

Calendar No. 771

106TH CONGRESS
2^D SESSION

H. R. 728

IN THE SENATE OF THE UNITED STATES

JULY 18, 2000

Received

JULY 27, 2000

Read the first time

SEPTEMBER 5, 2000

Read the second time and placed on the calendar

AN ACT

To amend the Watershed Protection and Flood Prevention Act to authorize the Secretary of Agriculture to provide cost share assistance for the rehabilitation of structural measures constructed as part of water resource projects previously funded by the Secretary under such Act or related laws, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Watershed Re-
 5 habilitation Amendments of 2000”.

6 **TITLE I—DAM REHABILITATION**

7 **SEC. 101. REHABILITATION OF WATER RESOURCE STRUC-**
 8 **TURAL MEASURES CONSTRUCTED UNDER**
 9 **CERTAIN DEPARTMENT OF AGRICULTURE**
 10 **PROGRAMS.**

11 The Watershed Protection and Flood Prevention Act
 12 (16 U.S.C. 1001 et seq.) is amended by adding at the end
 13 the following new section:

14 **“SEC. 14. REHABILITATION OF STRUCTURAL MEASURES**
 15 **NEAR, AT, OR PAST THEIR EVALUATED LIFE**
 16 **EXPECTANCY.**

17 “(a) DEFINITIONS.—For purposes of this section:

18 “(1) REHABILITATION.—The term ‘rehabilita-
 19 tion’, with respect to a structural measure con-
 20 structed as part of a covered water resource project,
 21 means the completion of all work necessary to ex-
 22 tend the service life of the structural measure and
 23 meet applicable safety and performance standards.

24 This may include: (A) protecting the integrity of the
 25 structural measure or prolonging the useful life of

1 the structural measure beyond the original evaluated
2 life expectancy; (B) correcting damage to the struc-
3 tural measure from a catastrophic event; (C) cor-
4 recting the deterioration of structural components
5 that are deteriorating at an abnormal rate; (D) up-
6 grading the structural measure to meet changed
7 land use conditions in the watershed served by the
8 structural measure or changed safety criteria appli-
9 cable to the structural measure; or (E) decommis-
10 sioning the structure, if requested by the local orga-
11 nization.

12 “(2) COVERED WATER RESOURCE PROJECT.—
13 The term ‘covered water resource project’ means a
14 work of improvement carried out under any of the
15 following:

16 “(A) This Act.

17 “(B) Section 13 of the Act of December
18 22, 1944 (Public Law 78–534; 58 Stat. 905).

19 “(C) The pilot watershed program author-
20 ized under the heading ‘FLOOD PREVENTION’
21 of the Department of Agriculture Appropriation
22 Act, 1954 (Public Law 156; 67 Stat. 214).

23 “(D) Subtitle H of title XV of the Agri-
24 culture and Food Act of 1981 (16 U.S.C. 3451

1 et seq.; commonly known as the Resource Con-
2 servation and Development Program).

3 “(3) STRUCTURAL MEASURE.—The term ‘struc-
4 tural measure’ means a physical improvement that
5 impounds water, commonly known as a dam, which
6 was constructed as part of a covered water resource
7 project, including the impoundment area and flood
8 pool.

9 “(b) COST SHARE ASSISTANCE FOR REHABILITA-
10 TION.—

11 “(1) ASSISTANCE AUTHORIZED.—The Secretary
12 may provide financial assistance to a local organiza-
13 tion to cover a portion of the total costs incurred for
14 the rehabilitation of structural measures originally
15 constructed as part of a covered water resource
16 project. The total costs of rehabilitation include the
17 costs associated with all components of the rehabili-
18 tation project, including acquisition of land, ease-
19 ments, and rights-of-ways, rehabilitation project ad-
20 ministration, the provision of technical assistance,
21 contracting, and construction costs, except that the
22 local organization shall be responsible for securing
23 all land, easements, or rights-of-ways necessary for
24 the project.

