

WATER QUALITY INVESTMENT ACT OF 2007

FEBRUARY 16, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. OBERSTAR, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 569]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 569) to amend the Federal Water Pollution Control Act to authorize appropriations for sewer overflow control grants, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION. 1. SHORT TITLE.

This Act may be cited as the “Water Quality Investment Act of 2007”.

SEC. 2. SEWER OVERFLOW CONTROL GRANTS.

(a) ADMINISTRATIVE REQUIREMENTS.—Section 221(e) of the Federal Water Pollution Control Act (33 U.S.C. 1301(e)) is amended to read as follows:

“(e) ADMINISTRATIVE REQUIREMENTS.—A project that receives assistance under this section shall be carried out subject to the same requirements as a project that receives assistance from a State water pollution control revolving fund under title VI, except to the extent that the Governor of the State in which the project is located determines that a requirement of title VI is inconsistent with the purposes of this section”.

(b) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 221(f) of such Act (33 U.S.C.1301(f)) is amended by striking “\$750,000,000” and all follows before the period and inserting “\$250,000,000 for fiscal year 2008, \$300,000,000 for fiscal year 2009, \$350,000,000 for fiscal year 2010, \$400,000,000 for fiscal year 2011, and \$500,000,000 for fiscal year 2012”.

(c) ALLOCATION OF FUNDS.—Section 221(g) of such Act (33 U.S.C. 1301(g)) is amended to read as follows:

“(g) ALLOCATION OF FUNDS.—

“(1) FISCAL YEAR 2008.—Subject to subsection (h), the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2008 for making grants to municipalities and municipal entities under subsection (a)(2) in accordance with the criteria set forth in subsection (b).

“(2) FISCAL YEAR 2009 AND THEREAFTER.—Subject to subsection (h), the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2009 and each fiscal year thereafter for making grants to States under subsection (a)(1) in accordance with a formula to be established by the Administrator, after providing notice and an opportunity for public comment, that allocates to each State a proportional share of such amounts based on the total needs of the State for municipal combined sewer overflow controls and sanitary sewer overflow controls identified in the most recent survey conducted pursuant to section 516.”

(d) REPORTS.—The first sentence of section 221(i) of such Act (33 U.S.C. 1301(i)) is amended by striking “2003” and inserting “2010”.

PURPOSE OF THE LEGISLATION

H.R. 569, the Water Quality Investment Act of 2007, amends section 221 of the Federal Water Pollution Control Act (“Clean Water Act”) to reauthorize appropriations for grants to municipalities and States to control combined sewer overflows and sanitary sewer overflows.

BACKGROUND AND NEED FOR LEGISLATION

Combined sewer systems, which carry both storm water and sanitary (sewage) flows, and separate sanitary sewer systems can overflow with untreated waste during wet weather episodes such as rainfall or snow melts. These combined sewer overflows (CSOs) and sanitary sewer overflows (SSOs) may also occur outside of precipitation events because of insufficient system capacity, poor system design, inadequate maintenance, inflow from improper connections to the system, and infiltration from groundwater into deteriorated pipes, among other factors.

CSOs and SSOs present significant public health and safety concerns because raw sewage can overflow into rivers, lakes, streets, parks, basements, and other areas of potential human exposure, adversely impacting public health and the environment. These discharges are among the major sources responsible for beach closures, shellfish restrictions, and exceedances of water quality standards.

According to a December 2001 U.S. Environmental Protection Agency (EPA) Report to Congress, there are 772 communities across the United States that have combined sewer systems. These combined sewer systems have 9,471 built-in relief outlets designed to prevent wastewater flows in excess of system capacity from damaging the systems’ treatment works, by allowing wastewater discharges (“overflows”) directly into nearby streams, rivers, lakes, or estuaries, instead of going to the treatment works. Combined sewers are found in 31 States across the U.S. and the District of Columbia. The majority of combined sewers are located in communities in the Northeast and the Great Lakes regions, where much of the oldest water infrastructure in the nation is found. However, combined sewer overflows have also occurred in the West, including the States of Washington, Oregon, and California. To eliminate combined sewer overflows, communities must redesign their sewer systems to separate sewage flows from stormwater flows or provide significant additional capacity to eliminate the possibility that combined flows will exceed the limits of the infrastructure.

