

109TH CONGRESS
1ST SESSION

H. R. 2846

To ensure the continuation and improvement of coastal restoration.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 2005

Mr. LOBIONDO (for himself and Mr. MCINTYRE) introduced the following bill;
which was referred to the Committee on Transportation and Infrastructure

A BILL

To ensure the continuation and improvement of coastal
restoration.

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 “Community Beaches
5 Protection Act”.

6 **SEC. 2. PROTECTION OF SHORES.**

7 (a) DECLARATION OF POLICY.—The first section of
8 the Act entitled “An Act authorizing Federal participation
9 in the cost of protecting the shores of publicly owned prop-
10 erty”, approved August 13, 1946 (33 U.S.C. 426e), is
11 amended to read as follows:

1 **“SECTION 1. BEACH NOURISHMENT.**

2 “(a) DECLARATION OF POLICY.—With the purpose
3 of preventing damage, restoring and maintaining the
4 shores, beaches and other coastal resources of the United
5 States, its territories and possessions, and promoting and
6 encouraging the healthful recreation of the people, it is
7 declared to be the policy of the United States, subject to
8 the provisions of this Act, to promote beach nourishment
9 projects and related research that encourage the protec-
10 tion, restoration, and enhancement of sandy beaches and
11 other coastal infrastructure, including beach restoration
12 and periodic beach nourishment, on a comprehensive and
13 coordinated basis by the Federal Government, States, lo-
14 calities, and private interests. In carrying out this policy,
15 preference shall be given to areas—

16 “(1) in which there has been a previous invest-
17 ment of Federal funds;

18 “(2) in which regional sediment management
19 plans have been adopted;

20 “(3) in which the need for prevention or mitiga-
21 tion of damage to shores, beaches, and other coastal
22 infrastructure is attributable to Federal navigation
23 projects or other Federal activities; or

24 “(4) which promote human health and safety
25 and the quality of life for individuals and families.”.

1 “(b) IMPLEMENTATION.—The Secretary shall pay the
2 Federal share of the cost of carrying out beach nourish-
3 ment projects and related research that encourages the
4 protection, restoration, and enhancement of shores, sandy
5 beaches, and other coastal infrastructure (including
6 projects for beach restoration, periodic beach nourishment,
7 and restoration or protection of State, county, or other
8 shores, public coastal beaches, parks, conservation areas,
9 or other environmental resources).

10 “(c) FEDERAL SHARE.—

11 “(1) IN GENERAL.—Subject to paragraphs (2)
12 through (4), the Federal share of the cost of a
13 project described in subsection (b) shall be deter-
14 mined in accordance with section 103 of the Water
15 Resources Development Act of 1986 (33 U.S.C.
16 2213).

17 “(2) EXCEPTION.—In the case of a project for
18 beach erosion control the primary purpose of which
19 is recreation, the Federal share shall be equal to the
20 Federal share for a beach erosion control project the
21 primary purpose of which is storm damage protec-
22 tion or environmental restoration.

23 “(3) REMAINDER.—

24 “(A) IN GENERAL.—Subject to subpara-
25 graph (B), the remainder of the cost of the con-

1 struction of a project described in subsection
2 (b) shall be paid by a State, municipality, other
3 political subdivision, or nonprofit entity.

4 “(B) EXCEPTION.—The Federal Govern-
5 ment shall bear all of the costs incurred for the
6 restoration and protection of Federal property.

7 “(4) GREATER FEDERAL SHARE.—In the case
8 of a project described in subsection (b) for the res-
9 toration and protection of a State, county, or other
10 publicly-owned shore, coastal beach, park, conserva-
11 tion area, or other environmental resource, the Chief
12 of Engineers may increase the Federal share to be
13 greater than that provided in paragraph (1) if the
14 area—

15 “(A) includes—

16 “(i) a zone that excludes permanent
17 human habitation; or

18 “(ii) a recreational beach or other
19 area determined by the Chief of Engineers;

20 “(B) satisfies adequate criteria for con-
21 servation and development of the natural re-
22 sources of the environment; and

23 “(C) extends landward a sufficient distance
24 to include, as approved by the Chief of Engi-
25 neers—

1 “(i) protective dunes, bluffs, or other
2 natural features;

3 “(ii) such other appropriate measures
4 adopted by the State or political subdivi-
5 sion of the State to protect uplands areas
6 from damage, promote public recreation, or
7 protect environmental resources; or

8 “(iii) appropriate facilities for public
9 use.

