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S. 1142

To authorize the acquisition of interests in undeveloped coastal areas in order better to ensure their protection from development.

IN THE SENATE OF THE UNITED STATES

APRIL 18, 2007

Mr. GREGG (for himself, Mr. LAUTENBERG, Mr. COCHRAN, Mr. WARNER, Mr. WYDEN, Mr. KENNEDY, Mr. LIEBERMAN, Ms. SNOWE, Mrs. BOXER, Mr. KERRY, Mr. MENENDEZ, Ms. CANTWELL, Mrs. FEINSTEIN, Mr. REED, Mrs. MURRAY, Ms. COLLINS, and Mr. SUNUNU) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To authorize the acquisition of interests in undeveloped coastal areas in order better to ensure their protection from development.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Coastal and Estuarine Land Protection Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Coastal and estuarine areas provide important nursery habitat for two-thirds of the nation's commercial fish and shellfish, provide nesting and foraging habitat for coastal birds, harbor significant natural plant communities, and serve to facilitate coastal flood control and pollutant filtration.

(2) The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) recognizes the national importance of these areas and their ecological vulnerability to anthropogenic activities by establishing a comprehensive Federal-State partnership for protecting natural reserves and managing growth in these areas.

(3) The National Estuarine Research Reserve system established under that Act relies on the protection of pristine designated areas for long-term protection and for the conduct of education and research critical to the protection and conservation of coastal and estuarine resources.

(4) Intense development pressures within the coastal watershed are driving the need to provide coastal managers with a wider range of tools to protect and conserve important coastal and estuarine areas.

(5) Protection of undeveloped coastal lands through the acquisition of interests in property from a willing seller are a cost-effective means of providing these areas with permanent protection from development.

(6) Permanent protection of lands in the coastal zone is a necessary component of any program to maintain and enhance coastal and estuarine areas for the benefit of the Nation, including protection of water quality, access to public beachfront, conserving wildlife habitat, and sustaining sport and commercial fisheries.

(7) Federal-State-nongovernmental organization pilot land acquisition projects have already substantially contributed to the long-term health and viability of coastal and estuarine systems.

(8) Enhanced protection of estuarine and coastal areas can be attained through watershed-based acquisition strategies coordinated through Federal, State, regional, and local efforts.

(9) Conserving coastal and estuarine lands can support the traditional economic and natural resource bases of communities in the coastal watershed, including well-managed forests that dem-

onstrate outstanding ecological, recreational, historical, and aesthetic attributes.

SEC. 3. ESTABLISHMENT OF COASTAL AND ESTUARINE LAND PROTECTION PROGRAM.

(a) IN GENERAL.—The Secretary of Commerce shall establish a Coastal and Estuarine Land Protection Program, in cooperation with appropriate State, regional, and other units of government for the purposes of protecting the environmental integrity of important coastal and estuarine areas, including wetlands and forests, that have significant conservation, recreation, ecological, historical, aesthetic, or watershed protection values, and that are threatened by conversion from their natural, undeveloped, or recreational state to other uses. The program shall be administered by the National Ocean Service of the National Oceanic and Atmospheric Administration through the Office of Ocean and Coastal Resource Management.

(b) PROPERTY ACQUISITION GRANTS.—The Secretary shall make grants under the program to coastal States with approved coastal zone management plans or National Estuarine Research Reserve units for the purpose of acquiring property or interests in property described in subsection (a) that will further the goals of—

(1) a Coastal Zone Management Plan or Program approved under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); or

(2) a National Estuarine Research Reserve management plan; or

(3) a regional or State watershed protection plan involving coastal States with approved coastal zone management plans.

(c) GRANT PROCESS.—The Secretary shall allocate funds to coastal States or National Estuarine Research Reserves under this section through a competitive grant process in accordance with guidelines that meet the following requirements:

(1) The Secretary shall consult with the State's coastal zone management program, any National Estuarine Research Reserve in that State, and the lead agency designated by the Governor for coordinating the implementation of this Act (if different from the coastal zone management program).

(2) Each participating State, after consultation with nongovernmental and local governmental entities, shall identify priority conservation needs within the State, the values to be protected by inclusion of lands in the program, and the threats to those values that should be avoided.

(3) Each participating State shall evaluate how the acquisition of property or easements might impact working waterfront needs.

(4) The applicant shall identify the values to be protected by inclusion of the lands in the program, management activities that are planned and the manner in which they may affect the values identified, and any other information from the landowner relevant to administration and management of the land.

(5) Awards shall be based on demonstrated need for protection and ability to successfully leverage funds among participating entities, including Federal programs, regional organizations, State and other governmental units, landowners, corporations, or private organizations.

