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SENATE

{ REPORT
{ 108-294

ATCHAFALAYA NATIONAL HERITAGE AREA ACT

JULY 7, 2004.—Ordered to be printed

Mr. DOMENICI, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 323]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 323) to establish the Atchafalaya National Heritage Area, Louisiana, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Atchafalaya National Heritage Area Act”.

SEC. 2. DEFINITIONS.

In this Act:

- (1) HERITAGE AREA.—The term “Heritage Area” means the Atchafalaya National Heritage Area established by section 3(a).
- (2) LOCAL COORDINATING ENTITY.—The term “local coordinating entity” means the local coordinating entity for the Heritage Area designated by section 3(c).
- (3) MANAGEMENT PLAN.—The term “management plan” means the management plan for the Heritage Area developed under section 5.
- (4) SECRETARY.—The term “Secretary” means the Secretary of the Interior.
- (5) STATE.—The term “State” means the State of Louisiana.

SEC. 3. ATCHAFALAYA NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the State the Atchafalaya National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall consist of the whole of the following parishes in the State: St. Mary, Iberia, St. Martin, St. Landry, Avoyelles, Pointe Coupee, Iberville, Assumption, Terrebonne, Lafayette, West Baton Rouge, Concordia, and East Baton Rouge.

(c) LOCAL COORDINATING ENTITY.—

- (1) IN GENERAL.—The Atchafalaya Trace Commission shall be the local coordinating entity for the Heritage Area.

(2) COMPOSITION.—The local coordinating entity shall be composed of 13 members appointed by the governing authority of each parish within the Heritage Area.

SEC. 4. AUTHORITIES AND DUTIES OF THE LOCAL COORDINATING ENTITY.

(a) AUTHORITIES.—For the purposes of developing and implementing the management plan and otherwise carrying out this Act, the local coordinating entity may—

- (1) make grants to, and enter into cooperative agreements with, the State, units of local government, and private organizations;
- (2) hire and compensate staff; and
- (3) enter into contracts for goods and services.

(b) DUTIES.—The local coordinating entity shall—

- (1) submit to the Secretary for approval a management plan;
- (2) implement the management plan, including providing assistance to units of government and others in—
 - (A) carrying out programs that recognize important resource values within the Heritage Area;
 - (B) encouraging sustainable economic development within the Heritage Area;
 - (C) establishing and maintaining interpretive sites within the Heritage Area; and
 - (D) increasing public awareness of, and appreciation for the natural, historic, and cultural resources of, the Heritage Area;
- (3) adopt bylaws governing the conduct of the local coordinating entity; and
- (4) for any year for which Federal funds are received under this Act, submit to the Secretary a report that describes, for the year—
 - (A) the accomplishments of the local coordinating entity; and
 - (B) the expenses and income of the local coordinating entity.

(c) ACQUISITION OF REAL PROPERTY.—The local coordinating entity shall not use Federal funds received under this Act to acquire real property or an interest in real property.

(d) PUBLIC MEETINGS.—The local coordinating entity shall conduct public meetings at least quarterly.

SEC. 5. MANAGEMENT PLAN.

(a) IN GENERAL.—The local coordinating entity shall develop a management plan for the Heritage Area that incorporates an integrated and cooperative approach to protect, interpret, and enhance the natural, scenic, cultural, historic, and recreational resources of the Heritage Area.

(b) CONSIDERATION OF OTHER PLANS AND ACTIONS.—In developing the management plan, the local coordinating entity shall—

- (1) take into consideration State and local plans; and
- (2) invite the participation of residents, public agencies, and private organizations in the Heritage Area.

(c) CONTENTS.—The management plan shall include—

- (1) an inventory of the resources in the Heritage Area, including—
 - (A) a list of property in the Heritage Area that—
 - (i) relates to the purposes of the Heritage Area; and
 - (ii) should be preserved, restored, managed, or maintained because of the significance of the property; and
 - (B) an assessment of cultural landscapes within the Heritage Area;
- (2) provisions for the protection, interpretation, and enjoyment of the resources of the Heritage Area consistent with this Act;
- (3) an interpretation plan for the Heritage Area; and
- (4) a program for implementation of the management plan that includes—
 - (A) actions to be carried out by units of government, private organizations, and public-private partnerships to protect the resources of the Heritage Area; and
 - (B) the identification of existing and potential sources of funding for implementing the plan.

(d) SUBMISSION TO SECRETARY FOR APPROVAL.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) EFFECT OF FAILURE TO SUBMIT.—If a management plan is not submitted to the Secretary by the date specified in paragraph (1), the Secretary shall not provide any additional funding under this Act until a management plan for the Heritage Area is submitted to the Secretary.

