by the Director under subsection (d), the plan developed by the Director under subsection (d).*

*(b) PROGRAM OFFICE.—*

*(1) ESTABLISHMENT.—The Administrator shall establish in the Environmental Protection Agency a San Francisco Bay Program Office. The Office shall be located at the headquarters of Region 9 of the Environmental Protection Agency.*

*(2) APPOINTMENT OF DIRECTOR.—The Administrator shall appoint a Director of the Office, who shall have management experience and technical expertise relating to the San Francisco Bay and be highly qualified to direct the development and imple-*



mentation of projects, activities, and studies necessary to implement the San Francisco Bay Plan.

(3) *DELEGATION OF AUTHORITY; STAFFING.*—The Administrator shall delegate to the Director such authority and provide such staff as may be necessary to carry out this section.

(c) *ANNUAL PRIORITY LIST.*—

(1) *IN GENERAL.*—After providing public notice, the Director shall annually compile a priority list, consistent with the San Francisco Bay Plan, identifying and prioritizing the projects, activities, and studies to be carried out with amounts made available under subsection (e).

(2) *INCLUSIONS.*—The annual priority list compiled under paragraph (1) shall include the following:

(A) *Projects, activities, and studies, including restoration projects and habitat improvement for fish, waterfowl, and wildlife, that advance the goals and objectives of the San Francisco Bay Plan, for—*

(i) *water quality improvement, including the reduction of marine litter;*

(ii) *wetland, riverine, and estuary restoration and protection;*

(iii) *nearshore and endangered species recovery; and*

(iv) *adaptation to climate change.*

(B) *Information on the projects, activities, and studies specified under subparagraph (A), including—*

(i) *the identity of each entity receiving assistance pursuant to subsection (e); and*

(ii) *a description of the communities to be served.*

(C) *The criteria and methods established by the Director for identification of projects, activities, and studies to be included on the annual priority list.*

(3) *CONSULTATION.*—In compiling the annual priority list under paragraph (1), the Director shall consult with, and consider the recommendations of—

(A) *the Estuary Partnership;*

(B) *the State of California and affected local governments in the San Francisco Bay estuary watershed;*

(C) *the San Francisco Bay Restoration Authority; and*

(D) *any other relevant stakeholder involved with the protection and restoration of the San Francisco Bay estuary that the Director determines to be appropriate.*

(d) *SAN FRANCISCO BAY PLAN.*—

(1) *IN GENERAL.*—Not later than 5 years after the date of enactment of this section, the Director, in conjunction with the Estuary Partnership, shall review and revise the comprehensive conservation and management plan approved under section 320 for the San Francisco Bay estuary to develop a plan to guide the projects, activities, and studies of the Office to address the restoration and protection of the San Francisco Bay.

(2) *REVISION OF SAN FRANCISCO BAY PLAN.*—Not less often than once every 5 years after the date of the completion of the plan described in paragraph (1), the Director shall review, and revise as appropriate, the San Francisco Bay Plan.

(3) *OUTREACH.*—*In carrying out this subsection, the Director shall consult with the Estuary Partnership and Indian tribes and solicit input from other non-Federal stakeholders.*

(e) *GRANT PROGRAM.*—

(1) *IN GENERAL.*—*The Director may provide funding through cooperative agreements, grants, or other means to State and local agencies, special districts, and public or nonprofit agencies, institutions, and organizations, including the Estuary Partnership, for projects, activities, and studies identified on the annual priority list compiled under subsection (c).*

(2) *MAXIMUM AMOUNT OF GRANTS; NON-FEDERAL SHARE.*—

(A) *MAXIMUM AMOUNT OF GRANTS.*—*Amounts provided to any entity under this section for a fiscal year shall not exceed an amount equal to 75 percent of the total cost of any projects, activities, and studies that are to be carried out using those amounts.*

(B) *NON-FEDERAL SHARE.*—*Not less than 25 percent of the cost of any project, activity, or study carried out using amounts provided under this section shall be provided from non-Federal sources.*

(f) *FUNDING.*—

(1) *AUTHORIZATION OF APPROPRIATIONS.*—*There is authorized to be appropriated to carry out this section \$25,000,000 for each of fiscal years 2020 through 2024.*

(2) *ADMINISTRATIVE EXPENSES.*—*Of the amount made available to carry out this section for a fiscal year, the Director may not use more than 5 percent to pay administrative expenses incurred in carrying out this section.*

(3) *PROHIBITION.*—*No amounts made available under this section may be used for the administration of a management conference under section 320.*

(g) *ANNUAL BUDGET PLAN.*—*The President, as part of the annual budget submission of the President to Congress under section 1105(a) of title 31, United States Code, shall submit information regarding each Federal department and agency involved in San Francisco Bay protection and restoration, including—*

(1) *a report that displays for each Federal agency—*

(A) *the amounts obligated in the preceding fiscal year for protection and restoration projects, activities, and studies relating to the San Francisco Bay; and*

(B) *the proposed budget for protection and restoration projects, activities, and studies relating to the San Francisco Bay; and*

(2) *a description and assessment of the Federal role in the implementation of the San Francisco Bay Plan and the specific role of each Federal department and agency involved in San Francisco Bay protection and restoration, including specific projects, activities, and studies conducted or planned to achieve the identified goals and objectives of the San Francisco Bay Plan.*

\* \* \* \* \*