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SAN FRANCISCO BAY RESTORATION ACT

JANUARY 26, 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. 97]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 97) to amend the Federal Water Pollution Control Act to establish a grant program to support the restoration of San Francisco Bay, having considered the same, reports favorably thereon and recommends that the bill, as amended, do pass.

GENERAL STATEMENT AND BACKGROUND

The San Francisco estuary is one of the largest estuaries on the West Coast of the United States. It is a critical nursing ground for many ocean species and provides important habitat for migratory birds along the Pacific Flyway. The estuary supports an array of important economic activities including commercial and sport fishing, shipping, industry, agriculture, recreation and tourism. As the region has grown over many years, the water quality and health of the San Francisco Bay estuary have declined. Restoring the San Francisco Bay will protect the health and vitality of this important region, and help it adapt to increasing pressures.

EPA's National Estuary Program was established by Congress in 1987 as Section 320 of the Clean Water Act. The Program's goal is to improve the quality of estuaries of national importance by designating such estuaries to participate in the National Estuary Program and developing plans for their restoration. Established in 1987, the San Francisco Estuary Partnership was one of the original national estuary programs designated by EPA following the creation of Section 320. The San Francisco Estuary Partnership,

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like all other National Estuary Programs around the country, has developed a Comprehensive Conservation and Management Plan (CCMP) to guide restoration activities.

S. 97 amends the Clean Water Act to establish a grant program to fund restoration of the San Francisco Bay that will build on the decades of work carried out through the San Francisco Estuary Partnership under Section 320 of the Clean Water Act. The bill authorizes the Administrator of the Environmental Protection Agency (Administrator) to provide grants to State and local agencies, and public or nonprofit agencies, institutions, and organizations, for ecosystem restoration projects and habitat improvement for fish, waterfowl, and wildlife, in accordance with the priorities described in the CCMP for the San Francisco Bay estuary.

The federal grant program authorized by this bill is designed to help meet the need for additional federal investment to implement the existing CCMP. The Environmental Protection Agency has received $24 million in appropriations since Fiscal Year 2008 to provide grants for ecosystem restoration and water quality work in the San Francisco Bay. The authorization of this grant program provided for in S. 97 will allow the EPA to budget for and build upon the existing grant program for Bay restoration.

OBJECTIVES OF THE LEGISLATION

This bill will establish a program to provide grants to State and local agencies and public or nonprofit agencies, institutions, and organizations for projects to restore ecosystems and improve habitat for fish, waterfowl and wildlife, in accordance with the comprehensive conservation and management plan for the San Francisco estuary.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 notes that this Act may be cited as the "San Francisco Bay Restoration Act".

Section 2. San Francisco Bay Restoration Grant Program

This section authorizes the Administrator of the Environmental Protection Agency (Administrator) to provide grants to State and local agencies and public or nonprofit agencies, institutions, and organizations. Grants are to be provided for projects to restore ecosystems and improve habitat for fish, waterfowl and wildlife in accordance with the comprehensive conservation and management plan (CCMP) for the San Francisco estuary.

This section establishes a non-federal share of not less than 25 percent for grants provided by the Administrator. This section, as amended, authorizes $5 million for each of fiscal years 2012 through 2016 to carry out the program and limits the administrative expenses to implement the program to five percent.

Discussion

The selection of projects for funding must be done in accordance with the comprehensive conservation and management plan (CCMP) for the San Francisco estuary, which was developed pursuant to the requirements of the National Estuary Program under

Section 320 of the Clean Water Act. The Committee also expects that the Environmental Protection Agency will continue to consult with the San Francisco Estuary Partnership in administering the grant program to ensure that it reflects the most current priorities and recommendations outlined in the CCMP.

