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109TH CONGRESS
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H. R. 1368

To provide the Secretary of the Army with additional and enhanced authority with respect to water resources projects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2005

Mr. BURGESS (for himself, Mr. POE, and Mr. MARCHANT) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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A BILL

To provide the Secretary of the Army with additional and enhanced authority with respect to water resources projects, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Integrated Water Resources Management Act of 2005''.

SEC. 2. SUPPORT OF STATE, TRIBAL, INTERSTATE WATER RESOURCES ORGANIZATIONS, AND LOCAL GOVERNMENT.

The Secretary of the Army shall include as a primary mission of the Army Corps of Engineers the provision of technical services and assistance to support planning, conservation, and responsible integrated management of water resources by State, tribal, interstate water resources organizations, and local governments.

SEC. 3. TECHNICAL ASSISTANCE.

Section 22 of Water Resources Development Act of 1974 (42 U.S.C. 1962d–16) is amended—

(1) in subsection (a) by striking ''The Secretary'' and inserting the following:

''(a) FEDERAL STATE COOPERATION.—

''(1) COMPREHENSIVE PLANS.—The Secretary'';

(2) by inserting after the last sentence in subsection (a) the following:

''(2) TECHNICAL ASSISTANCE.—

''(A) IN GENERAL.—At the request of a governmental agency or non-Federal interest, the Secretary may provide, at Federal expense, technical assistance to such agency or non-Federal interest in managing water resources.

''(B) TYPES OF ASSISTANCE.—Technical assistance under this paragraph may include provision and integration of hydrologic, economic, and environmental data and analyses.''.

(3) in subsection (b)(1) by striking ''this section'' each place it appears and inserting ''subsection (a)(1)'';

(4) in subsection (b)(2) by striking ''Up to ½ of the'' and inserting ''The'';

(5) in subsection (c)—

(A) by striking ''(c) There is'' and inserting the following:

''(c) AUTHORIZATION OF APPROPRIATIONS.—

''(1) FEDERAL AND STATE COOPERATION.—There is'';

(B) by striking '' except that not more than $500,000 shall be expended in any one year in any one State'';

(C) by striking ''the provisions of this section'' and inserting ''subsection (a)(1);''; and

(D) by inserting at the end the following:

''(2) TECHNICAL ASSISTANCE.—There is authorized to be appropriated $10,000,000 annually to carry out subsection (a)(2), of which not more than $2,000,000 annually may be used by the Secretary

to enter into cooperative agreements with nonprofit organizations and State agencies to provide assistance to rural and small communities.''; and

(6) by adding at the end the following:

''(e) ANNUAL SUBMISSION.—The Secretary shall provide a listing of the individual activities proposed for funding under subsection (a)(1), based on performance criteria developed by the Secretary.''.

SEC. 4. WATERSHED AND RIVER BASIN ASSESSMENTS.

(a) IN GENERAL.—Section 729 of the Water Resources Development Act of 1986 (33 U.S.C. 2267a; 114 Stat. 2587–2588; 100 Stat. 4164) is amended—

(1) by striking paragraph (1) of subsection (f) and inserting the following:

''(1) NON-FEDERAL SHARE.—The non-Federal share of the costs of an assessment carried out under this section on or after December 11, 2000, shall be 25 percent.''; and

(2) by striking subsection (g).

(b) REVISION OF PARTNERSHIP AGREEMENT.—The Secretary of the Army shall revise the partnership agreement for any assessment being carried out under section 729 of the Water Resources Development Act of 1986 to take into account the change in non-Federal participation

in the assessment as a result of the amendments made by subsection (a).

SEC. 5. CREDIT FOR MATERIALS AND IN-KIND SERVICES.

(a) IN GENERAL.—The Secretary of the Army is authorized to allow a non-Federal interest credit toward its share of the costs of any authorized water resources development project or study for the cost of materials and in-kind services, including planning (including data collection), design, management, and construction services, provided by the non-Federal interest for implementation of the project or study. The credit shall include the cost of materials and services provided prior to signing a partnership or feasibility cost sharing agreement for the project or study, including efforts on constructed elements incorporated into the project, and materials and services provided after the partnership or feasibility cost sharing agreement, subject to the limitations in subsection (b).