10 “(d) PERIODIC BEACH NOURISHMENT.—In this Act,
11 when the most suitable and economical remedial measures,
12 as determined by the Chief of Engineers, would be pro-
13 vided by periodic beach nourishment, the term ‘construc-
14 tion’ shall include the deposit of sand fill at suitable inter-
15 vals of time to furnish sand supply to protect shores and
16 beaches for a period of time specified by the Chief of Engi-
17 neers and authorized by Congress.

18 “(e) PRIVATE SHORES AND BEACHES.—

19 “(1) IN GENERAL.—A shore or beach, other
20 than a public shore or beach, shall be eligible for
21 Federal assistance under this Act if—

22 “(A) there is a benefit to a public shore or
23 beach, including a benefit from public use or
24 from the protection of nearby public property;
25 or

1 “(B) the benefits to the shore or beach are
2 incidental to the project.

3 “(2) FEDERAL SHARE.—The Secretary shall
4 adjust the Federal share of a project for a shore or
5 beach, other than a public shore or beach, to reflect
6 the benefits described in paragraph (1).

7 “(f) AUTHORIZATION OF PROJECTS.—

8 “(1) IN GENERAL.—Subject to paragraph (2),
9 no Federal share shall be provided for a project
10 under this Act unless—

11 “(A) the plan for that project has been
12 specifically adopted and authorized by Congress
13 after investigation and study; or

14 “(B) in the case of a small project under
15 section 3 or 5, the plan for that project has
16 been approved by the Chief of Engineers.

17 “(2) STUDIES.—

18 “(A) IN GENERAL.—The Secretary shall—

19 “(i) recommend to Congress studies
20 concerning beach nourishment projects
21 that meet the criteria established under
22 this Act and other applicable law;

23 “(ii) conduct such studies as Congress
24 requests; and

1 “(iii) report the results of all studies
2 requested by Congress to the Committee
3 on Environment and Public Works of the
4 Senate and the Committee on Transpor-
5 tation and Infrastructure of the House of
6 Representatives.

7 “(B) RECOMMENDATIONS FOR BEACH
8 NOURISHMENT PROJECTS.—

9 “(i) IN GENERAL.—The Secretary
10 shall—

11 “(I) recommend to Congress the
12 authorization or reauthorization of all
13 shore and beach nourishment projects
14 the plans for which have been ap-
15 proved by the Chief of Engineers; and

16 “(II) report to Congress on the
17 feasibility of other projects that have
18 been studied under subparagraph (A)
19 but have not been approved by the
20 Chief of Engineers.

21 “(ii) CONSIDERATIONS.—In approving
22 a project plan, the Chief of Engineers shall
23 consider the economic and ecological bene-
24 fits of the beach nourishment project.

1 “(C) COORDINATION OF PROJECTS.—In
2 conducting studies and making recommenda-
3 tions for a beach nourishment project under
4 this paragraph, the Secretary shall—

5 “(i) determine whether there is any
6 other project being carried out by the Sec-
7 retary or other Federal agency that may be
8 complementary to the beach nourishment
9 project; and

10 “(ii) if there is such a complementary
11 project, undertake efforts to coordinate the
12 projects.

13 “(3) BEACH NOURISHMENT PROJECTS.—

14 “(A) IN GENERAL.—The Secretary shall
15 construct any beach nourishment project au-
16 thorized by Congress, or separable element of
17 such a project, for which Congress has appro-
18 priated funds.

19 “(B) AGREEMENTS.—

20 “(i) REQUIREMENT.—After authoriza-
21 tion by Congress, before the commence-
22 ment of construction of beach nourishment
23 project or separable element, the Secretary
24 shall offer to enter into a written agree-
25 ment for the authorized period of Federal

1 participation in the project with a non-
2 Federal interest with respect to the project
3 or separable element.

4 “(ii) TERMS.—The agreement shall—

5 “(I) specify the authorized period
6 of Federal participation in the project;
7 and

8 “(II) ensure that the Federal
9 Government and the non-Federal in-
10 terest cooperate in carrying out the
11 project or separable element.

12 “(g) EXTENSION OF THE PERIOD OF FEDERAL PAR-
13 TICIPATION.—At the request of a non-Federal interest,
14 the Secretary, acting through the Chief of Engineers and
15 with the approval of Congress, shall extend the period of
16 Federal participation in a beach nourishment project that
17 is economically feasible, engineeringly sound, and environ-
18 mentally acceptable for such additional period as the Sec-
19 retary determines appropriate.

