

GEOHERMAL ENERGY OPPORTUNITY ACT

JUNE 27, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WESTERMAN, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 7370]

The Committee on Natural Resources, to whom was referred the bill (H.R. 7370) to amend the Geothermal Steam Act of 1970 to establish a deadline for processing applications related to geothermal leasing, 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 “Geothermal Energy Opportunity Act” or the “GEO Act”.

SEC. 2. EFFECT OF PENDING CIVIL ACTIONS ON PROCESSING APPLICATIONS RELATED TO GEOHERMAL LEASING.

Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is amended by adding at the end the following:

“(h) EFFECT OF PENDING CIVIL ACTIONS ON PROCESSING APPLICATIONS RELATED TO GEOHERMAL LEASING.—

“(1) REQUIREMENT TO PROCESS APPLICATIONS.—Notwithstanding the existence of any pending civil action that affects an application for a geothermal drilling permit, sundry notice, notice to proceed, right-of-way, or any other authorization under a valid existing geothermal lease, the Secretary shall, unless a United States Federal court vacates or provides injunctive relief for the applicable geothermal lease, geothermal drilling permit, sundry notice, notice to proceed, right-of-way, or other authorization, approve and issue, or deny, each such application not later than 60 days after completing all requirements under applicable Federal laws and regulations, including the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, and division A of subtitle III of title 54, United States Code.

“(2) NO NEW AUTHORITY FOR FEDERAL COURTS.—Nothing in this subsection shall be construed as modifying any existing authority of a Federal court to vacate or provide injunctive relief for a geothermal lease, geothermal drilling permit, sundry notice, notice to proceed, right-of-way, or other authorization.

“(3) DEFINITION OF AUTHORIZATION.—In this subsection, the term ‘authorization’ means any license, permit, approval, finding, determination, or other ad-

ministrative decision issued by a Federal agency, or any interagency consultation, that is required or authorized under Federal law or regulations in order to site, construct, reconstruct, or commence operations of a geothermal project administered by a Federal agency.”.

PURPOSE OF THE LEGISLATION

The purpose of H.R. 7370 is to amend the Geothermal Steam Act of 1970 to establish a deadline for processing applications related to geothermal leasing.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 7370 would address instances where the Department of the Interior (DOI) voluntarily holds up projects that already have a Record of Decision (ROD) due to DOI’s fear of litigation. H.R. 7370 would require DOI to continue processing drilling permits and other authorizations within 60 days after National Environmental Policy Act (NEPA), Endangered Species Act (ESA) and National Historic Preservation Act (NHPA) review is complete unless a United States Federal court vacates the underlying lease.

COMMITTEE ACTION

H.R. 7370 was introduced on February 15, 2024, by Representative John Curtis (R–UT). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Energy and Mineral Resources. On March 6, 2024, the Subcommittee on Energy and Mineral Resources held a hearing on the bill. On April 16, 2024, the Committee on Natural Resources met to consider the bill. The Subcommittee on Energy and Mineral Resources was discharged from further consideration of H.R. 7370 by unanimous consent. Representative John Curtis (R–UT) offered an Amendment in the Nature of a Substitute designated Curtis ANS_01. The Amendment in the Nature of a Substitute was agreed to by unanimous consent. The bill, as amended, was ordered favorably reported to the House of Representatives by unanimous consent.

HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee on Energy and Mineral Resources held on March 6, 2024.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Designates the bill as the “Geothermal Energy Opportunity Act” or the “GEO Act”.

Section 2. Effect of Pending Civil Actions on Processing Applications Related to Geothermal Leasing

Section 2 would amend Section 4 of the Geothermal Steam Act of 1970 by including a new subsection (h) titled “Effect of Pending Civil Actions on Processing Applications Related to Geothermal Leasing.” The new subsection mandates that the Secretary of the

Interior shall approve and issue, or deny, each application for a geothermal drilling permit, sundry notice, notice to proceed, right-of-way, or any other authorization under a valid existing geothermal lease unless a U.S. Federal court vacates or provides injunctive relief for the underlying geothermal lease. The Secretary would have 60 days following the completion of reviews under NEPA, ESA and NHPA to process each application or authorization. The new subsection also clarifies that the new language does not impact a Federal court's ability to vacate or provide injunctive relief while also providing a definition of authorization.

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 AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* Pursuant to clause 3(c)(2) of House rule XIII and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of House rule XIII and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received from the Director of the Congressional Budget Office a budgetary analysis and a cost estimate of this bill.

2. *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 amend the Geothermal Steam Act of 1970 to establish a deadline for processing applications related to geothermal leasing.

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.

UNFUNDED MANDATES REFORM ACT STATEMENT

An estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chair of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee, if such estimate is not publicly available on the Congressional Budget Office website.

EXISTING PROGRAMS

Directed Rule Making. This bill does not contain any directed rule makings.

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.

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.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

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 italics 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) **NOMINATIONS.**—The Secretary shall accept nominations of land to be leased at any time from qualified companies and individuals under this Act.