(b) LIMITATIONS.—Credit authorized under subsection (a)—

(1) shall not exceed the non-Federal share of project costs;

(2) shall not alter any other requirements that require a non-Federal interest to provide lands, easements, rights-of-way, and dredged material disposal areas for the project;

(3) shall not exceed the actual and reasonable costs of the materials or in-kind services provided by the non-Federal interest, as determined by the Secretary; and

(4) shall be allowed unless the Secretary has determined that such materials or services, including activities on previously constructed elements, are not compatible with and necessary for the project.

SEC. 6. IMPROVING WATER MANAGEMENT AT CORPS OF ENGINEERS RESERVOIRS.

(a) MEASURES TO IMPROVE WATER MANAGEMENT AT CORPS OF ENGINEERS RESERVOIRS.—In addition to ongoing efforts to assess and address the water resources needs of the Nation, the Secretary of the Army shall undertake, as part of the operation and maintenance of all Corps of Engineers reservoirs, measures to more effectively and efficiently meet the current water resources needs of the areas impacted by the reservoirs. Such measures shall be undertaken in cooperation and coordination with State, tribal, and local governments and their ongoing initiatives and may include the following:

(1) reallocation of storage at such reservoirs;

(2) review of operational plans and implementation of changes to improve performance of such reservoirs in meeting current needs and priorities;

(3) improvements to data collection systems and forecast models that enhance operational performance of such reservoirs; and

(4) sediment studies and implementation of sediment management or removal measures that improve project operations.

(b) COSTS OF WATER SUPPLY STORAGE.—Storage charges for future contracts and contract renewals for water supply storage at existing Corps of Engineers reservoirs shall not exceed the net change in receipts or outlays, or both to the Treasury due to the reallocation of storage at such reservoirs.

SEC. 7. ACCESS TO WATER RESOURCES DATA.

(a) GENERAL.—The Secretary of the Army shall undertake a program to provide public access to water resources and related water quality data currently within the custody of the Corps of Engineers.

(b) DATA.—The date to which subsection (a) applies shall include, but not be limited to, data generated in water resources project development and regulation under section 404 of the Federal Water Pollution Act (33 U.S.C. 1344), and the Secretary, in providing access to data under subsection (a), shall employ appropriately geographic information system technology and linkages to water resources models and analytical techniques.

(c) PARTNERSHIPS.—To the maximum extent possible, the Secretary shall integrate State, tribal, and local governments into activities that carry out this section.

(d) APPROPRIATIONS.—There is authorized to be appropriated $5,000,000 per fiscal year to carry out this section.

SEC. 8. WRITTEN AGREEMENT FOR WATER RESOURCES PROJECTS.

(a) PARTNERSHIP AGREEMENTS.—Section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) is amended—

(1) in subsection (a)—

(A) by striking ''under the provisions'' and all that follows through ''under any other'' and inserting ''under any'';

(B) by inserting ''partnership'' after ''written'';

(C) by striking ''Secretary of the Army to furnish its required cooperation for'' and inserting ''district engineer for the district of the Corps of Engineers in which the project will be carried out under which each party agrees to carry out its responsibilities and requirements for implementation or construction of'';

(D) by striking ''if the Secretary'' and inserting ''if the Secretary of the Army''; and

(E) by inserting after ''$25,000.'' the following: ''Such agreement may include a provision for liquidated damages in the event of a failure of one or more parties to perform.'';

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following:

''(e) LIMITATION.—Nothing in subsection (a) shall be construed as limiting the authority of the Secretary to ensure that a partnership agreement meets all requirements of law and policies of the Secretary in effect on the date of entry into the partnership agreement.''.

