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SENATE

{ REPORT
{ 110-293

BOSTON HARBOR ISLANDS NATIONAL RECREATION AREA COOPERATIVE AGREEMENTS ACT

APRIL 10, 2008.—Ordered to be printed

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

R E P O R T

[To accompany S. 1365]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1365) to amend the Omnibus Parks and Public Lands Management Act of 1996 to authorize the Secretary of the Interior to enter into cooperative agreements with any of the management partners of the Boston Harbor Islands National Recreation Area, and for other purposes, 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. COOPERATIVE AGREEMENTS FOR BOSTON HARBOR ISLANDS NATIONAL RECREATION AREA.

Section 1029(d) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 460kkk(d)) is amended by striking paragraph (3) and inserting the following:

“(3) AGREEMENTS.—

“(A) DEFINITION OF ELIGIBLE ENTITY.—In this paragraph, the term ‘eligible entity’ means—

“(i) the Commonwealth of Massachusetts;

“(ii) a political subdivision of the Commonwealth of Massachusetts;

or

“(iii) any other entity that is a member of the Boston Harbor Islands Partnership described in subsection (e)(2).

“(B) AUTHORITY OF SECRETARY.—Subject to subparagraph (C), the Secretary may consult with an eligible entity on, and enter into with the eligible entity—

“(i) a cooperative management agreement to acquire from, and provide to, the eligible entity goods and services for the cooperative management of land within the recreation area; and

“(ii) notwithstanding section 6305 of title 31, United States Code, a cooperative agreement for the construction of recreation area facilities on land owned by an eligible entity for purposes consistent with the management plan under subsection (f).

“(C) CONDITIONS.—The Secretary may enter into an agreement with an eligible entity under subparagraph (B) only if the Secretary determines that—

“(i) appropriations for carrying out the purposes of the agreement are available; and

“(ii) the agreement is in the best interests of the United States.”.

SEC. 2. TECHNICAL AMENDMENTS.

(a) MEMBERSHIP.—Section 1029(e)(2)(B) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 460kkk(e)(2)(B)) is amended by striking “Coast Guard” and inserting “Coast Guard.”.

(b) DONATIONS.—Section 1029(e)(11) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 460kkk(e)(11)) is amended by striking “Notwithstanding” and inserting “Notwithstanding”.

PURPOSE

The purpose of S. 1365 is to amend the Omnibus Parks and Public Lands Management Act of 1996 to authorize the Secretary of the Interior to enter into cooperative agreements with any of the management partners of the Boston Harbor Islands National Recreation Area, and for other purposes.

BACKGROUND AND NEED

The Boston Harbor Islands National Recreation Area includes 30 islands within Boston Harbor, all located within 10 miles or less of downtown Boston. Unlike most park units, the National Park Service does not own any of the islands within the boundary of the recreation area.

S. 1365 would authorize the National Park Service to enter into cooperative management agreements with any of the management partners represented on the Boston Harbor Islands Partnership (Partnership), a federal operating committee. The purpose of the Partnership is to coordinate the activities of Federal, State, and local authorities and the private sector in the development and implementation of an integrated resource management plan (also known as the General Management Plan) for the recreation area. The National Park Service administers the recreation area in partnership with the Commonwealth of Massachusetts, the City of Boston and its applicable subdivisions, and others entities, including three non-profit agencies that are represented on the Partnership, as stipulated in the authorizing legislation for the recreation area.

Under existing law, the Secretary of the Interior is not authorized to enter into cooperative management agreements with the three non-profit agencies that are represented on the Partnership. S. 1365 authorizes the Secretary to consult with and enter into cooperative management agreements with all entities represented on the Partnership. In addition, the bill expands the scope of cooperative agreements to include the construction of recreation facilities.

LEGISLATIVE HISTORY

S. 1365 was introduced by Senators Kerry and Kennedy on May 10, 2007. The Subcommittee on National Parks held a hearing on it on November 8, 2007. (S. Hrg. 110–282.) The Committee on Energy and Natural Resources ordered it favorably reported with an

amendment in the nature of a substitute on January 30, 2008. Similar legislation, S. 2669, was introduced by Senators Kerry and Kennedy in the 109th Congress, but no action was taken on it.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on January 30, 2008, by a voice vote of a quorum present, recommends that the Senate pass S. 1365, if amended as described herein.

COMMITTEE AMENDMENT

During consideration of S. 1365, the Committee adopted an amendment in the nature of a substitute. The amendment, recommended by the National Park Service, makes a number of technical modifications and eliminates a broad provision in the bill that would have authorized the Secretary to enter into cooperative agreements for any purpose that is consistent with the purposes for which the recreation area was first established.

SECTION-BY-SECTION ANALYSIS

Section 1 amends section 1029(d) of the Omnibus Parks and Public Lands Management Act of 1996 to authorize the Secretary to enter into cooperative agreements with any entity that is a member of the Boston Harbor Islands Partnership. In addition, the bill expands the current scope of the cooperative agreements to include construction of recreation area facilities on land owned by an eligible entity for purposes consistent with the relevant management plan. Finally, S. 1365 states that a cooperative agreement may only be entered into if the Secretary determines that appropriations for carrying out the agreement are available and the agreement is in the best interest of the United States.

Section 2 makes technical corrections to section 1029(e) of the Omnibus Parks and Public Lands Management Act of 1996.