After establishing the San Francisco Estuary Partnership in 1987, representatives from government agencies and private and community groups in the twelve-county Bay-Delta region came together in a consensus-based process over a five-year period to develop the first CCMP for the San Francisco Estuary. The Governor of California and U.S. Environmental Protection Agency Administrator approved the Plan in 1993. The CCMP was most recently updated in 2007. The CCMP is a blueprint for restoring and maintaining the Estuary through recommended corrective actions in nine program areas. It seeks to achieve improvements in water quality through restoration and maintenance of fish, shellfish, and wildlife populations which are balances with recreational activities. The grant program established by this section will support implementation of this locally-driven, consensus-based plan.

LEGISLATIVE HISTORY

The San Francisco Bay Restoration Act was introduced by Senator Feinstein (D–CA) and co-sponsored by Senator Boxer (D–CA) on January 25, 2011. The bill was received, read twice, and referred to the Senate Committee on Environment and Public Works. On September 21, 2011, the Full Committee met to discuss a number of bills including S. 97. During this meeting, the Committee considered the bill and adopted an amendment that modified the authorization level in the bill. S. 97 was ordered to be reported favorably with an amendment by voice vote.

ROLLCALL VOTES

The Committee on Environment and Public Works met to consider S. 97 on September 21, 2011. The bill was ordered to be reported favorably with an amendment by voice vote.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee finds that S. 97 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. 97 contains no intergovernmental or private-sector mandates as defined in UMRA."

CONGRESSIONALLY DIRECTED SPENDING

In accordance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides the following identification of congressionally directed spending items contained in the bill, as reported:

Section	Provision	Member
2	Authorization of appropriations	Sen. Boxer and Sen. Feinstein

SEPTEMBER 28, 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. 97, the San Francisco Bay Restoration Act.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 97—San Francisco Bay Restoration Act

Summary: S. 97 would authorize the Environmental Protection Agency (EPA) to provide grants to state, local, and nonprofit agencies to fund ecosystem restoration projects and habitat improvement in the San Francisco Estuary in California. The bill would authorize the appropriation of $5 million for each of fiscal years 2012 through 2016. Assuming appropriation of those amounts, CBO estimates that implementing S. 97 would cost $23 million over the 2012–2016 period.

Pay-as-you-go procedures do not apply to this legislation because the bill would not affect direct spending or revenues.

S. 97 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. 97 is shown in the following table. The costs of this legislation fall 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	3	5	5	5	5	23

Basis of estimate: For this estimate, CBO assumes that S. 97 will be enacted near the end of 2011 and that the authorized amounts will be appropriated for each year. Estimated outlays are based on historical spending patterns for similar programs.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: S. 97 contains no intergovernmental or private-sector mandates as defined in UMRA. State and local governments could benefit from grants authorized by the bill. Any costs to state and local governments that result from participation in the grant program would be incurred voluntarily as conditions of federal assistance.

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

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

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, 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 *italic*, existing law in which no change is proposed is shown in roman:

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FEDERAL WATER POLLUTION CONTROL ACT

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SEC. 122. WET WEATHER WATERSHED PILOT PROJECTS.

(a) IN GENERAL.—The Administrator, in coordination with the States, may provide technical assistance and grants for treatment works to carry out pilot projects relating to the following areas of wet weather discharge control:

(1) WATERSHED MANAGEMENT OF WET WEATHER DISCHARGES.—The management of municipal combined sewer overflows, sanitary sewer overflows, and stormwater discharges, on an integrated watershed or subwatershed basis for the purpose of demonstrating the effectiveness of a unified wet weather approach.

(2) STORMWATER BEST MANAGEMENT PRACTICES.—The control of pollutants from municipal separate storm sewer systems for the purpose of demonstrating and determining controls that are cost-effective and that use innovative technologies in reducing such pollutants from stormwater discharges.

(b) ADMINISTRATION.—The Administrator, in coordination with the States, shall provide municipalities participating in a pilot project under this section the ability to engage in innovative practices, including the ability to unify separate wet weather control efforts under a single permit.

(c) FUNDING.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2002, $15,000,000 for fiscal year 2003, and $20,000,000 for fiscal year 2004. Such funds shall remain available until expended.