(b) **COMPETITIVE LEASE SALE REQUIRED.**—

(1) **IN GENERAL.**—Except as otherwise specifically provided by this Act, all land to be leased that is not subject to leasing under subsection (c) shall be leased as provided in this subsection to the highest responsible qualified bidder, as determined by the Secretary.

(2) **COMPETITIVE LEASE SALES.**—The Secretary shall hold a competitive lease sale at least once every 2 years for land in a State that has nominations pending under subsection (a) if the land is otherwise available for leasing.

(3) **LANDS SUBJECT TO MINING CLAIMS.**—Lands that are subject to a mining claim for which a plan of operations has been approved by the relevant Federal land management agency may be available for noncompetitive leasing under this section to the mining claim holder.

(4) **LAND SUBJECT TO OIL AND GAS LEASE.**—Land under an oil and gas lease issued pursuant to the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) that is subject to an approved application for permit to drill and from which oil and gas production is occurring may be available for noncompetitive leasing under subsection (c) by the holder of the oil and gas lease—

(A) on a determination that geothermal energy will be produced from a well producing or capable of producing oil and gas; and

(B) to provide for the coproduction of geothermal energy with oil and gas.

(c) **NONCOMPETITIVE LEASING.**—The Secretary shall make available for a period of 2 years for noncompetitive leasing any tract for which a competitive lease sale is held, but for which the Secretary does not receive any bids in a competitive lease sale.

(d) **PENDING LEASE APPLICATIONS.**—

(1) **IN GENERAL.**—It shall be a priority for the Secretary, and for the Secretary of Agriculture with respect to National Forest Systems land, to ensure timely completion of administrative actions, including amendments to applicable forest plans and resource management plans, necessary to process applications for geothermal leasing pending on the date of enactment of this subsection. All future forest plans and resource management plans for areas with high geothermal resource potential shall consider geothermal leasing and development.

(2) **ADMINISTRATION.**—An application described in paragraph

(1) and any lease issued pursuant to the application—

(A) except as provided in subparagraph (B), shall be subject to this section as in effect on the day before the date of enactment of this paragraph; or

(B) at the election of the applicant, shall be subject to this section as in effect on the effective date of this paragraph.

(e) **LEASES SOLD AS A BLOCK.**—If information is available to the Secretary indicating a geothermal resource that could be produced as 1 unit can reasonably be expected to underlie more than 1 parcel to be offered in a competitive lease sale, the parcels for such a resource may be offered for bidding as a block in the competitive lease sale.

(f) **LEASING FOR DIRECT USE OF GEOTHERMAL RESOURCES.**—Notwithstanding subsection (b), the Secretary may identify areas in which the land to be leased under this Act exclusively for direct use of geothermal resources, without sale for purposes other than commercial generation of electricity, may be leased to any qualified applicant that first applies for such a lease under regulations issued by the Secretary, if the Secretary—

(1) publishes a notice of the land proposed for leasing not later than 90 days before the date of the issuance of the lease;

(2) does not receive during the 90-day period beginning on the date of the publication any nomination to include the land concerned in the next competitive lease sale; and

(3) determines there is no competitive interest in the geothermal resources in the land to be leased.

(g) **AREA SUBJECT TO LEASE FOR DIRECT USE.**—

(1) **IN GENERAL.**—Subject to paragraph (2), a geothermal lease for the direct use of geothermal resources shall cover not more than the quantity of acreage determined by the Secretary to be reasonably necessary for the proposed use.

(2) **LIMITATIONS.**—The quantity of acreage covered by the lease shall not exceed the limitations established under section 7.

(h) *EFFECT OF PENDING CIVIL ACTIONS ON PROCESSING APPLICATIONS RELATED TO GEOTHERMAL LEASING.*—

(1) *REQUIREMENT TO PROCESS APPLICATIONS.*—*Notwithstanding the existence of any pending civil action that affects an application for a geothermal drilling permit, sundry notice, notice to proceed, right-of-way, or any other authorization under a valid existing geothermal lease, the Secretary shall, unless a United States Federal court vacates or provides injunctive relief for the applicable geothermal lease, geothermal drilling permit, sundry notice, notice to proceed, right-of-way, or other authorization, approve and issue, or deny, each such application not later than 60 days after completing all requirements under applicable Federal laws and regulations, including the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, and division A of subtitle III of title 54, United States Code.*

(2) *NO NEW AUTHORITY FOR FEDERAL COURTS.*—*Nothing in this subsection shall be construed as modifying any existing authority of a Federal court to vacate or provide injunctive relief for a geothermal lease, geothermal drilling permit, sundry notice, notice to proceed, right-of-way, or other authorization.*

(3) *DEFINITION OF AUTHORIZATION.*—*In this subsection, the term “authorization” means any license, permit, approval, finding, determination, or other administrative decision issued by a Federal agency, or any interagency consultation, that is required or authorized under Federal law or regulations in order to site, construct, reconstruct, or commence operations of a geothermal project administered by a Federal agency.*

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