1 “(2) AMOUNT OF ASSISTANCE; LIMITATIONS.—

2 The amount of Federal funds that may be made
3 available under this subsection to a local organiza-
4 tion for construction of a particular rehabilitation
5 project shall be equal to 65 percent of the total re-
6 habilitation costs, but not to exceed 100 percent of
7 actual construction costs incurred in the rehabilita-
8 tion. However, the local organization shall be respon-
9 sible for the costs of water, mineral, and other re-
10 source rights and all Federal, State, and local per-
11 mits.

12 “(3) RELATION TO LAND USE AND DEVELOP-
13 MENT REGULATIONS.—As a condition on entering
14 into an agreement to provide financial assistance
15 under this subsection, the Secretary, working in con-
16 cert with the affected unit or units of general pur-
17 pose local government, may require that proper zon-
18 ing or other developmental regulations are in place
19 in the watershed in which the structural measures to
20 be rehabilitated under the agreement are located so
21 that—

22 “(A) the completed rehabilitation project is
23 not quickly rendered inadequate by additional
24 development; and

1 “(B) society can realize the full benefits of
2 the rehabilitation investment.

3 “(c) TECHNICAL ASSISTANCE FOR WATERSHED
4 PROJECT REHABILITATION.—The Secretary, acting
5 through the Natural Resources Conservation Service, may
6 provide technical assistance in planning, designing, and
7 implementing rehabilitation projects should a local organi-
8 zation request such assistance. Such assistance may con-
9 sist of specialists in such fields as engineering, geology,
10 soils, agronomy, biology, hydraulics, hydrology, economics,
11 water quality, and contract administration.

12 “(d) PROHIBITED USE.—

13 “(1) PERFORMANCE OF OPERATION AND MAIN-
14 TENANCE.—Rehabilitation assistance provided under
15 this section may not be used to perform operation
16 and maintenance activities specified in the agree-
17 ment for the covered water resource project entered
18 into between the Secretary and the local organiza-
19 tion responsible for the works of improvement. Such
20 operation and maintenance activities shall remain
21 the responsibility of the local organization, as pro-
22 vided in the project work plan.

23 “(2) RENEGOTIATION.—Notwithstanding para-
24 graph (1), as part of the provision of financial as-
25 sistance under subsection (b), the Secretary may re-

1 negotiate the original agreement for the covered
2 water resource project entered into between the Sec-
3 retary and the local organization regarding responsi-
4 bility for the operation and maintenance of the
5 project when the rehabilitation is finished.

6 “(e) APPLICATION FOR REHABILITATION ASSIST-
7 ANCE.—A local organization may apply to the Secretary
8 for technical and financial assistance under this section
9 if the application has also been submitted to and approved
10 by the State agency having supervisory responsibility over
11 the covered water resource project at issue or, if there is
12 no State agency having such responsibility, by the Gov-
13 ernor of the State. The Secretary shall request the State
14 dam safety officer (or equivalent State official) to be in-
15 volved in the application process if State permits or ap-
16 provals are required. The rehabilitation of structural
17 measures shall meet standards established by the Sec-
18 retary and address other dam safety issues. At the request
19 of the local organization, personnel of the Natural Re-
20 sources Conservation Service of the Department of Agri-
21 culture may assist in preparing applications for assistance.

22 “(f) RANKING OF REQUESTS FOR REHABILITATION
23 ASSISTANCE.—The Secretary shall establish such system
24 of approving rehabilitation requests, recognizing that such
25 requests will be received throughout the fiscal year and

1 subject to the availability of funds to carry out this sec-
 2 tion, as is necessary for proper administration by the De-
 3 partment of Agriculture and equitable for all local organi-
 4 zations. The approval process shall be in writing, and
 5 made known to all local organizations and appropriate
 6 State agencies.

7 “(g) PROHIBITION ON CERTAIN REHABILITATION
 8 ASSISTANCE.—The Secretary may not approve a rehabili-
 9 tation request if the need for rehabilitation of the struc-
 10 ture is the result of a lack of adequate maintenance by
 11 the party responsible for the maintenance.