(2) STORMWATER.—The Administrator shall make available not less than 20 percent of amounts appropriated for a fiscal year pursuant to this subsection to carry out the purposes of subsection (a)(2).

(3) ADMINISTRATIVE EXPENSES.—The Administrator may retain not to exceed 4 percent of any amounts appropriated for a fiscal year pursuant to this subsection for the reasonable and necessary costs of administering this section.

(d) REPORT TO CONGRESS.—Not later than 5 years after the date of enactment of this section, the Administrator shall transmit to

Congress a report on the results of the pilot projects conducted under this section and their possible application nationwide.

(33 U.S.C. 1274)

SEC. 123. SAN FRANCISCO BAY RESTORATION GRANT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ANNUAL PRIORITY LIST.—The term 'annual priority list' means the annual priority list compiled under subsection (b).

(2) COMPREHENSIVE PLAN.—The term 'comprehensive plan' means—

(A) the comprehensive conservation and management plan approved under section 320 for the San Francisco Bay estuary; and

(B) any amendments to that plan.

(3) ESTUARY PARTNERSHIP.—The term 'Estuary Partnership' means the San Francisco Estuary Partnership, the entity that is designated as the management conference under section 320.

(b) ANNUAL PRIORITY LIST.—

(1) IN GENERAL.—After providing public notice, the Administrator shall annually compile a priority list identifying and prioritizing the activities, projects, and studies intended to be funded with the amounts made available under subsection (c).

(2) INCLUSIONS.—The annual priority list compiled under paragraph (1) shall include—

(A) activities, projects, or studies, including restoration projects and habitat improvement for fish, waterfowl, and wildlife, that advance the goals and objectives of the approved comprehensive plan;

(B) information on the activities, projects, programs, or studies specified under subparagraph (A), including a description of—

(i) the identities of the financial assistance recipients; and

(ii) the communities to be served; and

(C) the criteria and methods established by the Administrator for selection of activities, projects, and studies.

(3) CONSULTATION.—In developing the priority list under paragraph (1), the Administrator shall consult with and consider the recommendations of—

(A) the Estuary Partnership;

(B) the State of California and affected local governments in the San Francisco Bay estuary watershed; and

(C) any other relevant stakeholder involved with the protection and restoration of the San Francisco Bay estuary that the Administrator determines to be appropriate.

(c) GRANT PROGRAM.—

(1) IN GENERAL.—Pursuant to section 320, the Administrator may provide funding through cooperative agreements, grants, or other means to State and local agencies, special districts, and public or nonprofit agencies, institutions, and organizations, including the Estuary Partnership, for activities, studies, or projects identified on the annual priority list.

(2) MAXIMUM AMOUNT OF GRANTS; NON-FEDERAL SHARE.—

(A) MAXIMUM AMOUNT OF GRANTS.—Amounts provided to any individual or entity under this section for a fiscal year

shall not exceed an amount equal to 75 percent of the total cost of any eligible activities that are to be carried out using those amounts.

(B) NON-FEDERAL SHARE.—The non-Federal share of the total cost of any eligible activities that are carried out using amounts provided under this section shall be—

(i) not less than 25 percent; and

(ii) provided from non-Federal sources.

(d) FUNDING.—

[*(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section such sums as are necessary for each of fiscal years 2012 through 2021.***]**

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this section $5,000,000 for each of fiscal years 2012 through 2016.

(2) ADMINISTRATIVE EXPENSES.—Of the amount made available to carry out this section for a fiscal year, the Administrator shall use not more than 5 percent to pay administrative expenses incurred in carrying out this section.

(3) RELATIONSHIP TO OTHER FUNDING.—Nothing in this section limits the eligibility of the Estuary Partnership to receive funding under section 320(g).

(4) PROHIBITION.—No amounts made available under subsection (c) may be used for the administration of a management conference under section 320.

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