

Union Calendar No. 127

104TH CONGRESS
1ST SESSION

H. R. 1296

[Report No. 104-234]

A BILL

To provide for the administration of certain Pre-sidio properties at minimal cost to the Federal taxpayer.

AUGUST 4, 1995

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

MARCH 22, 1995

Ms. PELOSI (for herself, Mr. HORN, Mr. GILMAN, and Mr. LANTOS) introduced the following bill; which was referred to the Committee on Resources

AUGUST 4, 1995

Additional sponsors: Mr. BEREUTER, Mr. GALLEGLY, and Mr. RADANOVICH

AUGUST 4, 1995

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 22, 1995]

A BILL

To provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer.

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. FINDINGS.**

2 *The Congress finds that—*

3 *(1) the Presidio, located amidst the incomparable*
4 *scenic splendor of the Golden Gate, is one of Ameri-*
5 *ca's great natural and historic sites;*

6 *(2) the Presidio is the oldest continuously oper-*
7 *ated military post in the Nation dating from 1776,*
8 *and was designated a National Historic Landmark in*
9 *1962;*

10 *(3) preservation of the cultural and historic in-*
11 *tegrity of the Presidio for public use recognizes its sig-*
12 *nificant role in the history of the United States;*

13 *(4) the Presidio, in its entirety, is located within*
14 *the boundary of the Golden Gate National Recreation*
15 *Area, in accordance with Public Law 92–589;*

16 *(5) the Presidio's significant natural, historic,*
17 *scenic, cultural, and recreational resources must be*
18 *managed in a manner which is consistent with sound*
19 *principles of land use planning and management,*
20 *and which protects the Presidio from development*
21 *and uses which would destroy the scenic beauty and*
22 *historic and natural character of the area; and*

23 *(6) the Presidio can best be managed through an*
24 *innovative public/private partnership that minimizes*
25 *cost to the United States Treasury and makes efficient*

1 *use of private sector resources that could be utilized*
2 *in the public interest.*

3 **SEC. 2. AUTHORITY AND RESPONSIBILITY OF THE SEC-**
4 **RETARY OF THE INTERIOR.**

5 (a) *INTERIM AUTHORITY.*—*The Secretary of the Inte-*
6 *rior (hereinafter in this Act referred to as the “Secretary”)*
7 *is authorized to manage leases in existence on the date of*
8 *this Act for properties under the Administrative jurisdic-*
9 *tion of the Secretary and located at the Presidio. Upon the*
10 *expiration of any such lease, the Secretary may extend the*
11 *lease for a period terminating 6 months after the first meet-*
12 *ing of the Presidio Trust at which a quorum is present.*
13 *After the date of the enactment of this Act, the Secretary*
14 *may not enter into any new leases for property at the Pre-*
15 *sidio to be transferred to the Presidio Trust under this Act.*
16 *Notwithstanding section 1341 of title 31 of the United*
17 *States Code, the proceeds from any such lease shall be re-*
18 *tained by the Secretary and such proceeds shall be avail-*
19 *able, without further appropriation, for the preservation,*
20 *restoration, operation and maintenance, improvement, re-*
21 *pair and related expenses incurred with respect to Presidio*
22 *properties. For purposes of any such lease, the Secretary*
23 *may adjust the rental by taking into account any amounts*
24 *to be expended by the lessee for preservation, maintenance,*

1 *restoration, improvement, repair and related expenses with*
2 *respect to properties within the Presidio.*

3 (b) *PUBLIC INFORMATION AND INTERPRETATION.*—
4 *The Secretary shall be responsible, in cooperation with the*
5 *Presidio Trust, for providing public interpretative services,*
6 *visitor orientation and educational programs on all lands*
7 *within the Presidio.*

8 (c) *OTHER.*—*Those lands and facilities within the Pre-*
9 *sidio that are not transferred to the administrative jurisdic-*
10 *tion of the Presidio Trust shall continue to be managed by*
11 *the Secretary. The Secretary and the Presidio Trust shall*
12 *cooperate to ensure adequate public access to all portions*
13 *of the Presidio.*

