Calendar No. 58

104TH CONGRESS, *1st Session* | SENATE | REPORT 104–35

STERLING FOREST PROTECTION ACT OF 1995

APRIL 7 (legislative day, APRIL 5), 1995.—Ordered to be printed

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

R E P O R T

together with

MINORITY VIEWS

[To accompany S. 223]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 223) to authorize the Secretary of the Interior to provide funds to the Palisades Interstate Park Commission for acquisition of land in the Sterling Forest area of the New York/New Jersey Highlands Region, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE MEASURE

The purpose of S. 223, as ordered reported is to authorize the Secretary of the Interior to provide funding to the Palisades Interstate Park Commission in order to facilitate the acquisition of the Sterling Forest in New York.

BACKGROUND AND NEED

The Sterling Forest is a 30-square mile expanse of undeveloped property in Orange County, New York, in the New Jersey/New York Highlands region. At 17,500 acres, Sterling Forest is the largest remaining privately owned tract of undeveloped land within an hour's drive of New York City. Due to its proximity to metropolitan areas, the Sterling Forest is visited each year by millions of people for its outdoor recreational opportunities. A segment of the Appa-

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lachian Trail winds its way along the northern edge of the forest. The forest is also important for its wildlife and watershed values.

In 1990, the Sterling Forest Corporation (the "Corporation"), a subsidiary of a Swedish consortium which owns the Sterling Forest property, circulated a development proposal to hereby communities. The proposal set a development policy for the forest, with a goal that by 1995, construction on over 14,000 residences begin. This proposal would create jobs for over 20,000 people, and would also dedicate 75 percent of the forest to open space.

The New York portion of the Sterling Forest is considered to be a critical component of the Northern New Jersey watershed. The Wanaque and Monksville Reservoirs receive water from the forest, providing potable water to 25 percent of New Jersey residents, or over two million people. When the North Jersey Water Supply Commission (the "Commission") learned of the development proposal, it voiced immediate concern to the Corporation that development in this area would threaten the watershed with an increase in effluent and non-point source pollution. Engineers for the Commission maintained that such development would cost New Jersey hundreds of millions of dollars in water purification expenses.

Approximately 2,400 acres of Sterling Forest, located in Passaic and Bergen Counties, New Jersey, is managed by the Palisades Interstate Park Commission (the "PIPC"), an entity that was founded in 1900 and federally-recognized in 1937. The PIPC currently owns and manages twenty-three parks and historic sites in New York and New Jersey. S. 223 would authorize the Secretary of the Interior to provide $17.5 million to the PIPC to purchase part of the Sterling Forest, thus preserving the watershed. The states of New York and New Jersey are expected to provide additional funds to make this acquisition possible. The PIPC would manage the acquired land as part of 80,000 acres currently under its supervision.

LEGISLATIVE HISTORY

S. 223 was introduced by Senators Bradley and Lautenburg on January 12, 1995. Similar legislation was introduced in the House on January 4. In the 103d Congress, an identical measure, S. 1683, was favorably reported by the Committee, although no further action was taken.

At the business meeting on March 15, 1995, the Committee on Energy and Natural Resources ordered S. 223 favorably reported, without amendment.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on March 15, 1995, by a majority vote of a quorum present, recommends that the Senate pass S. 223 without amendment.

The roll call vote on reporting the measure was 13 yeas, 3 nays, as follows:

YEAS	NAYS
Mr. Murkowski	Mr. Thomas
Mr. Hatfield [1]	Mr. Grams

Mr. Domenici
Mr. Craig
Mr. Campbell
Mr. Jeffords
Mr. Johnston
Mr. Bumpers
Mr. Ford
Mr. Bradley [1]
Mr. Bingaman*
Mr. Akaka
Mr. Wellstone
Mr. Burns

[1] Indicates voted by proxy.

SECTION-BY-SECTION ANALYSIS

Section 1 entitles the bill the "Sterling Forest Protection Act of 1995."

Section 2 sets forth Congressional findings regarding the Sterling Forest area.

Section 3 states the four purposes of the Act are 1) to establish the Sterling Forest Reserve to protect significant watershed, wildlife and recreational resources within the New York-New Jersey highlands region; 2) to authorize Federal funding through the Department of the Interior for a portion of land acquisition costs: 3) to direct the Palisades Interstate Park Commission to convey lands and interests in lands acquired within the Reserve to the Secretary of the Interior, and; 4) to provide for the management of the Sterling Forest Reserve by the Palisades Interstate Park Commission.

Section 4 defines certain terms used in the Act.

Section 5(a) states that upon certification by the Palisades Interstate Park Commission (the "Commission") to the Secretary of the Interior (the "Secretary") that the Commission has acquired sufficient lands or interests therein to constitute a manageable unit, the Sterling Forest Reserve (the "Reserve") shall be established.

Subsection (b) states that the Reserve shall consist of lands depicted on a map described in the subsection, and such map will be available in the offices of the Commission and the National Park Service.

Subsection (c) states that, subject to conditions set forth in subsection (d) the Secretary shall transfer appropriated funds to the Commission for the acquisition of lands and interests therein within the Reserve.