(e) APPROVAL.—

(1) **IN GENERAL.**—Not later than 90 days after receiving the management plan submitted under subsection (d)(1), the Secretary, in consultation with the State, shall approve or disapprove the management plan.

(2) **ACTION FOLLOWING DISAPPROVAL.**—

(A) **IN GENERAL.**—If the Secretary disapproves a management plan under paragraph (1), the Secretary shall—

(i) advise the local coordinating entity in writing of the reasons for the disapproval;

(ii) make recommendations for revisions to the management plan; and

(iii) allow the local coordinating entity to submit to the Secretary revisions to the management plan.

(B) **DEADLINE FOR APPROVAL OF REVISION.**—Not later than 90 days after the date on which a revision is submitted under subparagraph (A)(iii), the Secretary shall approve or disapprove the revision.

(f) **REVISION.**—

(1) **IN GENERAL.**—After approval by the Secretary of a management plan, the local coordinating entity shall periodically—

(A) review the management plan; and

(B) submit to the Secretary, for review and approval by the Secretary, the recommendations of the local coordinating entity for any revisions to the management plan that the local coordinating entity considers to be appropriate.

(2) **EXPENDITURE OF FUNDS.**—No funds made available under this Act shall be used to implement any revision proposed by the local coordinating entity under paragraph (1)(B) until the Secretary approves the revision.

SEC. 6. EFFECT OF ACT.

Nothing in this Act or in establishment of the Heritage Area—

(1) grants any Federal agency regulatory authority over any interest in the Heritage Area, unless cooperatively agreed on by all involved parties;

(2) modifies, enlarges, or diminishes any authority of the Federal Government or a State or local government to regulate any use of land as provided for by law (including regulations) in existence on the date of enactment of this Act;

(3) grants any power of zoning or land use to the local coordinating entity;

(4) imposes any environmental, occupational, safety, or other rule, standard, or permitting process that is different from those in effect on the date of enactment of this Act that would be applicable had the Heritage Area not been established;

(5)(A) imposes any change in Federal environmental quality standards; or

(B) authorizes designation of any portion of the Heritage Area that is subject to part C of title I of the Clean Air Act (42 U.S.C. 7470 et seq.) as class 1 for the purposes of that part solely by reason of the establishment of the Heritage Area;

(6) authorizes any Federal or State agency to impose more restrictive water use designations, or water quality standards on uses of or discharges to, waters of the United States or waters of the State within or adjacent to the Heritage Area solely by reason of the establishment of the Heritage Area;

(7) abridges, restricts, or alters any applicable rule, standard, or review procedure for permitting of facilities within or adjacent to the Heritage Area; or

(8) affects the continuing use and operation, where located on the date of enactment of this Act, of any public utility or common carrier.

SEC. 7. REPORTS.

For any year in which Federal funds have been made available under this Act, the local coordinating entity shall submit to the Secretary a report that describes—

(1) the accomplishments of the local coordinating entity; and

(2) the expenses and income of the local coordinating entity.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There is authorized to be appropriated to carry out this Act \$10,000,000, of which not more than \$1,000,000 shall be made available for any fiscal year.

(b) **COST-SHARING REQUIREMENT.**—The Federal share of the total cost of any activity assisted under this Act shall be not more than 50 percent.

SEC. 9. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance to the local coordinating entity under this Act terminates on the date that is 15 years after the date of enactment of this Act.

PURPOSE OF THE MEASURE

The purpose of S. 323 is to establish the Atchafalaya National Heritage Area in the State of Louisiana.

BACKGROUND AND NEED

The Atchafalaya River flows out of the Red and Mississippi Rivers in central Louisiana, and then flows southward, west of the Mississippi, 170 miles to the sea. Along the way, it forms the largest river swamp in the United States, and provides outstanding habitat for a diverse array of fish and wildlife, including over two hundred species of birds.

The basin drained by the Atchafalaya River spans thirteen parishes in south central Louisiana. The area is strongly associated with the Cajuns, descendants of the French-speaking Acadians who settled in the area after they were expelled from Nova Scotia (originally called Acadia) in the latter part of the eighteenth century. The cultural complexity of the region has created a rich tapestry of history, customs, traditions, architecture, music, language, and food of national significance.

The State of Louisiana formally designated the Atchafalaya River Basin as the Atchafalaya Trace Heritage Area in 1997 in recognition of the area's rich natural, scenic, cultural, and historic resources. The State established a commission to "preserve, enhance, protect, and interpret" the area's resources and heritage, to develop an integrated natural, scenic, cultural, and historical resource management plan for the area, and to obtain federal recognition of the area as a National Heritage Area.