14 (d) *PARK SERVICE EMPLOYEES.*—*No person who was*
15 *a career employee of the National Park Service as of Octo-*
16 *ber 1, 1994, and who is employed at the Presidio as of the*
17 *transfer of lands and facilities to the Presidio Trust under*
18 *this Act shall be involuntarily separated from service by*
19 *reason of such transfer.*

20 **SEC. 3. THE PRESIDIO TRUST.**

21 (a) *ESTABLISHMENT.*—*There is established a wholly*
22 *owned government corporation to be known as the Presidio*
23 *Trust (hereinafter in this Act referred to as the “Trust”).*

24 (b) *TRANSFER.*—(1) *Within 60 days after receipt of*
25 *a request from the Trust for the transfer of any parcel with-*

1 in the area depicted as area B on the map entitled “Pre-
2 sidio Trust Number 1,” dated June 1995, the Secretary
3 shall transfer such parcel to the administrative jurisdiction
4 of the Trust. Within one year after the first meeting of the
5 Board of Directors of the Trust at which a quorum is
6 present, the Board shall request the Secretary to transfer
7 any remaining parcels within such area B. Such map shall
8 be on file and available for public inspection in the offices
9 of the Trust and in the offices of the National Park Service,
10 Department of the Interior. The Trust and the Secretary
11 may jointly make technical and clerical revisions in the
12 boundary depicted on such map. Such areas shall remain
13 within the boundary of the Golden Gate National Recre-
14 ation Area. The Secretary shall retain those portions of the
15 building identified as number 103 as the Secretary deems
16 essential for use as a visitor center. The building shall be
17 named the “William Penn Mott Visitor Center”. With the
18 consent of the Secretary, the Trust may at any time transfer
19 to the administrative jurisdiction of the Secretary any other
20 properties within the Presidio which are surplus to the
21 needs of the Trust and which serve essential purposes of the
22 Golden Gate National Recreation Area. The Trust is en-
23 couraged to transfer to the administrative jurisdiction of
24 the Secretary open space areas which have a high public

1 *use potential and are contiguous to other lands adminis-*
2 *tered by the Secretary.*

3 (2) *The Secretary shall transfer, with the transfer of*
4 *administrative jurisdiction over any property, all leases,*
5 *concessions, licenses, permits, and other agreements relating*
6 *to such property. Upon the transfer of such property the*
7 *Secretary shall transfer the unobligated balance of all funds*
8 *appropriated to the Secretary for the operation of the Pre-*
9 *sidio, together with any revenues and unobligated funds as-*
10 *sociated with leases, concessions, licenses, permits, and*
11 *agreements relating to properties transferred to the Trust.*

12 (c) *BOARD OF DIRECTORS.—*

13 (1) *IN GENERAL.—The powers and management*
14 *of the Trust shall be vested in a Board of Directors*
15 *(hereinafter referred to as the “Board”) consisting of*
16 *the following 7 members:*

17 (A) *The Secretary of the Interior or the Sec-*
18 *retary’s designee.*

19 (B) *Six individuals, who are not employees*
20 *of the Federal Government, appointed by the*
21 *President, who shall possess extensive knowledge*
22 *and experience in one or more of the fields of*
23 *city planning, finance, real estate, and resource*
24 *conservation. At least 3 of these individuals shall*
25 *reside in the city and county of San Francisco.*

1 *The President shall make the appointments re-*
2 *ferred to in this subparagraph within 90 days*
3 *after the enactment of this Act.*

4 (2) *TERMS.—Members of the Board appointed*
5 *under paragraph (1)(B) shall each serve for a term*
6 *of 4 years, except that of the members first appointed,*
7 *3 shall serve for a term of 2 years. Any vacancy in*
8 *the Board shall be filled in the same manner in which*
9 *the original appointment was made, and any member*
10 *appointed to fill a vacancy shall serve for the remain-*
11 *der of the term for which his or her predecessor was*
12 *appointed. No appointed director may serve more*
13 *than 8 years in consecutive terms. No member of the*
14 *Board of Directors may have a development or finan-*
15 *cial interest in any tenant or property of the Pre-*
16 *sidio.*

