

108TH CONGRESS
2D SESSION

S. 2105

To improve the Federal shore protection program.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2004

Mr. LAUTENBERG (for himself and Mr. CORZINE) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To improve the Federal shore protection program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Coastal Restoration
5 Act of 2004”.

6 **SEC. 2. FEDERAL AID IN RESTORATION AND PROTECTION**
7 **OF SHORES AND BEACHES.**

8 The first section of the Act entitled “An Act author-
9 izing Federal participation in the cost of protecting the
10 shores of publicly owned property”, approved August 13,
11 1946 (33 U.S.C. 426e), is amended to read as follows:

1 **“SECTION 1. FEDERAL AID IN RESTORATION AND PROTEC-**
2 **TION OF SHORES AND BEACHES.**

3 “(a) DECLARATION OF POLICY.—

4 “(1) POLICY.—It is the policy of the United
5 States to promote shore and beach protection
6 projects and related research that encourages the
7 protection, restoration, and enhancement of shores,
8 sandy beaches, and other coastal infrastructure on a
9 comprehensive and coordinated basis by Federal,
10 State, and local governments and private persons.

11 “(2) PURPOSES.—The purposes of this Act
12 are—

13 “(A) to restore and maintain the shores,
14 beaches, and other coastal resources of the
15 United States (including territories and posses-
16 sions); and

17 “(B) to promote the healthful recreation of
18 the people of the United States.

19 “(3) PRIORITY.—In carrying out this Act, pref-
20 erence shall be given to areas—

21 “(A) in which there has been a previous in-
22 vestment of Federal funds;

23 “(B) where regional sediment management
24 plans have been adopted;

25 “(C) with respect to which the need for
26 prevention or mitigation of damage to shores,

1 beaches, and other coastal infrastructure is at-
2 tributable to Federal navigation projects or
3 other Federal activities; or

4 “(D) that promote—

5 “(i) human health and safety; and

6 “(ii) the quality of life for individuals
7 and families.

8 “(b) IMPLEMENTATION.—The Secretary shall pay the
9 Federal share of the cost of carrying out shore and beach
10 protection projects and related research that encourages
11 the protection, restoration, and enhancement of shores,
12 sandy beaches, and other coastal infrastructure (including
13 projects for beach restoration, periodic beach nourishment,
14 and restoration or protection of State, county, or other
15 shores, public coastal beaches, parks, conservation areas,
16 or other environmental resources).

17 “(c) FEDERAL SHARE.—

18 “(1) IN GENERAL.—Subject to paragraphs (2)
19 through (4), the Federal share of the cost of a
20 project described in subsection (b) shall be deter-
21 mined in accordance with section 103 of the Water
22 Resources Development Act of 1986 (33 U.S.C.
23 2213).

24 “(2) EXCEPTION.—In the case of a project for
25 beach erosion control the primary purpose of which

1 is recreation, the Federal share shall be equal to the
2 Federal share for a beach erosion control project the
3 primary purpose of which is storm damage protec-
4 tion or environmental restoration.

5 “(3) REMAINDER.—

6 “(A) IN GENERAL.—Subject to subpara-
7 graph (B), the remainder of the cost of the con-
8 struction of a project described in subsection
9 (b) shall be paid by a State, municipality, other
10 political subdivision, nonprofit entity, or private
11 enterprise.

12 “(B) EXCEPTION.—The Federal Govern-
13 ment shall bear all of the costs incurred for the
14 restoration and protection of Federal property.

15 “(4) GREATER FEDERAL SHARE.—In the case
16 of a project described in subsection (b) for the res-
17 toration and protection of a State, county, or other
18 publicly-owned shore, coastal beach, park, conserva-
19 tion area, or other environmental resource, the Chief
20 of Engineers may increase the Federal share to be
21 greater than that provided in paragraph (1) if the
22 area—

23 “(A) includes—

24 “(i) a zone that excludes permanent
25 human habitation; or

1 “(ii) a recreational beach or other
2 area determined by the Chief of Engineers;

3 “(B) satisfies adequate criteria for con-
4 servation and development of the natural re-
5 sources of the environment; and

6 “(C) extends landward a sufficient distance
7 to include, as approved by the Chief of Engi-
8 neers—

9 “(i) protective dunes, bluffs, or other
10 natural features;

11 “(ii) such other appropriate measures
12 adopted by the State or political subdivi-
13 sion of the State to protect uplands areas
14 from damage, promote public recreation, or
15 protect environmental resources; or

16 “(iii) appropriate facilities for public
17 use.

18 “(5) RECOMMENDATIONS.—

19 “(A) IN GENERAL.—In recommending to
20 Congress projects for Federal participation, the
21 Secretary shall recommend projects for the res-
22 toration and protection of shores and beaches
23 that promote equally all national economic de-
24 velopment benefits and purposes, including

1 recreation, hurricane and storm damage reduc-
2 tion, and environmental restoration.

3 “(B) REPORT.—The Secretary shall—

4 “(i) identify projects that maximize
5 net benefits for national purposes; and

6 “(ii) submit to Congress a report that
7 describes the findings of the Secretary.