(6) The governor, or the lead agency designated by the governor for coordinating the implementation of this Act, shall determine that the application is consistent with the State's or territory's approved coastal zone plan, program and policies prior to submittal to the Secretary.

(7) Priority shall be given to lands described in subsection (a) that can be effectively managed and

protected and that have significant ecological or watershed protection value.

(8) In developing guidelines under this section, the Secretary shall consult with other Federal agencies and non-governmental entities with expertise in land acquisition and conservation procedures.

(9) Eligible States or National Estuarine Research Reserves may allocate grants to local governments or agencies eligible for assistance under section 306A(e) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455a) and may acquire lands in cooperation with nongovernmental entities and Federal agencies.

(10) The Secretary shall develop measures that will ensure that property or interests in property acquired in whole or in part through the use of funds under the program are acquired only from willing sellers.

(11) The Secretary shall develop performance measures that the Secretary shall use to evaluate and report on the program's effectiveness in accomplishing its purposes, and shall submit such evaluations to Congress trienially.

(d) MATCHING REQUIREMENTS.—

(1) IN GENERAL.—The Secretary may not make a grant under the program unless the Federal funds are matched by non-Federal funds in accordance with this subsection.

(2) MAXIMUM FEDERAL SHARE.—

(A) 75 PERCENT FEDERAL FUNDS.—No more than 75 percent of the funding for any project under this section shall be derived from Federal sources, unless such requirement is specifically waived by the Secretary.

(B) WAIVER OF REQUIREMENT.—The Secretary may grant a waiver of the limitation in subparagraph (A) for underserved communities, communities that have an inability to draw on other sources of funding because of the small population or low income of the community, or for other reasons the Secretary deems appropriate.

(3) OTHER FEDERAL FUNDS.—Where financial assistance awarded under this section represents only a portion of the total cost of a project, funding from other Federal sources may be applied to the cost of the project. Each portion shall be subject to match requirements under the applicable provision of law.

(4) SOURCE OF MATCHING COST SHARE.—For purposes of paragraph (2)(A), the non-Federal cost share for a project may be determined by taking into account the following:

(A) The value of land or a conservation easement may be used as non-Federal match if the lands are identified in project plans and acquired within 3 years prior to the submission of the project application or after the submission of a project application until the project grant is closed (not to exceed 3 years). The appraised value of the land at the time of project closing will be considered the non-Federal cost share. The value of land that is held by a nongovernmental organization may be used for such purpose if it is held in perpetuity by a qualified conservation organization, as determined by the Secretary.

(B) Costs associated with land acquisition, land management planning, remediation, restoration, and enhancement may be used as non-Federal match if the activities are identified in the plan and expenses are incurred within the period of the grant award, or, for lands described in (A), within the same time limits de-

scribed therein. These costs may include either cash or in-kind contributions.

(e) RESERVATION OF FUNDS FOR NATIONAL ESTUARINE RESEARCH RESERVE SITES.—No less than 15 percent of funds made available under this section shall be available for acquisitions benefiting National Estuarine Research Reserves.

(f) LIMIT ON ADMINISTRATIVE COSTS.—No more than 5 percent of the funds made available to the Secretary under this section shall be used by the Secretary for planning or administration of the program. The Secretary shall provide a report to Congress with an account of all expenditures under this section for fiscal year 2008 and triennially thereafter.

(g) TITLE AND MANAGEMENT OF ACQUIRED PROPERTY.—If any property is acquired in whole or in part with funds made available through a grant under this section, the grant recipient shall provide such assurances as the Secretary may require that—

(1) the title to the property will be held by the grant recipient or another appropriate public agency designated by the recipient in perpetuity;

(2) the property will be managed in a manner that is consistent with the purposes for which the

land entered into the program and shall not convert such property to other uses; and

(3) if the property or interest in land is sold, exchanged, or divested, funds equal to the correct value will be returned to the Secretary in accordance with applicable Federal law for re-distribution in the grant process.

(h) DEFINITIONS.—In this section:

(1) COASTAL STATE.—The term ''coastal State'' has the meaning given that term by section 304(4) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(4)).

(2) CONSERVATION EASEMENT.—The term ''conservation easement'' includes an easement or restriction, recorded deed, or a reserve interest deed where the grantee acquires all rights, title, and interest in a property, that do not conflict with the goals of this Act except those rights, title, and interests that may run with the land that are expressly reserved by a grantor and are agreed to at the time of purchase.

(3) INTEREST IN PROPERTY.—The term ''interest in property'' includes a conservation easement.

(4) OTHER TERMS.—Any term used in this section that is defined in section 304 of the Coastal

1 Zone Management Act of 1972 (16 U.S.C. 1453)
2 has the meaning given that term in that section.
3 (i) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Secretary such
5 sums as may be necessary to carry out this Act for fiscal
6 years 2008 through 2012.

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