17 (3) *QUORUM.—Four members of the Board shall*
18 *constitute a quorum for the conduct of business by the*
19 *Board.*

20 (4) *ORGANIZATION AND COMPENSATION.—The*
21 *Board shall organize itself in such a manner as it*
22 *deems most appropriate to effectively carry out the*
23 *authorized activities of the Trust. Board members*
24 *shall serve without pay, but may be reimbursed for*
25 *the actual and necessary travel and subsistence ex-*

1 *penses incurred by them in the performance of the du-*
2 *ties of the Trust.*

3 (5) *LIABILITY OF DIRECTORS.*—*Members of the*
4 *Board of Directors shall not be considered Federal*
5 *employees by virtue of their membership on the*
6 *Board, except for purposes of the Federal Tort Claims*
7 *Act and the Ethics in Government Act.*

8 (6) *PUBLIC LIAISON.*—*The Board shall meet at*
9 *least 3 times per year in San Francisco and at least*
10 *one meeting shall be open to the public. The Board*
11 *shall establish procedures for providing public infor-*
12 *mation and opportunities for public comment regard-*
13 *ing policy, planning, and design issues through the*
14 *Golden Gate National Recreation Area Advisory*
15 *Commission.*

16 (d) *DUTIES AND AUTHORITIES.*—*In accordance with*
17 *the purposes set forth in this Act and in section 1 of the*
18 *Act entitled “An Act to establish the Golden Gate National*
19 *Recreation Area in the State of California, and for other*
20 *purposes”, approved October 27, 1972 (Public Law 92–589;*
21 *86 Stat. 1299; 16 U.S.C. 460bb), and in accordance with*
22 *the general objectives of the general management plan ap-*
23 *proved for the Presidio, the Trust shall manage the leasing,*
24 *maintenance, rehabilitation, repair and improvement of*
25 *property within the Presidio which is under its administra-*

1 *tive jurisdiction. The Trust may participate in the develop-*
2 *ment of programs and activities at the properties that have*
3 *been transferred to the Trust. In exercising its powers and*
4 *duties, the Trust shall have the following authorities:*

5 (1) *The Trust is authorized to manage, lease,*
6 *maintain, rehabilitate and improve, either directly or*
7 *by agreement, those properties within the Presidio*
8 *which are transferred to the Trust by the Secretary.*

9 (2)(A) *The Trust is authorized to negotiate and*
10 *enter into such agreements, leases, contracts and other*
11 *arrangements with any person, firm, association, or-*
12 *ganization, corporation or governmental entity, in-*
13 *cluding without limitation entities of Federal, State*
14 *and local governments (except any agreement to con-*
15 *vey fee title to any property located at the Presidio)*
16 *as are necessary and appropriate to finance and*
17 *carry out its authorized activities. Agreements under*
18 *this paragraph may be entered into without regard to*
19 *section 321 of the Act of June 30, 1932 (40 U.S.C.*
20 *303b).*

21 (B) *Except as provided in subparagraphs (C),*
22 *(D), and (E), Federal laws and regulations governing*
23 *procurement by Federal agencies shall apply to the*
24 *Trust.*

1 (C) *In exercising authority under section 303(g)*
2 *of the Federal Property and Administrative Services*
3 *Act of 1949 (41 U.S.C. 253(g)) relating to simplified*
4 *purchase procedures, the Trust is authorized, to use as*
5 *the dollar limit of each purchase or contract under*
6 *this subsection an amount which does not exceed*
7 *\$500,000.*

