

Calendar No. 452

112TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 112-183

DELAWARE RIVER BASIN CONSERVATION ACT OF 2011

JULY 16, 2012.—Ordered to be printed

Mrs. BOXER, from the Committee on Environment and Public Works, submitted the following

R E P O R T

[To accompany S. 1266]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 1266) to direct the Secretary of the Interior to establish a program to build on and help coordinate funding for restoration and protection efforts of the 4-State Delaware River Basin region, and for other purposes, having considered the same, reports favorably thereon and recommends that the bill, as amended, do pass.

GENERAL STATEMENT AND BACKGROUND

The Delaware River Basin includes the Delaware River watershed in New York, Pennsylvania, New Jersey, and Delaware and the Delaware Bay. The Basin is home to more than 8 million people who depend on it as an economic engine, a place of recreation, a source of clean drinking water, and a vital habitat for fish and wildlife.

The Basin encompasses significant acres of wetlands and forest. This landscape provides essential ecosystem services, including recreation, commercial activity, and water quality benefits. The basin also provides drinking water to many cities, including New York and Philadelphia. The Delaware River is the longest undammed river east of the Mississippi, and a critical component of the National Wild and Scenic River System in the Northeast.

Although organizations like the Partnership for the Delaware Estuary and the Delaware River Basin Commission are successful in their respective efforts, existing programs have limited resources to fully address the habitat, recreation, and water-related challenges

in the entire Basin in a fully coordinated manner. In addition to current Basin funding and programs, a basin-wide program would bolster restoration and conservation in the region through strategic grant-making and more coordinated implementation of existing funding mechanisms at the Federal, regional, State, and local level.

The Delaware River Basin Conservation Act of 2011 requires the Secretary of the Interior to establish the Delaware River Basin Restoration Program (Program) within the U.S. Fish and Wildlife Service (Service). In establishing the Program, the Director of the Service is required to draw on existing management plans and work in consultation with existing organizations in the basin to identify, prioritize, and implement restoration and protection activities in the entire Basin and adopt a basin-wide strategy for implementation of the Program.

The primary purpose of the Program is to develop and implement a coordinated approach to sustain and enhance habitat, water quality and water management improvements in the Delaware River basin. The bill authorizes a competitive matching grant program to carry out high priority projects and requires the Director to provide for additional technical assistance to support on-the-ground projects. The Act also requires consultation with other Federal Agencies, States, and other public agencies and organizations involved in planning and implementation of conservation strategies in the Basin.

OBJECTIVES OF THE LEGISLATION

The Delaware River Basin Conservation Act of 2011 (S. 1266) requires the Secretary of the Interior acting through the Director of the U.S. Fish and Wildlife Service to establish the Delaware River Basin Restoration Program and to provide grants and technical assistance to carry out the purposes of the Program.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 states that the Act may be cited as the “Delaware River Basin Conservation Act of 2011”.

Section 2. Findings

Section 2 includes findings regarding the Delaware River Basin and the need for restoration of this basin.

Section 3. Definitions

Section 3 includes definitions for terms used in the Act.

Section 4. Program establishment

Section 4 directs the Secretary of the Interior acting through the Director of the Fish and Wildlife Service (Secretary) to establish a Delaware River Basin restoration program within 180 days. In carrying out the program, the Secretary shall—draw on existing and new management plans for the Basin and work in consultation with applicable management entities; adopt a basin-wide strategy to support implementation of a shared set of restoration and protection activities and support cost-effective and measurable con-

servation efforts; establish a grant program; and provide technical assistance.

In carrying out the program, the Secretary is also directed to consult with the heads of relevant Federal agencies, the Governors of the Basin States, the Partnership for the Delaware Estuary, the Delaware River Basin Commission, the fish and wildlife joint venture partnerships, and other public agencies and organizations involved in conservation of the basin.

Section 4 lists the purposes of the program, which include coordinating restoration and protection activities, carrying out coordinated restoration and protection activities, and providing competitive grants for technical assistance.