12 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
 13 is authorized to be appropriated to the Secretary to pro-
 14 vide financial and technical assistance under this
 15 section—

16 “(1) \$5,000,000 for fiscal year 2001;
 17 “(2) \$10,000,000 for fiscal year 2002;
 18 “(3) \$15,000,000 for fiscal year 2003;
 19 “(4) \$25,000,000 for fiscal year 2004; and
 20 “(5) \$35,000,000 for fiscal year 2005.

21 “(i) ASSESSMENT OF REHABILITATION NEEDS.—
 22 The Secretary, in concert with the responsible State agen-
 23 cies, shall conduct an assessment of the rehabilitation
 24 needs of covered water resource projects in all States in
 25 which such projects are located.

1 “(j) RECORDKEEPING AND REPORTS.—

2 “(1) SECRETARY.—The Secretary shall main-
3 tain a data base to track the benefits derived from
4 rehabilitation projects supported under this section
5 and the expenditures made under this section. On
6 the basis of such data and the reports submitted
7 under paragraph (2), the Secretary shall prepare
8 and submit to Congress an annual report providing
9 the status of activities conducted under this section.

10 “(2) GRANT RECIPIENTS.—Not later than 90
11 days after the completion of a specific rehabilitation
12 project for which assistance is provided under this
13 section, the local organization that received the as-
14 sistance shall make a report to the Secretary giving
15 the status of any rehabilitation effort undertaken
16 using financial assistance provided under this sec-
17 tion.”.

18 **TITLE II—DAM SAFETY**

19 **SEC. 201. DAM SAFETY.**

20 (a) INVENTORY AND ASSESSMENT OF OTHER
21 DAMS.—

22 (1) INVENTORY.—The Secretary of the Army
23 (in this section referred to as the “Secretary”) shall
24 establish an inventory of dams constructed by and
25 using funds made available through the Works

1 Progress Administration, the Works Projects Admin-
2 istration, and the Civilian Conservation Corps.

3 (2) ASSESSMENT OF REHABILITATION
4 NEEDS.—In establishing the inventory required
5 under paragraph (1), the Secretary shall also assess
6 the condition of the dams on such inventory and the
7 need for rehabilitation or modification of the dams.

8 (b) REPORT TO CONGRESS.—Not later than 2 years
9 after the date of the enactment of this Act, the Secretary
10 shall transmit to Congress a report containing the inven-
11 tory and assessment required by this section.

12 (c) INTERIM ACTIONS.—

13 (1) IN GENERAL.—If the Secretary determines
14 that a dam referred to in subsection (a) presents an
15 imminent and substantial risk to public safety, the
16 Secretary is authorized to carry out measures to pre-
17 vent or mitigate against such risk.

18 (2) EXCLUSION.—The assistance authorized in
19 paragraph (1) shall not be available to dams under
20 the jurisdiction of the Department of the Interior.

21 (3) FEDERAL SHARE.—The Federal share of
22 the cost of assistance provided under this subsection
23 shall be 65 percent of such cost.

24 (4) AUTHORIZATION OF APPROPRIATIONS.—
25 There is authorized to be appropriated to carry out

1 this section a total of \$25,000,000 for fiscal years
2 beginning after September 30, 1999, of which not
3 more than \$5,000,000 may be expended on any one
4 dam.

5 (d) COORDINATION.—In carrying out this section, the
6 Secretary shall coordinate with the appropriate State dam
7 safety officials and the Director of the Federal Emergency
8 Management Agency.

Passed the House of Representatives July 17, 2000.

Attest:

JEFF TRANDAHL,

Clerk.

Calendar No. 771

106TH CONGRESS
2D SESSION

H. R. 728

AN ACT

To amend the Watershed Protection and Flood Prevention Act to authorize the Secretary of Agriculture to provide cost share assistance for the rehabilitation of structural measures constructed as part of water resource projects previously funded by the Secretary under such Act or related laws, and for other purposes.

SEPTEMBER 5, 2000

Read the second time and placed on the calendar