8 (D) *In carrying out the requirement of section*
9 *18 of the Office of Federal Procurement Policy Act*
10 *(41 U.S.C 416), the Trust is authorized to furnish the*
11 *Secretary of Commerce for publication notices of pro-*
12 *posed procurement actions, to use as the applicable*
13 *dollar threshold for each expected procurement an*
14 *amount which does not exceed \$1,000,000.*

15 (E) *The Trust shall establish procedures for lease*
16 *agreements and other agreements for use and occu-*
17 *pancy of Presidio facilities, including a requirement*
18 *that in entering into such agreements the Trust shall*
19 *obtain reasonable competition.*

20 (F) *The Trust shall develop a comprehensive pro-*
21 *gram for management of those lands and facilities*
22 *within the Presidio which are transferred to the*
23 *Trust. Such program shall be designed to reduce costs*
24 *to the maximum extent possible. In carrying out this*
25 *program, the Trust shall be treated as a successor in*

1 *interest to the National Park Service with respect to*
2 *compliance with the National Environmental Policy*
3 *Act and other environmental compliance statutes.*

4 *Such program shall consist of—*

5 *(i) demolition of all structures which cannot*
6 *be cost-effectively rehabilitated and are not of the*
7 *highest degree of historical significance,*

8 *(ii) new construction which would be lim-*
9 *ited to replacement of existing structures of simi-*
10 *lar size in existing areas of development, and*

11 *(iii) examination of a full range of reason-*
12 *able options for carrying out routine administra-*
13 *tive and facility management programs.*

14 *The Trust shall consult with the Secretary in the*
15 *preparation of this program.*

16 *(3) The Trust is authorized to appoint and fix*
17 *the compensation and duties of an executive director*
18 *and such other officers and employees as it deems nec-*
19 *essary without regard to the provisions of title 5,*
20 *United States Code, governing appointments in the*
21 *competitive service, and may pay them without re-*
22 *gard to the provisions of chapter 51, and subchapter*
23 *III of chapter 53, title 5, United States Code (relating*
24 *to classification and General Schedule pay rates).*

1 (4) *To augment or encourage the use of non-Fed-*
2 *eral funds to finance capital improvements on Pre-*
3 *sidio properties transferred to its jurisdiction, the*
4 *Trust, in addition to its other authorities, shall have*
5 *the following authorities:*

6 (A) *The authority to guarantee any lender*
7 *against loss of principal or interest on any loan,*
8 *provided that (i) the terms of the guarantee are*
9 *approved by the Secretary of the Treasury, (ii)*
10 *adequate guarantee authority is provided in ap-*
11 *propriations Acts, and (iii) such guarantees are*
12 *structured so as to minimize potential cost to the*
13 *Federal Government. No loan guarantee under*
14 *this Act shall cover more than 75 percent of the*
15 *unpaid balance of the loan. The Secretary of the*
16 *Treasury shall collect a commercially reasonable*
17 *guarantee fee in connection with each loan guar-*
18 *anteed under this Act. The authority to enter*
19 *into any such loan guarantee agreement shall ex-*
20 *pire at the end of 12 years after the date of en-*
21 *actment of this Act.*

22 (B) *The authority, subject to available ap-*
23 *propriations, to make loans to the occupants of*
24 *property managed by the Trust for the preserva-*

1 *tion, restoration, maintenance, or repair of such*
2 *property.*

3 *(C) The authority to issue obligations to the*
4 *Secretary of the Treasury, but only if the Sec-*
5 *retary of the Treasury agrees to purchase such*
6 *obligations after determining that the projects to*
7 *be funded from the proceeds thereof are credit*
8 *worthy and that a repayment schedule is estab-*
9 *lished. The Secretary of the Treasury is author-*
10 *ized to use as a public debt transaction the pro-*
11 *ceeds from the sale of any securities issued under*
12 *chapter 31 of title 31, United States Code, and*
13 *the purposes for which securities may be issued*
14 *under such chapter are extended to include any*
15 *purchase of such notes or obligations acquired by*
16 *the Secretary of the Treasury under this sub-*
17 *section. The aggregate amount of obligations is-*
18 *sued under this subparagraph which are out-*
19 *standing at any one time may not exceed*
20 *\$50,000,000. Obligations issued under this sub-*
21 *paragraph shall be in such forms and denomina-*
22 *tions, bearing such maturities, and subject to*
23 *such terms and conditions, as may be prescribed*
24 *by the Secretary of the Treasury, and shall bear*
25 *interest at a rate determined by the Secretary of*