EPA has also estimated that more than 40,000 SSOs per year occur from the nation’s 19,500 separate sanitary sewer systems.

SSOs can have a major impact on human health and the environment through discharges into neighborhood streets, parks, individual homeowner basements, and other areas.

CSOs are point source discharges regulated under the Clean Water Act, and are subject to permitting under the National Pollutant Discharge Elimination System (NPDES) by EPA or authorized States. Permits include technology-based standards determined on a case-by-case basis (rather than categorical standards) and any appropriate water quality standards. Under the CSO Control Policy issued by EPA in 1994, communities must adopt nine minimum controls and must develop long-term control plans. The CSO Control Policy requires these controls and plans to be incorporated into an NPDES permit or other enforceable mechanism that will ensure implementation by the CSO community. Section 402(q) of the Clean Water Act requires each permit, order, or decree issued after December 21, 2000, for a discharge from a municipal combined storm and sanitary sewer to conform to the 1994 CSO Control Policy.

Correcting these problems is expensive. In its 2000 Clean Water Needs Survey, EPA estimated the cost to communities of addressing CSOs to be \$50.6 billion, and the cost of addressing SSOs to be \$88.5 billion.

The vast majority of these costs will be borne by local communities and local ratepayers. Federal assistance has been small relative to the overall needs to address CSOs and SSOs. Through June 2006, States have made approximately \$5.3 billion in loans for CSOs from State Revolving Funds (SRFs) and have made approximately \$6 billion in loans to address the infiltration and inflow into sewer pipes that can cause SSOs.

To provide additional Federal assistance, in 2000, Congress amended the Clean Water Act to add section 221 (P.L. 106-554). Section 221 authorized appropriations of \$750 million for each of fiscal years 2002 and 2003 for EPA to make grants to States and municipalities for controlling CSOs and SSOs. This authorization was conditioned upon the receipt of at least \$1.35 billion in appropriations for the Clean Water State Revolving Loan Funds. No funds were appropriated for sewer overflow control grants in either fiscal year 2002 or 2003. Reauthorization of appropriations for section 221 provides an authority to help municipalities and States control combined sewer overflows and sanitary sewer overflows.

SUMMARY OF THE LEGISLATION

Section 1. Sewer overflow control grants

Subsection (a) amends section 221(e) of the Clean Water Act to require that a project that receives assistance under this section is carried out in accordance with the requirements for projects receiving assistance from State Revolving Loan Funds under title VI of the Clean Water Act, except to the extent that the Governor of the State in which the project is located determines that a requirement of title VI is inconsistent with the purposes of this section. This section allows States to implement grants under section 221 in conjunction with a State's Revolving Loan Fund program.

Subsection (b) amends section 221(f) of the Clean Water Act to authorize appropriations of \$1.8 billion over five years, providing

\$250 million in fiscal year 2008, \$300 million in fiscal year 2009, \$350 million in fiscal year 2010, \$400 million in fiscal year 2011, and \$500 million in fiscal year 2012.

Subsection (c) amends section 221(g) of the Clean Water Act to update the provision for allocation of funds to reflect the new dates of authorization and reauthorized amounts. Specifically, consistent with section 221 as originally enacted, funding in the first year of authorization is to be used for direct grants by the Administrator to municipalities. For subsequent years, the Administrator will allocate funds to States, in accordance with a needs-based formula to be established by the Administrator, and such funds are to be used by States to make grants to municipalities.

Subsection (d) amends section 221(i) of the Clean Water Act to change the date that the Administrator is required to transmit to Congress a report containing recommended funding levels for grants under this section from December 31, 2003, to December 31, 2010.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

The Subcommittee on Water Resources and Environment of the Committee on Transportation and Infrastructure has held several hearings on the nation's wastewater infrastructure needs and the importance of a renewed commitment to addressing these needs, including funds to address CSOs and SSOs. On March 28, 2001, the Subcommittee held a hearing, entitled "Water Infrastructure Needs". On March 19, 2003, the Subcommittee held a hearing, entitled "Meeting the Nation's Wastewater Infrastructure Needs". On April 28, 2004, the Subcommittee held a hearing, entitled "Aging Water Supply Infrastructure". On June 8 and 14, 2005, the Subcommittee held a series of hearings, entitled "Financing Water Infrastructure Projects". On January 19, 2007, the Subcommittee held a hearing, entitled "The Need for Renewed Investment in Clean Water Infrastructure".