8 “(d) PERIODIC BEACH NOURISHMENT.—In this Act,
9 when the most suitable and economical remedial measures,
10 as determined by the Chief of Engineers, would be pro-
11 vided by periodic beach nourishment, the term ‘construc-
12 tion’ shall include the deposit of sand fill at suitable inter-
13 vals of time to furnish sand supply to protect shores and
14 beaches for a period of time specified by the Chief of Engi-
15 neers and authorized by Congress.

16 “(e) PRIVATE SHORES AND BEACHES.—

17 “(1) IN GENERAL.—A shore or beach, other
18 than a public shore or beach, shall be eligible for
19 Federal assistance under this Act if—

20 “(A) there is a benefit to a public shore or
21 beach, including a benefit from public use or
22 from the protection of nearby public property;
23 or

24 “(B) the benefits to the shore or beach are
25 incidental to the project.

1 “(2) FEDERAL SHARE.—The Secretary shall
2 adjust the Federal share of a project for a shore or
3 beach, other than a public shore or beach, to reflect
4 the benefits described in paragraph (1).

5 “(f) AUTHORIZATION OF PROJECTS.—

6 “(1) IN GENERAL.—Subject to paragraph (2),
7 no Federal share shall be provided for a project
8 under this Act unless—

9 “(A) the plan for that project has been
10 specifically adopted and authorized by Congress
11 after investigation and study; or

12 “(B) in the case of a small project under
13 sections 3 or 5, the plan for that project has
14 been approved by the Chief of Engineers.

15 “(2) STUDIES.—

16 “(A) IN GENERAL.—The Secretary shall—

17 “(i) recommend to Congress studies
18 concerning shore and beach protection
19 projects that meet the criteria established
20 under this Act and other applicable law;

21 “(ii) conduct such studies as Congress
22 requests; and

23 “(iii) report the results of all studies
24 requested by Congress to the Committee
25 on Environment and Public Works of the

1 Senate and the Committee on Transpor-
2 tation and Infrastructure of the House of
3 Representatives.

4 “(B) RECOMMENDATIONS FOR SHORE AND
5 BEACH PROTECTION PROJECTS.—

6 “(i) IN GENERAL.—The Secretary
7 shall—

8 “(I) recommend to Congress the
9 authorization or reauthorization of all
10 shore and beach protection projects
11 the plans for which have been ap-
12 proved by the Chief of Engineers; and

13 “(II) report to Congress on the
14 feasibility of other projects that have
15 been studied under subparagraph (A)
16 but have not been approved by the
17 Chief of Engineers.

18 “(ii) CONSIDERATIONS.—In approving
19 a project plan, the Chief of Engineers shall
20 consider the economic and ecological bene-
21 fits of the shore or beach protection
22 project.

23 “(C) COORDINATION OF PROJECTS.—In
24 conducting studies and making recommenda-

1 tions for a shore or beach protection project
2 under this paragraph, the Secretary shall—

3 “(i) determine whether there is any
4 other project being carried out by the Sec-
5 retary or other Federal agency that may be
6 complementary to the shore or beach pro-
7 tection project; and

8 “(ii) if there is such a complementary
9 project, undertake efforts to coordinate the
10 projects.

11 “(3) SHORE AND BEACH PROTECTION
12 PROJECTS.—

13 “(A) IN GENERAL.—The Secretary shall
14 construct any shore or beach protection project
15 authorized by Congress, or separable element of
16 such a project, for which Congress has appro-
17 priated funds.

18 “(B) AGREEMENTS.—

19 “(i) REQUIREMENT.—After authoriza-
20 tion by Congress, before the commence-
21 ment of construction of a shore or beach
22 protection project or separable element, the
23 Secretary shall offer to enter into a written
24 agreement for the authorized period of
25 Federal participation in the project with a

1 non-Federal interest with respect to the
2 project or separable element.

3 “(ii) TERMS.—The agreement shall—

4 “(I) specify the authorized period
5 of Federal participation in the project;
6 and

7 “(II) ensure that the Federal
8 Government and the non-Federal in-
9 terest cooperate in carrying out the
10 project or separable element.

11 “(g) EXTENSION OF THE PERIOD OF FEDERAL PAR-
12 TICIPATION.—At the request of a non-Federal interest,
13 the Secretary, acting through the Chief of Engineers and
14 with the approval of Congress, shall extend the period of
15 Federal participation in a beach nourishment project that
16 is economically feasible, engineeringly sound, and environ-
17 mentally acceptable for such additional period as the Sec-
18 retary determines appropriate.

19 “(h) SPECIAL CONSIDERATIONS.—In a case in which
20 funds have been appropriated to the Corps of Engineers
21 for a specific project but the funds cannot be expended
22 because of the time limits of environmental permits or
23 similar environmental considerations, the Secretary may
24 carry over such funds for use in the next fiscal year if
25 construction of the project, or a separable element of the

- 1 project, will cause minimal environmental damage and will
- 2 not violate an environmental permit.”.