1 *the Treasury, taking into consideration current*
2 *market yields on outstanding marketable obliga-*
3 *tions of the United States of comparable matu-*
4 *rities. No funds appropriated to the Trust may*
5 *be used for repayment of principal or interest*
6 *on, or redemption of, obligations issued under*
7 *this paragraph. All obligations purchased under*
8 *authority of this subparagraph must be author-*
9 *ized in advance in appropriations Acts.*

10 *(D) The Trust shall be deemed to be a pub-*
11 *lic agency for the purpose of entering into joint*
12 *exercise of powers agreements pursuant to Cali-*
13 *fornia government code section 6500 and follow-*
14 *ing.*

15 *(5) The Trust may solicit and accept donations*
16 *of funds, property, supplies, or services from individ-*
17 *uals, foundations, corporations, and other private or*
18 *public entities for the purpose of carrying out its du-*
19 *ties. The Trust shall maintain philanthropic liaison*
20 *with the Golden Gate National Park Association, the*
21 *fund raising association for the Golden Gate National*
22 *Recreation Area.*

23 *(6) Notwithstanding section 1341 of title 31 of*
24 *the United States Code, all proceeds received by the*
25 *Trust shall be retained by the Trust, and such pro-*

1 *ceeds shall be available, without further appropria-*
2 *tion, for the preservation, restoration, operation and*
3 *maintenance, improvement, repair and related ex-*
4 *penses incurred with respect to Presidio properties*
5 *under its jurisdiction. Upon the request of the Trust,*
6 *the Secretary of the Treasury shall invest excess mon-*
7 *neys of the Trust in public debt securities with matu-*
8 *rities suitable to the needs of the Trust.*

9 *(7) The Trust may sue and be sued in its own*
10 *name to the same extent as the Federal Government.*
11 *Litigation arising out of the activities of the Trust*
12 *shall be conducted by the Attorney General, as needed;*
13 *except that the Trust may retain private attorneys to*
14 *provide advice and counsel, and to represent the*
15 *Trust in proceedings to enforce and defend the con-*
16 *tractual obligations of the Trust.*

17 *(8) The Trust shall have all necessary and prop-*
18 *er powers for the exercise of the authorities invested*
19 *in it.*

20 *(9) For the purpose of compliance with applica-*
21 *ble laws and regulations concerning properties trans-*
22 *ferred to the Trust by the Secretary, the Trust shall*
23 *negotiate directly with regulatory authorities.*

24 *(e) INSURANCE.—The Trust shall procure insurance*
25 *against any loss in connection with the properties managed*

1 *by it or its authorized activities as is reasonable and cus-*
2 *tomary.*

3 (f) *BUILDING CODE COMPLIANCE.*—*The Trust shall*
4 *bring all properties under its jurisdiction into compliance*
5 *with Federal building codes and regulations appropriate to*
6 *use and occupancy within 10 years after the enactment of*
7 *this Act.*

8 (g) *TAXES.*—*The Trust shall be exempt from all taxes*
9 *and special assessments of every kind in the State of Cali-*
10 *fornia, and its political subdivisions, including the city and*
11 *county of San Francisco.*

12 (h) *FINANCIAL INFORMATION AND REPORT.*—(1) *The*
13 *Trust shall be treated as a wholly owned Government cor-*
14 *poration subject to chapter 91 of title 31, United States*
15 *Code (commonly referred to as the Government Corporation*
16 *Control Act). Financial statements of the Trust shall be au-*
17 *dited annually in accordance with section 9105 of title 31*
18 *of the United States Code.*