Over the last three Congresses, the Committee on Transportation and Infrastructure has approved legislation to reauthorize appropriations for grants to address combined sewer overflows and sanitary sewer overflows.

In the 108th Congress, the Subcommittee held a legislative hearing on H.R. 784, the Water Quality Investment Act of 2003, on July 8, 2004. On July 15, 2004, the Subcommittee adopted by voice vote an amendment in the nature of a substitute. The amendment authorized \$250 million for each of fiscal years 2005 through 2010. The amendment also made other changes to section 221 to update the authority and to ensure that States may administer these grants in the same way that they administer loans from the State Revolving Loan Funds. The Subcommittee recommended the bill, as amended, favorably to the Committee on Transportation and Infrastructure, by voice vote. On July 21, 2004, the Committee on Transportation and Infrastructure met in open session, and ordered the bill, as amended by the Subcommittee, reported to the House by voice vote (H. Rept. 108-675). No further action was taken on this legislation.

In the 109th Congress, the Committee on Transportation and Infrastructure met on May 18, 2005, to consider H.R. 624, a bill to authorize appropriations for sewer overflow control grants. H.R.

624 was identical to H.R. 784, the Water Quality Investment Act of 2003, as reported by the Committee in the 108th Congress, with the exception of updating the authorization years from 2005 through 2010 to 2006 through 2011. The Committee on Transportation and Infrastructure met in open session and ordered H.R. 624 reported to the House by voice vote (H. Rept. 109–166). No further action was taken on this legislation.

Representative Pascrell, Representative Camp, and Representative Capuano introduced H.R. 569 on January 18, 2007. This legislation was modeled after H.R. 624, as approved by the Committee on May 18, 2005, and authorized appropriations of \$3 billion over six years for grants to address combined sewer overflows and sanitary sewer overflows.

On January 31, 2007, the Subcommittee on Water Resources and Environment considered H.R. 569 and adopted an amendment in the nature of a substitute by voice vote. The amendment authorized appropriations of \$1.8 billion over five years, providing \$250 million in fiscal year 2008, \$300 million in fiscal year 2009, \$350 million in fiscal year 2010, \$400 million in fiscal year 2011, and \$500 million in fiscal year 2012, and conformed the remainder of the bill to the text of H.R. 624 from the 109th Congress. The Subcommittee recommended the bill, as amended, favorably to the Committee on Transportation and Infrastructure, by voice vote. On February 7, 2007, the Committee on Transportation and Infrastructure met in open session, and ordered the bill, as amended by the Subcommittee, reported to the House by voice vote.

RECORD VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with ordering H.R. 569 reported. A motion to order H.R. 569, as amended, reported favorably to the House was agreed to by voice vote with a quorum present.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(I) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the

Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included in the report.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objective of this legislation are to control combined sewer overflows and sanitary sewer overflows through additional planning, design, and construction of treatment works to intercept, transport, control, or treat CSOs and SSOs.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 569 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 12, 2007.

Hon. JAMES L. OBERSTAR,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 569, the Water Quality Investment Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Susanne S. Mehlman (for federal costs), and Lisa Ramirez-Branum (for the state and local impact).

Sincerely,

PETER R. ORSZAG,
Director.

Enclosure.

H.R. 569—Water Quality Investment Act of 2007

Summary: H.R. 569 would authorize the appropriation of \$1.80 billion over the 2008–2012 period for the Environmental Protection Agency (EPA) to provide grants to municipalities and states to control overflows of untreated wastewater that can occur during episodes of wet weather. Such overflows of sewage can pose a health and safety risk if they flow into rivers, lakes, and streets. This legislation also would permit states and municipalities to use the grant money to provide loans for eligible projects. CBO estimates that implementing this legislation would cost about \$1.45 billion over the next five years and an additional \$0.35 billion after 2012, assuming appropriation of the authorized amounts. Enacting the bill would not affect direct spending or receipts.

