

## Calendar No. 555

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### SAN FRANCISCO BAY RESTORATION ACT

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SEPTEMBER 2, 2010.—Ordered to be printed

Filed under authority of the order of the Senate of August 5, 2010

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Mrs. BOXER, from the Committee on Environment and Public Works, submitted the following

### R E P O R T

[To accompany S. 3539]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 3539) to amend the Federal Water Pollution Control Act to establish a grant program to assist in the restoration of the 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, like all other National Estuary Programs around the country, has developed a Comprehensive Conservation and Management Plan (CCMP) to guide restoration activities.

S. 3539 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. Over the last three years, the Environmental Protection Agency has received \$17 million in appropriations 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. 3539 will allow the EPA to budget for and build upon the existing grant program for Bay restoration. Significant federal investment is necessary to accomplish the objectives of the CCMP and restore this important estuary.

#### 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 authorizes such sums as are necessary for each of fiscal years 2011 through 2025 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 balanced 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 June 25, 2010. The bill was received, read twice, and referred to the Senate Committee on Environment and Public Works. A companion bill, H.R. 5061, was introduced in the House of Representatives on April 15, 2010, by Representative Jackie Speier (D-CA-12) with ten co-sponsors.

On June 30, 2010, the Full Committee met to discuss a number of bills including S. 3539. During this meeting, the Committee considered the bill and adopted an amendment in the nature of a substitute that made technical changes to the bill. S. 3539 was ordered to be reported favorably with an amendment in the nature of a substitute by voice vote.

### ROLLCALL VOTES

The Committee on Environment and Public Works met to consider S. 3539 on June 30, 2010. The bill was ordered to be reported favorably with an amendment in the nature of a substitute 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. 3539 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. 3539 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.”

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

AUGUST 3, 2010.

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. 3539, 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. 3539—San Francisco Bay Restoration Act*

Summary: S. 3539 would authorize a program for the Environmental Protection Agency (EPA) to provide grants to state, tribal, and nonprofit agencies for ecosystem restoration projects and habitat improvement in the San Francisco Estuary. Assuming appropriation of the necessary funds, CBO estimates that implementing S. 3539 would cost \$23 million over the 2011–2015 period.

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

S. 3539 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. 3539 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—					
	2011	2012	2013	2014	2015	2011–2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated 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. 3539 will be enacted near the beginning of fiscal year 2011 and that the necessary amounts will be appropriated in each year. Based on the level of recent EPA spending on San Francisco Bay restoration projects, CBO estimates that about \$5 million a year would be needed to provide grants authorized by this legislation. Estimated

outlays are based on historical spending patterns for similar programs.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: S. 3539 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. State and tribal governments could benefit from grants authorized by the bill.

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

##### TITLE I—RESEARCH AND RELATED PROGRAMS

\* \* \* \* \*

SEC. 101. (a) The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective it is hereby declared that, consistent with the provisions of this Act—

(1) \* \* \*

\* \* \* \* \*

#### SEC. 122. WET WEATHER WATERSHED PILOT PROJECTS.

(a) IN GENERAL.—\* \* \*

\* \* \* \* \*

(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.

**SEC. 123. SAN FRANCISCO BAY RESTORATION GRANT PROGRAM.**

**(a) GRANT PROGRAM.—**

*(1) IN GENERAL.—Pursuant to section 320, the Administrator may 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 comprehensive conservation and management plan for the San Francisco estuary.*

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

*(A) MAXIMUM AMOUNT OF GRANTS.—A grant 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 eligible activities that are to be carried out using funds from the grant.*

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

- (i) not less than 25 percent; and*
- (ii) provided from non-Federal sources.*

**(b) 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 2011 through 2020.*

*(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.*

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