Subsection (d)(1) sets forth conditions of funding to which the Commission must agree prior to the receipt of any Federal funds authorized by this Act. Should the Commission fail to manage the lands in the Reserve in a manner consistent with this Act, the Commission will convey fee title to such lands to the United States. The subsection further requires the consent of the owner of lands or interests therein prior to their acquisition with Federal funds made available pursuant to this Act. In addition, if the Commission is unable to acquire all of the lands within the Reserve, it is directed to acquire all or a portion of the lands refereed to in section 5(b) before proceeding with the acquisition of any other lands within the Reserve. Finally, the subsection requires the Commission to convey conservation easements for specific lands identified on the

map referred to in section 5(b) to the United States within 30 days after the acquisition of such lands.

Subsection (d)(2) states that funds may be transferred to the Commission only to the extent that they are matched from funds contributed by non-Federal sources.

Section 6 states that the Commission shall manage the lands within the Reserve in a manner consistent with the Commission's authorities and with the purposes of this Act. The section further requires the Commission to prepare a general management plan for the Reserve within 3 years after the date of enactment of this Act, which shall be submitted to the Secretary for approval.

Section 7 authorizes to be appropriated such sums as may be necessary to carry out this Act, except that not more than $17,500,000 may be appropriated to the Secretary for transfer to the Commission for the purpose of the acquisition of lands and interests therein within the Reserve.

COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 17, 1995.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 223, the Sterling Forest Protection Act of 1995, as ordered reported by the Senate Committee on Energy and Natural Resources on March 15, 1995. Assuming appropriation of the necessary sums, CBO estimates that the federal government would spend $17.7 million over the next several years to implement this bill. S. 223 would not affect direct spending or receipts; therefore, pay-as-you-go scoring procedures would not apply.

S. 223 would establish the Sterling Forest Reserve in New York once the Palisades Interstate Park Commission has acquired a sufficient portion of the surrounding 17,500-acre area to manage the reserve effectively. The commission would administer the reserve and would have three years in which to submit a general management plan to the National Park Service (NPS). The bill would authorize the NPS to transfer funds to the commission for land acquisition, providing that the commission agrees to certain conditions involving management of the lands. Finally, section 7 of the bill would authorize the appropriation of up to $17.5 million for land acquisition, as well as whatever sums are necessary to carry out other provisions of the legislation.

Assuming that the entire amounts authorized for land acquisition would be appropriated as needed by the commission and that a like amount could be raised from nonfederal sources as required under section 5, CBO estimates that the NPS would transfer $17.5 million to the commission over the next several years. An additional $200,000 would be spent by the commission to prepare a

management plan over the 1996–1998 period, assuming appropriation and transfer of the necessary sums.

Enactment of this legislation would have no impact on the budgets of state or local governments.

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

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

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. 223. 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. 223, as ordered reported.

EXECUTIVE COMMUNICATIONS

On March 21, 1995, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 223. These reports had not been received at the time the report on S. 223 was filed. When these reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 223, as ordered reported.

MINORITY VIEWS OF SENATOR BURNS

The Sterling Forest legislation raises several serious questions which have not been resolved to our satisfaction. On its face, S. 223 raises the issue of federal takings in the most fundamental way. And because it simultaneously proposes the creation of a "federal reserve", encumbering the entire landholdings of a single, private landowner, while characterizing public acquisition under that legislation as requiring "the consent of the owner of the land or interest in land", it raises a serious question of intention.

With respect to takings, this proposal could depress the value of a privately owned property that is the acquisition "target", by encumbering it with the "federal reserve" designation prior to consummation of a public acquisition, and even prior to a determination of how much land within that "reserve" will be acquired. Furthermore, the "rolling acquisition" scenario envisioned under the legislation could interfere with the landowner's use of those lands not immediately acquired.

Creation of a "reserve" implies a continuing federal interest in all of the Sterling Forest property for an indeterminate amount of time. This could be perceived as restricting the owner's ability to use the remaining lands, even if the entire property were not acquired; could influence local land use authorities' decisions affecting development on those lands not acquired but in the "federal reserve"; and inevitably would be used by opponents of any proposed development of the non-acquired lands to try to block approvals or permits that the landowner would need.

We are also advised that the proposed legislation contains factually erroneous "findings" with respect to the "target" property, and the alleged impacts of proposed development of it on New Jersey's water supply.

While we will not detail these challenged findings, there is evidence in the record to dispute allegations as to the impact of proposed development on water supply, endangered species, water quality, open space and the Appalachian Trail. We do not believe the Committee has sufficient information to legislate these findings, much less report a bill with the implications addressed above.

Should this legislation in its current form be enacted, the owner, the Sterling Forest Corporation, has indicated that it could undermine the ongoing process of designing an environmentally responsible land use plan and pursuing the local land use approvals to implement that plan. It could create an unacceptable cloud on the owner's title to the land, that could interfere with, if not preclude, any meaningful negotiation by the owner for the sale of the property, including negotiations between the landowner and a public agency.

Finally, because the legislation appears not to provide an authorization sufficient to acquire all of the property in a single trans-

action, we have to question its real purpose. For these reasons, we will oppose it.

CONRAD BURNS.

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