COST AND BUDGETARY CONSIDERATIONS

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

S. 1365—A bill to amend the Omnibus Parks and Public Lands Management Act of 1996 to authorize the Secretary of the Interior to enter into cooperative agreements with any of the management partners of the Boston Harbor Islands National Recreation Area, and for other purposes

S. 1365 would authorize the Secretary of the Interior to enter into cooperative agreements with members of the Boston Harbor Islands Partnership for the management of land and the construction of facilities within the Boston Harbor Islands National Recreation Area. Under current law, the Secretary may enter into such agreements with the Commonwealth of Massachusetts and local governments. The bill would extend this authority to include non-profit organizations that are members of the Boston Harbor Islands Partnership. Those organizations currently participate in the management of the recreation area (and receive indirect federal assist-

ance through agreements with other members of the Boston Harbor Islands Partnership) but do not receive grants directly from the department.

CBO estimates that implementing S. 1365 would have no significant cost to the federal government. Enacting this legislation would not affect direct spending or revenues.

The bill 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 Daniel Hoople. This estimate was approved by Peter H. Fontaine, 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. 1365. 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. 1365, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 1365, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

STATEMENT OF KATHERINE H. STEVENSON, ACTING ASSISTANT DIRECTOR, BUSINESS SERVICES, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before your committee to present the views of the Department of the Interior on S. 1365, a bill to amend the Omnibus Parks and Public Lands Management Act of 1996 to authorize the Secretary of the Interior to enter into cooperative agreements with any of the management partners of the Boston Harbor Islands National Recreation Area.

The Department has concerns with the bill as written. The Department is particularly concerned about the use of cooperative agreements for construction of park facilities by non-Federal partners using appropriated funds. We would like to follow up with written comments on how this bill could be modified to address the needs of the park and its partners while ensuring the appropriate use of Federal funds.

This bill would change the authorizing legislation for the Boston Harbor Islands National Recreation Area. Section 1029 of Public Law 104-333 authorized the Secretary to enter into cooperative agreements with the Commonwealth

of Massachusetts or its political subdivisions to implement the management plan for the national recreation area. The law did not authorize cooperative agreements with the non-profit organizations, named within the Act, that administer the Boston Harbor Islands in partnership with the Secretary through the Boston Harbor Islands Partnership (Partnership) established in section (e) of the Act. S. 1365 would explicitly permit the Secretary to enter into cooperative management agreements with the three non-profit organizations named in section (e)(2) of the Act: The Island Alliance, The Trustees of Reservations, and the Thompson Island Outward Bound Education Center. This authority would allow the Secretary to contract with these non-profit organizations for any goods or services needed in the administration of the recreation area.

Authorized in 1996, the Boston Harbor Islands National Recreation Area includes 30 islands within Boston Harbor, all located within 10 miles or less of downtown Boston. Unlike most park units, the National Park Service does not own any of the islands within the boundary of the recreation area.

The recreation area has proven itself a model of collaborative park management. The 13 entities named in the original legislation have endorsed an ambitious management plan and have realized many of its goals. Together they have spent \$78.5 million to provide visitor services, rebuild island infrastructure and protect park resources, and \$76.6 million to develop new parkland and facilities. Their combined park operating expenditures total \$7.5 million annually. Federal dollars total less than one-quarter of park expenditures, with the rest coming from State and local government and private donations as required in the enabling legislation. We believe that we can find a solution that will allow us to work constructively with our partners and we intend to follow up with further suggestions for amending this legislation.

Mr. Chairman, thank you for the opportunity to comment. This concludes my prepared remarks and I will be happy to answer any questions you or other committee members might have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 1365 as ordered 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):

Public Law 104-333

AN ACT To provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * *

SEC. 1029(d) ADMINISTRATION OF RECREATION AREA.—

* * * * *

[(3) COOPERATIVE AGREEMENTS.—The Secretary may consult and enter into cooperative agreements with the Commonwealth of Massachusetts or its political subdivisions to acquire from and provide to the Commonwealth or its political subdivisions goods and services to be used in the cooperative management of lands within the recreation area, if the Secretary determines that appropriations for that purpose are available and the agreement is in the best interest of the United States.]

(3) AGREEMENTS.—

(A) DEFINITION OF ELIGIBLE ENTITY.—*In this paragraph, the term ‘eligible entity’ means—*

- (i) *the Commonwealth of Massachusetts;*
- (ii) *a political subdivision of the Commonwealth of Massachusetts; or*
- (iii) *any other entity that is a member of the Boston Harbor Islands Partnership described in subsection (e)(2).*

(B) AUTHORITY OF SECRETARY.—*Subject to subparagraph (C), the Secretary may consult with an eligible entity on, and enter into with the eligible entity—*

- (i) *a cooperative management agreement to acquire from, and provide to, the eligible entity goods and services for the cooperative management of land within the recreation area; and*
- (ii) *notwithstanding section 6305 of title 31, United States Code, a cooperative agreement for the construction of recreation area facilities on land owned by an eligible entity for purposes consistent with the management plan under subsection (f).*

(C) CONDITIONS.—*The Secretary may enter into an agreement with an eligible entity under subparagraph (B) only if the Secretary determines that—*

- (i) *appropriations for carrying out the purposes of the agreement are available; and*
- (ii) *the agreement is in the best interests of the United States.*

* * * * *

SEC. 1029(e) BOSTON HARBOR ISLANDS PARTNERSHIP ESTABLISHMENT.

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(2) MEMBERSHIP.—The Partnership shall be composed of 13 members, as follows:

(A) One individual, appointed by the Secretary, to represent the National Park Service.

(B) One individual, appointed by the Commandant of the **Coast Guard** *Coast Guard*.

* * * * *

(11) **Notwithstanding** *Notwithstanding* any other provision of law, the Partnership may seek and accept donations of funds, property, or services from individuals, foundations, corporations, and other private and public entities for the purpose of carrying out this section.

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