20 “(h) SPECIAL CONSIDERATIONS.—In a case in which
21 funds have been appropriated to the Corps of Engineers
22 for a specific project but the funds cannot be expended
23 because of the time limits of environmental permits or
24 similar environmental considerations, the Secretary may
25 carry over such funds for use in the next fiscal year if

1 construction of the project, or a separable element of the
 2 project, will cause minimal environmental damage and will
 3 not violate an environmental permit.”.

4 **SEC. 3. NON-FEDERAL CONTRIBUTIONS.**

5 Section 103 of the Water Resources Development Act
 6 of 1986 (33 U.S.C. 2213) is amended by adding at the
 7 end the following:

8 “(n) NON-FEDERAL CONTRIBUTIONS.—

9 “(1) PROHIBITION ON SOLICITATION OF EX-
 10 CESS CONTRIBUTIONS.—The Secretary may not so-
 11 licit contributions from non-Federal interests for
 12 costs of constructing authorized water resources de-
 13 velopment projects or measures in excess of the non-
 14 Federal share assigned to the appropriate project
 15 purposes listed in subsections (a), (b), and (c) or
 16 condition Federal participation in such projects or
 17 measures on the receipt of such contributions.

18 “(2) LIMITATION ON STATUTORY CONSTRUC-
 19 TION.—Nothing in this subsection shall be construed
 20 to affect the Secretary’s authority under section
 21 903(c) of this Act.”.

22 **SEC. 4. NATIONAL SHORELINE EROSION CONTROL DEVELOP-**
 23 **MENT AND DEMONSTRATION PROGRAM.**

24 (a) PERMANENT EXTENSION OF PROGRAM.—Section
 25 5(a) of the Act entitled “An Act authorizing Federal par-

1 participation in the cost of protecting the shores of publicly
2 owned property”, approved August 13, 1946 (33 U.S.C.
3 426h(a)), is amended by striking all after “program”.

4 (b) EXTENSION OF PLANNING, DESIGN, AND CON-
5 STRUCTION PHASE.—Section 5(b)(1)(A) of such Act (33
6 U.S.C. 426h(b)(1)(A)) is amended by striking all after
7 “methods”.

8 (c) TECHNOLOGY TRANSFERS TO EDUCATIONAL IN-
9 STITUTIONS.—Section 5(b)(1)(D) of such Act (33 U.S.C.
10 426h(b)(1)(D)) is amended by inserting “and educational
11 institutions” after “entities”.

12 (d) COST-SHARING; REMOVAL OF PROJECTS.—Sec-
13 tion 5(b) of such Act (33 U.S.C. 426h(b)) is further
14 amended—

15 (1) by redesignating paragraphs (3) and (4) as
16 paragraphs (5) and (6), respectively; and

17 (2) by inserting after paragraph (2) the fol-
18 lowing:

19 “(3) COST SHARING.—The Secretary may enter
20 into a cost-sharing agreement with a non-Federal in-
21 terest to carry out a project, or a phase of a project,
22 under the erosion control program in cooperation
23 with the non-Federal interest.”.

1 (e) MODIFICATION OF EXISTING SHORELINE PRO-
2 TECTION PROJECTS.—Section 5 of such Act (33 U.S.C.
3 426h) is further amended—

4 (1) by redesignating subsection (e) as sub-
5 section (f); and

6 (2) by inserting after subsection (d) the fol-
7 lowing:

8 “(e) MODIFICATION OF EXISTING SHORELINE PRO-
9 TECTION PROJECTS.—Following initial construction and
10 adequate evaluation of a demonstration project’s perform-
11 ance and lifecycle cost, the Secretary at the request of a
12 non-Federal interest is authorized to amend the agree-
13 ment for an existing federally authorized shore protection
14 project to incorporate the demonstration project as a fea-
15 ture of the authorized shore protection project with the
16 future cost of the project to be determined by the cost-
17 sharing ratio of the authorized shore protection project.
18 Such amendment shall only be made if the Chief of Engi-
19 neers determines that it meets the engineering, economic,
20 and design standards of the authorized shore protection
21 project.”.

22 (f) AUTHORIZATION OF APPROPRIATIONS.—Section
23 5(f)(2) of such Act (33 U.S.C. 426h(e)(2)) (as redesign-
24 nated by subsection (e)(1) of this section) is amended by

- 1 striking “\$21,000,000” and inserting “such sums as may
- 2 be necessary”.

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