Section 5. Grants and assistance

Section 5 directs the Secretary to establish a Delaware River Basin restoration grant program to provide competitive matching grants of varying amounts to carry out the purposes of the Program. This section requires that grants accomplish one or more listed activities, including restoration and protection of fish and wildlife species and their habitats, improvement or protection of water quality, improvement of the management of water volume and mitigation of flood damage to support the ecological needs of fish and wildlife, actions identified in the basin-wide strategy developed pursuant to Section 4, and restoration and protection activities with multiple benefits in the Basin.

Section 5 establishes that the Federal cost-share of any grant shall be 50 percent of the total cost of the activity funded. Non-Federal costs can be provided in cash or in-kind contribution of services or materials.

Section 5 authorizes the Secretary to enter into an agreement with the National Fish and Wildlife Foundation or other similar organizations to manage the grant program. Any organization selected to manage the grant program shall receive amounts to carry out this section at the beginning of each fiscal year, shall invest and reinvest those amounts for the benefit of the program, and shall administer the program in accordance with this Act.

Section 5 authorizes the Secretary to provide technical assistance to carry out this section on a nonreimbursable basis.

Section 6. Annual reports

Not later than 180 days after the date of enactment and annually thereafter, the Secretary must submit a report to Congress on the implementation of the Act, including a description of each project that has received funding under the Act.

Section 7. Authorization of appropriations

This section authorizes \$5 million for each of fiscal years 2012 through 2017 to carry out this Act. Seventy-five percent of any amount made available to the Secretary to carry out the Act must be used to carry out the grant program and to provide technical assistance.

LEGISLATIVE HISTORY

S. 1266 was introduced by Sen. Carper on June 23, 2011. The bill has 6 co-sponsors. The bill was received, read twice and referred to the Committee on Environment and Public Works.

On December 8, 2011, the Full Committee met to consider a number of bills including S. 1266. Senator Carper offered an amendment in the nature of a substitute, which was adopted by voice vote. The bill was ordered to be reported favorably by voice vote with Senator Inhofe recorded as “No”.

HEARINGS

On April 24, 2012, the Subcommittee on Water and Wildlife held a legislative hearing to consider a number of items, including S. 1266.

ROLLCALL VOTES

The Committee on Environment and Public Works met to consider S. 1266 on December 8, 2011. The bill was ordered to be reported favorably by voice vote with Senator Inhofe recorded as “No”.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee finds that S. 1266 does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), the committee noted that the Congressional Budget Office (CBO) has found, “S. 1266 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.”

DECEMBER 20, 2011.

Hon. BARBARA BOXER,
Chairman, Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1266, the Delaware River Basin Conservation Act of 2011.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeff LaFave.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 1266—Delaware River Basin Conservation Act of 2011

Summary: S. 1266 would authorize the appropriation of \$5 million a year over the 2012–2017 period for a program to restore the Delaware River Basin. Assuming appropriation of the authorized amounts CBO estimates that implementing the legislation would

cost \$22 million over the 2012–2016 period and \$8 million after 2016. Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 1266 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1266 is shown in the following table. The cost of this legislation falls within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2012	2013	2014	2015	2016	2012–2016
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	5	5	5	5	5	25
Estimated Outlays	2	5	5	5	5	22

Basis of estimate: For this estimate, CBO assumes that S. 1266 will be enacted early in 2012 and that the authorized amounts will be appropriated for each fiscal year. Estimated outlays are based on historical spending patterns for similar activities.

S. 1266 would authorize the appropriation of \$5 million a year over the 2012–2017 period for the Delaware River Basin Restoration Program. Under the program, the U.S. Fish and Wildlife Service (USFWS) would coordinate restoration activities and provide grants to entities involved in restoring the basin. The bill also would require the agency to submit annual reports to the Congress describing activities conducted under the program. Assuming appropriation of the authorized amounts, CBO estimates that implementing the legislation would cost \$22 million over the 2012–2016 period and \$8 million after 2016.

Pay-As-You-Go considerations: None.

Intergovernmental and private-sector impact: S. 1266 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Jeff LaFave; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW

Section 12 of rule XXVI of the Standing Rules of the Senate requires the committee to publish changes in existing law made by the bill as reported. Passage of this bill will make no changes to existing law.