19 (2) *At the end of each calendar year, the Trust shall*
20 *submit to the Congress a comprehensive and detailed report*
21 *of its operations, activities, and accomplishments for the*
22 *prior fiscal year. The report also shall include a section*
23 *that describes in general terms the Trust's goals for the cur-*
24 *rent fiscal year.*

1 (i) *SAVINGS CLAUSE.*—*Nothing in this section shall*
2 *preclude the Secretary from exercising any of the Sec-*
3 *retary’s lawful powers within the Presidio.*

4 (j) *LEASING.*—*In managing and leasing the properties*
5 *transferred to it, the Trust should consider the extent to*
6 *which prospective tenants maximize the contribution to the*
7 *implementation of the General Management Plan for the*
8 *Presidio and to the generation of revenues to offset costs*
9 *of the Presidio. The Trust shall give priority to the follow-*
10 *ing categories of tenants: tenants that enhance the financial*
11 *viability of the Presidio thereby contributing to the preser-*
12 *vation of the scenic beauty and natural character of the*
13 *area; tenants that facilitate the cost-effective preservation*
14 *of historic buildings through their reuse of such buildings,*
15 *or tenants that promote through their activities the general*
16 *programmatic content of the plan.*

17 (k) *REVERSION.*—*If the Trust reasonably determines*
18 *by a two-thirds vote of its Board of Directors that it has*
19 *materially failed to, or cannot, carry out the provisions of*
20 *this Act, all lands and facilities administered by the Trust*
21 *shall revert to the Secretary of Defense to be disposed of*
22 *in accordance with section 2905(b) of the Defense Author-*
23 *ization Act of 1990 (104 Stat. 1809), except that—*

24 (1) *the terms and conditions of all agreements*
25 *and loans regarding such lands and facilities entered*

1 into by the Trust shall be binding on any successor
2 in interest; and

3 (2) the city of San Francisco shall have the first
4 right of refusal to accept all lands and facilities for-
5 merly administered by the Trust.

6 (1) LIMITATIONS ON FUNDING.—(1) From amounts
7 made available to the Secretary for the operation of areas
8 within the Golden Gate National Recreation Area, not more
9 than \$25,000,000 shall be available to carry out this Act
10 in each fiscal year after the enactment of this Act until the
11 plan is submitted under paragraph (2). Such sums shall
12 remain available until expended.

13 (2) Within one year after establishment of the Trust,
14 the Trust shall submit to Congress a plan which includes
15 a schedule of annual decreasing Federally appropriated
16 funding such as will achieve total self-sufficiency for the
17 Trust within 12 complete fiscal years after establishment
18 of the Trust. That plan shall provide for annual reductions
19 in Federally appropriated funding such that the Trust will
20 be 80 percent self-sufficient at the end of 7 complete fiscal
21 years after establishment. The plan shall provide for elimi-
22 nation of all Federally appropriated funding for public
23 safety and fire protection purposes on lands or facilities ad-
24 ministered by the Trust at the end of 5 complete fiscal years
25 after establishment of the Trust. For each of the 11 fiscal

1 *years after fiscal year 1997, there are authorized to be ap-*
2 *propriated to the Trust not more than the amounts specified*
3 *in such plan. Such sums shall remain available until ex-*
4 *pended.*

5 *(m) GAO AUDIT.—Ten years after the date of estab-*
6 *lishment of the Trust, the General Accounting Office shall*
7 *conduct a complete audit of the activities of the Trust and*
8 *shall report the results of that audit to the appropriate con-*
9 *gressional committees. The General Accounting Office shall*
10 *include in that audit an analysis of the ability of the Trust*
11 *to initiate payments to the Treasury.*

12 *(n) SEPARABILITY OF PROVISIONS.—If any provisions*
13 *of this Act or the application thereof to any body, agency,*
14 *situation, or circumstance is held invalid, the remainder*
15 *of the Act and the application of such provision to other*
16 *bodies, agencies, situations, or circumstances shall not be*
17 *affected thereby.*

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