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110TH CONGRESS
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S. 1142

[Report No. 110–78]

To authorize the acquisition of interests in undeveloped coastal areas in order better to ensure their protection from development.

IN THE SENATE OF THE UNITED STATES

APRIL 18, 2007

Mr. GREGG (for himself, Mr. LAUTENBERG, Mr. COCHRAN, Mr. WARNER, Mr. WYDEN, Mr. KENNEDY, Mr. LIEBERMAN, Ms. SNOWE, Mrs. BOXER, Mr. KERRY, Mr. MENENDEZ, Ms. CANTWELL, Mrs. FEINSTEIN, Mr. REED, Mrs. MURRAY, Ms. COLLINS, and Mr. SUNUNU) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

JUNE 5, 2007

Reported by Mr. INOUE, without amendment

A BILL

To authorize the acquisition of interests in undeveloped coastal areas in order better to ensure their protection from development.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Coastal and Estuarine
3 Land Protection Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) Coastal and estuarine areas provide impor-
7 tant nursery habitat for two-thirds of the nation’s
8 commercial fish and shellfish, provide nesting and
9 foraging habitat for coastal birds, harbor significant
10 natural plant communities, and serve to facilitate
11 coastal flood control and pollutant filtration.

12 (2) The Coastal Zone Management Act of 1972
13 (16 U.S.C. 1451 et seq.) recognizes the national im-
14 portance of these areas and their ecological vulner-
15 ability to anthropogenic activities by establishing a
16 comprehensive Federal-State partnership for pro-
17 tecting natural reserves and managing growth in
18 these areas.

19 (3) The National Estuarine Research Reserve
20 system established under that Act relies on the pro-
21 tection of pristine designated areas for long-term
22 protection and for the conduct of education and re-
23 search critical to the protection and conservation of
24 coastal and estuarine resources.

25 (4) Intense development pressures within the
26 coastal watershed are driving the need to provide

1 coastal managers with a wider range of tools to pro-
2 tect and conserve important coastal and estuarine
3 areas.

4 (5) Protection of undeveloped coastal lands
5 through the acquisition of interests in property from
6 a willing seller are a cost-effective means of pro-
7 viding these areas with permanent protection from
8 development.

9 (6) Permanent protection of lands in the coast-
10 al zone is a necessary component of any program to
11 maintain and enhance coastal and estuarine areas
12 for the benefit of the Nation, including protection of
13 water quality, access to public beachfront, con-
14 serving wildlife habitat, and sustaining sport and
15 commercial fisheries.

16 (7) Federal-State-nongovernmental organization
17 pilot land acquisition projects have already substan-
18 tially contributed to the long-term health and viabil-
19 ity of coastal and estuarine systems.

20 (8) Enhanced protection of estuarine and coast-
21 al areas can be attained through watershed-based
22 acquisition strategies coordinated through Federal,
23 State, regional, and local efforts.

24 (9) Conserving coastal and estuarine lands can
25 support the traditional economic and natural re-

1 source bases of communities in the coastal water-
2 shed, including well-managed forests that dem-
3 onstrate outstanding ecological, recreational, histor-
4 ical, and aesthetic attributes.

5 **SEC. 3. ESTABLISHMENT OF COASTAL AND ESTUARINE**
6 **LAND PROTECTION PROGRAM.**

7 (a) IN GENERAL.—The Secretary of Commerce shall
8 establish a Coastal and Estuarine Land Protection Pro-
9 gram, in cooperation with appropriate State, regional, and
10 other units of government for the purposes of protecting
11 the environmental integrity of important coastal and estu-
12 arine areas, including wetlands and forests, that have sig-
13 nificant conservation, recreation, ecological, historical,
14 aesthetic, or watershed protection values, and that are
15 threatened by conversion from their natural, undeveloped,
16 or recreational state to other uses. The program shall be
17 administered by the National Ocean Service of the Na-
18 tional Oceanic and Atmospheric Administration through
19 the Office of Ocean and Coastal Resource Management.