The Atchafalaya River Basin contains a nationally distinct landscape arising from patterns of human activity shaped by geography. Its history, culture, and natural and recreational resources are of national significance. Federal recognition of the area as a National Heritage Area will enable the National Park Service to assist the State of Louisiana and citizen groups in preserving, protecting, and interpreting national important resources for the benefit of all Americans, without the need to acquire or manager those resources.

LEGISLATIVE HISTORY

S. 323 was introduced by Senators Landrieu and Breaux on February 5, 2003. The Committee on Energy and Natural Resources ordered S. 323, as amended, favorably reported on June 16, 2004.

During the 107th Congress, the Senate Committee on Energy and Natural Resources Subcommittee on National Parks considered similar legislation. That bill was favorably reported by the Committee on October 4, 2002. The text of S. 2899 was adopted as part of a substitute amendment to H.R. 695, legislation authorizing numerous heritage areas. H.R. 695, as amended passed the Senate by unanimous consent on November 19, 2002, but was not considered prior to the sine die adjournment of the 107th Congress.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business session on June 16, 2004, by a unanimous voice vote

of a quorum present, recommends that the Senate pass S. 323, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of S. 323, the Committee adopted an amendment in the nature of a substitute. The substitute amendment removes the congressional findings and purposes and adds text that limits the Federal share of funding made available under this Act to not more than 50 percent of the total cost of any activity. The amendment conforms the bill text to the version as reported by the Committee during the 107th Congress and is described in detail in the section-by-section analysis below.

SECTION-BY-SECTION ANALYSIS

Section 1 entitles this bill the “Atchafalaya National Heritage Act.”

Section 2 defines key terms used in the Act.

Section 3 establishes the Atchafalaya National Heritage Area (Heritage Area) and describes the parishes within the State of Louisiana to be included in the boundary. This section also designates the Atchafalaya Trace Commission as the coordinating entity and describes the composition of the commission.

Section 4(a) provides the local coordinating entity with the authority to use funds for preparing, updating and implementing the management plan. The funds may be used for making grants, entering into cooperative agreements and contracts for goods and services and hiring and compensating staff.

Subsection (b) establishes the duties of the local coordinating entity, including implementing the management plan, adopting by-laws, reporting accomplishments and expenditures and the undertaking of initiatives that advance the Heritage Area.

Subsection (c) prohibits the local coordinating entity from using Federal funds received under this Act to acquire real property.

Subsection (d) requires that the coordinating entity hold quarterly public meetings.

Section 5 requires the local coordinating entity to prepare a management plan for the Heritage Area and sets forth the elements of the plan.

Subsection (d) sets forth requirements and deadlines for the submission, approval or disapproval, and amendment of the proposed management plan and is self explanatory.

Section 6 states that this Act does not grant any Federal agency regulatory authority and will have no effect on the authority of any local, state or Federal government to regulate land use or environmental quality designations as provided for by law.

Section 7 requires that the coordinating entity submit an annual report that describes the accomplishments, income and expenditures of the coordinating entity.

Section 8 authorizes \$10,000,000 to be appropriated to carry out this Act, with not more than \$1,000,000 appropriated for any given fiscal year. The Federal share may not exceed 50 percent of the total cost of any activity. The Committee notes that the remaining share, provided by the local coordinating entity, may include both non-Federal funds and in kind goods and services.

Section 9 terminates the authority of the Secretary to assist the local coordinating entity 15 years after the date of enactment.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 22, 2004.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 323, the Atchafalaya National Heritage Act.

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

Sincerely,

ELIZABETH M. ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

S. 323—Atchafalaya National Heritage Area Act

S. 323 would establish the Atchafalaya National Heritage Area (NHA) in Louisiana. The bill would designate the Atchafalaya Trace Commission as the local coordinating entity for the proposed NHA. The commission would be responsible for developing and implementing a management plan for the protection, development, and management of cultural and other resources of the area. Finally, the legislation would authorize the appropriation of \$10 million, not to exceed \$1 million annually, for financial assistance to the commission over the next 15 years.

Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 323 would cost \$10 million over the next 10 to 15 years. Such amounts would be used to cover a portion of the costs of planning, establishing, operating, and interpreting the heritage area. Enacting S. 323 would have no effect on revenues or direct spending.

S. 323 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 323. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 323, as ordered reported.

EXECUTIVE COMMUNICATIONS

On May 19, 2004, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on S. 323. These reports had not been received at the time the report on S. 323 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 323 as ordered reported.