(b) LOCAL COOPERATION.—Section 912(b) of the Water Resources Development Act of 1986 (42 U.S.C. 1962d–5b; 101 Stat. 4190) is amended—

(1) in paragraph (2)—

(A) by striking ''shall'' the first place it appears and inserting ''may''; and

(B) by striking the last sentence; and

(2) in paragraph (4)—

(A) by inserting after ''injunction, for'' the following: ''payment of liquidated damages

under a partnership agreement entered into by a district engineer of the Corps of Engineers or, for'';

(B) by striking ''to collect a civil penalty imposed under this section,''; and

(C) by striking ''any civil penalty imposed under this section,'' and inserting ''any liquidated damages,''.

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) only apply to partnership agreements entered into after the date of enactment of this Act; except that at the request of a non-Federal interest for a project the district engineer for the district of the Corps of Engineers in which the project is located may amend a project partnership agreement entered into on or before such date and under which construction on the project has not been initiated as of such date of enactment for the purpose of incorporating such amendments.

(d) REFERENCES.—

(1) TO COOPERATION AGREEMENTS.—Any reference in a law, regulation, document, or other paper of the United States to a cooperation agreement or project cooperation agreement shall be treated to be a reference to a partnership agreement or a project partnership agreement, respectively.

(2) TO PARTNERSHIP AGREEMENTS.—Any reference to a partnership agreement or project partnership agreement in this Act (other than this section) shall be treated as a reference to a cooperation agreement or a project cooperation agreement, respectively.

SEC. 9. ENVIRONMENTAL INFRASTRUCTURE.

Section 219 of the Water Resources Development Act of 1992 (106 Stat. 4835–4836; 110 Stat. 3957; 113 Stat. 334) is amended—

(1) in subsection (b)—

(A) by striking ''(b) NON-FEDERAL SHARE.—The'' and inserting the following:

''(b) NON-FEDERAL SHARE.—

''(1) IN GENERAL.—The''; and

(B) by inserting after paragraph (1) (as so designated by subparagraph (A)) the following:

''(2) IN-KIND CREDITS.—The non-Federal share may be provided in the form of materials and in-kind services, including design, construction, and management services, that the Secretary has determined are compatible with and necessary for the project.''.

(2) in subsection (e)—

(A) by striking ''and'' at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting ''; and''; and

(C) by adding at the end the following:

''(9) $40,000,000 for the project described in subsection (c)(18).''.

SEC. 10. TEXAS ENVIRONMENTAL INFRASTRUCTURE PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of the Army shall establish a program to provide environmental assistance to non-Federal interests in the State of Texas.

(b) FORM OF ASSISTANCE.—Assistance under this section may be in the form of planning, design, and construction assistance for water-related environmental infrastructure and resource protection and development projects in the State of Texas, including projects for water supply, storage, treatment and related facilities, water quality protection, wastewater treatment and related facilities, environmental restoration, and surface water resource protection and development as identified by the Texas Water Development Board.

(c) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(d) PARTNERSHIP AGREEMENTS.—Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest.

(e) COST SHARING.—

(1) IN GENERAL.—The Federal share of project costs under each agreement entered into under this section shall be 75 percent. The Federal share may be in the form of grants or reimbursements of project costs.

(2) IN-KIND SERVICES.—The non-Federal share may be provided in the form of materials and in-kind services, including planning, design, construction, and management services, that the Secretary has determined are compatible with and necessary for the project.

(3) CREDIT FOR DESIGN WORK.—The non-Federal interest shall receive credit for the reasonable costs of planning, design, construction work completed by the non-Federal interest before entering into a partnership agreement with the Secretary.

(4) LANDS, EASEMENTS, RIGHTS-OF-WAY AND RELOCATIONS.—The non-Federal interest shall re-

ceive credit for lands, easements, rights-of-way, and relocations provided by the non-Federal interest toward the non-Federal share of project costs.

(5) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed under an agreement entered into under this section shall be 100 percent.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed as waiving, limiting, or otherwise affecting the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $40,000,000.

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