20 (b) PROPERTY ACQUISITION GRANTS.—The Sec-
21 retary shall make grants under the program to coastal
22 States with approved coastal zone management plans or
23 National Estuarine Research Reserve units for the pur-
24 pose of acquiring property or interests in property de-
25 scribed in subsection (a) that will further the goals of—

1 (1) a Coastal Zone Management Plan or Pro-
2 gram approved under the Coastal Zone Management
3 Act of 1972 (16 U.S.C. 1451 et seq.); or

4 (2) a National Estuarine Research Reserve
5 management plan; or

6 (3) a regional or State watershed protection
7 plan involving coastal States with approved coastal
8 zone management plans.

9 (c) GRANT PROCESS.—The Secretary shall allocate
10 funds to coastal States or National Estuarine Research
11 Reserves under this section through a competitive grant
12 process in accordance with guidelines that meet the fol-
13 lowing requirements:

14 (1) The Secretary shall consult with the State’s
15 coastal zone management program, any National Es-
16 tuarine Research Reserve in that State, and the lead
17 agency designated by the Governor for coordinating
18 the implementation of this Act (if different from the
19 coastal zone management program).

20 (2) Each participating State, after consultation
21 with nongovernmental and local governmental enti-
22 ties, shall identify priority conservation needs within
23 the State, the values to be protected by inclusion of
24 lands in the program, and the threats to those val-
25 ues that should be avoided.

1 (3) Each participating State shall evaluate how
2 the acquisition of property or easements might im-
3 pact working waterfront needs.

4 (4) The applicant shall identify the values to be
5 protected by inclusion of the lands in the program,
6 management activities that are planned and the
7 manner in which they may affect the values identi-
8 fied, and any other information from the landowner
9 relevant to administration and management of the
10 land.

11 (5) Awards shall be based on demonstrated
12 need for protection and ability to successfully lever-
13 age funds among participating entities, including
14 Federal programs, regional organizations, State and
15 other governmental units, landowners, corporations,
16 or private organizations.

17 (6) The governor, or the lead agency designated
18 by the governor for coordinating the implementation
19 of this Act, shall determine that the application is
20 consistent with the State's or territory's approved
21 coastal zone plan, program and policies prior to sub-
22 mittal to the Secretary.

23 (7) Priority shall be given to lands described in
24 subsection (a) that can be effectively managed and

1 protected and that have significant ecological or wa-
2 tershed protection value.

3 (8) In developing guidelines under this section,
4 the Secretary shall consult with other Federal agen-
5 cies and non-governmental entities with expertise in
6 land acquisition and conservation procedures.

7 (9) Eligible States or National Estuarine Re-
8 search Reserves may allocate grants to local govern-
9 ments or agencies eligible for assistance under sec-
10 tion 306A(e) of the Coastal Zone Management Act
11 of 1972 (16 U.S.C. 1455a) and may acquire lands
12 in cooperation with nongovernmental entities and
13 Federal agencies.

14 (10) The Secretary shall develop measures that
15 will ensure that property or interests in property ac-
16 quired in whole or in part through the use of funds
17 under the program are acquired only from willing
18 sellers.

19 (11) The Secretary shall develop performance
20 measures that the Secretary shall use to evaluate
21 and report on the program's effectiveness in accom-
22 plishing its purposes, and shall submit such evalua-
23 tions to Congress triennially.

24 (d) MATCHING REQUIREMENTS.—

1 (1) IN GENERAL.—The Secretary may not
2 make a grant under the program unless the Federal
3 funds are matched by non-Federal funds in accord-
4 ance with this subsection.

5 (2) MAXIMUM FEDERAL SHARE.—

6 (A) 75 PERCENT FEDERAL FUNDS.—No
7 more than 75 percent of the funding for any
8 project under this section shall be derived from
9 Federal sources, unless such requirement is
10 specifically waived by the Secretary.

11 (B) WAIVER OF REQUIREMENT.—The Sec-
12 retary may grant a waiver of the limitation in
13 subparagraph (A) for underserved communities,
14 communities that have an inability to draw on
15 other sources of funding because of the small
16 population or low income of the community, or
17 for other reasons the Secretary deems appro-
18 priate.