H.R. 569 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. Enacting this bill would benefit states and municipalities receiving grant funding to control sewer overflow; any costs that they might incur would result from complying with conditions of federal assistance.

Estimated cost to the Federal Government: For this estimate, CBO assumes that the bill will be enacted in fiscal year 2007 and that the amounts authorized will be appropriated for each fiscal

year. Estimated outlays are based on historical spending patterns of similar grant programs. The estimated budgetary impact of H.R. 569 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—				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level	250	300	350	400	500
Estimated Outlays	125	225	300	360	440

Intergovernmental and private-sector impact: H.R. 569 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Enacting this bill would benefit states and municipalities receiving grant funding to control sewer overflow; any costs that they might incur would result from complying with conditions of federal assistance.

Estimate prepared by: Federal Costs: Susanne S. Mehlman; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; and Impact on the Private Sector: Amy Petz.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH HOUSE RULE XXI

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 569, the Water Quality Investment Act of 2007, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI of the Rules of the House of Representatives.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 569 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 221 OF THE FEDERAL WATER POLLUTION CONTROL ACT

SEC. 221. SEWER OVERFLOW CONTROL GRANTS.

(a) * * *

* * * * *

[(e) ADMINISTRATIVE REPORTING REQUIREMENTS.—If a project receives grant assistance under subsection (a) and loan assistance from a State water pollution control revolving fund and the loan assistance is for 15 percent or more of the cost of the project, the project may be administered in accordance with State water pollution control revolving fund administrative reporting requirements for the purposes of streamlining such requirements.]

(e) *ADMINISTRATIVE REQUIREMENTS.*—*A project that receives assistance under this section shall be carried out subject to the same requirements as a project that receives assistance from a State water pollution control revolving fund under title VI, except to the extent that the Governor of the State in which the project is located determines that a requirement of title VI is inconsistent with the purposes of this section.*

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section **[\$750,000,000 for each of fiscal years 2002 and 2003]** *\$250,000,000 for fiscal year 2008, \$300,000,000 for fiscal year 2009, \$350,000,000 for fiscal year 2010, \$400,000,000 for fiscal year 2011, and \$500,000,000 for fiscal year 2012.* Such sums shall remain available until expended.

[(g) ALLOCATION OF FUNDS.—

[(1) FISCAL YEAR 2002.—Subject to subsection (h), the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2002 for making grants to municipalities and municipal entities under subsection (a)(2), in accordance with the criteria set forth in subsection (b).

[(2) FISCAL YEAR 2003.—Subject to subsection (h), the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2003 as follows:

[(A) Not to exceed \$250,000,000 for making grants to municipalities and municipal entities under subsection

(a)(2), in accordance with the criteria set forth in subsection (b).

[(B) All remaining amounts for making grants to States under subsection (a)(1), in accordance with a formula to be established by the Administrator, after providing notice and an opportunity for public comment, that allocates to each State a proportional share of such amounts based on the total needs of the State for municipal combined sewer overflow controls and sanitary sewer overflow controls identified in the most recent survey conducted pursuant to section 516(b)(1).]

(g) ALLOCATION OF FUNDS.—

(1) FISCAL YEAR 2008.—*Subject to subsection (h), the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2008 for making grants to municipalities and municipal entities under subsection (a)(2) in accordance with the criteria set forth in subsection (b).*

(2) FISCAL YEAR 2009 AND THEREAFTER.—*Subject to subsection (h), the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2009 and each fiscal year thereafter for making grants to States under subsection (a)(1) in accordance with a formula to be established by the Administrator, after providing notice and an opportunity for public comment, that allocates to each State a proportional share of such amounts based on the total needs of the State for municipal combined sewer overflow controls and sanitary sewer overflow controls identified in the most recent survey conducted pursuant to section 516.*

* * * * *

(i) REPORTS.—Not later than December 31, [2003] 2010, and periodically thereafter, the Administrator shall transmit to Congress a report containing recommended funding levels for grants under this section. The recommended funding levels shall be sufficient to ensure the continued expeditious implementation of municipal combined sewer overflow and sanitary sewer overflow controls nationwide.