19 (3) OTHER FEDERAL FUNDS.—Where financial
20 assistance awarded under this section represents
21 only a portion of the total cost of a project, funding
22 from other Federal sources may be applied to the
23 cost of the project. Each portion shall be subject to
24 match requirements under the applicable provision
25 of law.

1 (4) SOURCE OF MATCHING COST SHARE.—For
2 purposes of paragraph (2)(A), the non-Federal cost
3 share for a project may be determined by taking into
4 account the following:

5 (A) The value of land or a conservation
6 easement may be used as non-Federal match if
7 the lands are identified in project plans and ac-
8 quired within 3 years prior to the submission of
9 the project application or after the submission
10 of a project application until the project grant
11 is closed (not to exceed 3 years). The appraised
12 value of the land at the time of project closing
13 will be considered the non-Federal cost share.
14 The value of land that is held by a nongovern-
15 mental organization may be used for such pur-
16 pose if it is held in perpetuity by a qualified
17 conservation organization, as determined by the
18 Secretary.

19 (B) Costs associated with land acquisition,
20 land management planning, remediation, res-
21 toration, and enhancement may be used as non-
22 Federal match if the activities are identified in
23 the plan and expenses are incurred within the
24 period of the grant award, or, for lands de-
25 scribed in (A), within the same time limits de-

1 scribed therein. These costs may include either
2 cash or in-kind contributions.

3 (e) RESERVATION OF FUNDS FOR NATIONAL ESTUA-
4 RINE RESEARCH RESERVE SITES.—No less than 15 per-
5 cent of funds made available under this section shall be
6 available for acquisitions benefiting National Estuarine
7 Research Reserves.

8 (f) LIMIT ON ADMINISTRATIVE COSTS.—No more
9 than 5 percent of the funds made available to the Sec-
10 retary under this section shall be used by the Secretary
11 for planning or administration of the program. The Sec-
12 retary shall provide a report to Congress with an account
13 of all expenditures under this section for fiscal year 2008
14 and triennially thereafter.

15 (g) TITLE AND MANAGEMENT OF ACQUIRED PROP-
16 erty.—If any property is acquired in whole or in part
17 with funds made available through a grant under this sec-
18 tion, the grant recipient shall provide such assurances as
19 the Secretary may require that—

20 (1) the title to the property will be held by the
21 grant recipient or another appropriate public agency
22 designated by the recipient in perpetuity;

23 (2) the property will be managed in a manner
24 that is consistent with the purposes for which the

1 land entered into the program and shall not convert
2 such property to other uses; and

3 (3) if the property or interest in land is sold,
4 exchanged, or divested, funds equal to the correct
5 value will be returned to the Secretary in accordance
6 with applicable Federal law for re-distribution in the
7 grant process.

8 (h) DEFINITIONS.—In this section:

9 (1) COASTAL STATE.—The term “coastal
10 State” has the meaning given that term by section
11 304(4) of the Coastal Zone Management Act of
12 1972 (16 U.S.C. 1453(4)).

13 (2) CONSERVATION EASEMENT.—The term
14 “conservation easement” includes an easement or re-
15 striction, recorded deed, or a reserve interest deed
16 where the grantee acquires all rights, title, and in-
17 terest in a property, that do not conflict with the
18 goals of this Act except those rights, title, and inter-
19 ests that may run with the land that are expressly
20 reserved by a grantor and are agreed to at the time
21 of purchase.

22 (3) INTEREST IN PROPERTY.—The term “inter-
23 est in property” includes a conservation easement.

24 (4) OTHER TERMS.—Any term used in this sec-
25 tion that is defined in section 304 of the Coastal

1 Zone Management Act of 1972 (16 U.S.C. 1453)
2 has the meaning given that term in that section.
3 (i) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Secretary such
5 sums as may be necessary to carry out this Act for fiscal
6 years 2008 through 2012.

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