

WOOD-PAWCATUCK WATERSHED PROTECTION ACT

JULY 17, 2012.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 3388]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3388) to amend the Wild and Scenic Rivers Act to designate a segment of the Beaver, Chipuxet, Queen, Wood, and Pawcatuck Rivers in the States of Connecticut and Rhode Island for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Wood-Pawcatuck Watershed Protection Act”.

SEC. 2. BEAVER, CHIPUXET, QUEEN, WOOD, AND PAWCATUCK RIVERS STUDY.

(a) DESIGNATION FOR STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end the following:

“() BEAVER, CHIPUXET, QUEEN, WOOD, AND PAWCATUCK RIVERS, RHODE ISLAND AND CONNECTICUT.—The approximately 10-mile segment of the Beaver River from its headwaters in Exeter, Rhode Island, to its confluence with the Pawcatuck River; the approximately 5-mile segment of the Chipuxet River from Hundred Acre Pond to its outlet into Worden Pond; the approximately 10-mile segment of the upper Queen River from its headwaters to the Usquepaugh Dam in South Kingstown, Rhode Island, and including all its tributaries; the approximately 5-mile segment of the lower Queen (Usquepaugh) River from the Usquepaugh Dam to its confluence with the Pawcatuck River; the approximately 11-mile segment of the upper Wood River from its headwaters to Skunk Hill Road in Richmond and Hopkinton, Rhode Island, and including all its tributaries; the approximately 10-mile segment of the lower Wood River from Skunk Hill Road to its confluence with the Pawcatuck River; the approximately 28-mile segment of the Pawcatuck River from Worden Pond to Nooseneck Hill Road (RI Rte 3) in Hopkinton and Westerly, Rhode Island; and the approxi-

mately 7-mile segment of the lower Pawcatuck River from Nooseneck Hill Road to Pawcatuck Rock, Stonington, Connecticut, and Westerly, Rhode Island.”

(b) STUDY AND REPORT.—Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)) is amended by adding at the end the following:

“() BEAVER, CHIPUXET, QUEEN, WOOD, AND PAWCATUCK RIVERS, RHODE ISLAND AND CONNECTICUT.—Not later than 3 years after the date on which funds are made available to carry out this paragraph, the Secretary of the Interior shall—

“(A) complete the study of the Beaver, Chipuxet, Queen, Wood, and Pawcatuck Rivers, Rhode Island and Connecticut, described in subsection (a)();

“(B) submit a report describing the results of that study to the appropriate committees of Congress;

“(C) include in the report under subparagraph (B) the effect of the designation under this Act on—

“(i) existing commercial and recreational activities, such as hunting, fishing, trapping, recreational shooting, motor boat use, or bridge construction;

“(ii) the authorization, construction, operation, maintenance, or improvement of energy production and transmission infrastructure; and

“(iii) the authority of State and local governments to manage those activities encompassed in clauses (i) and (ii); and

“(D) identify—

“(i) all authorities that will authorize or require the Secretary to influence local land use decisions (such as zoning) or place restrictions on non-Federal land if the area studied is designated under this Act;

“(ii) all authorities that the Secretary may use to condemn property if the area studied is designated under this Act; and

“(iii) all private property located in the area studied under this provision.”

PURPOSE OF THE BILL

The purpose of H.R. 3388, as ordered reported, is to amend the Wild and Scenic Rivers Act to designate a segment of the Beaver, Chipuxet, Queen, Wood, and Pawcatuck Rivers in the States of Connecticut and Rhode Island for study for potential addition to the National Wild and Scenic Rivers System.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3388 authorizes the National Park Service (NPS) to study 86 miles of the Beaver, Chipuxet, Queen, Wood, and Pawcatuck Rivers in the States of Connecticut and Rhode Island for potential addition to the National Wild and Scenic Rivers System.

The Wild and Scenic Rivers Act of 1968 was intended to put a development freeze on rivers to preserve their “free-flowing” values against the influx of man-made dams being constructed at the time. Typically, rivers that may be included in the Wild and Scenic Rivers program operated by NPS are first studied for their suitability. The river is evaluated on its “free-flowing” condition and classified as wild, scenic or recreational, depending on the amount of development on and near the river. According to testimony offered in Subcommittee, the low-water volume and low gradient make any type of hydropower projects economically unfeasible on the river segments proposed for study.

During Full Committee consideration of the bill, the committee adopted an amendment offered by Congressman Rob Bishop (R-UT) to add several requirements to the study that will be undertaken by NPS. NPS will be required to consider the effect of designation on commercial and recreational uses, such as hunting, fishing and boating. Also, the study must look at the impact on

construction and maintenance of energy production and transmission. Finally, the amendment requires that the study identify private property within the study area and all authorities that could be utilized to condemn land.

Concerns have been raised that the Wild and Scenic Rivers Act contains several authorities allowing the condemnation of private property. As Wild and Scenic Rivers are purported to be locally driven projects, the Committee sees no reason why property owners should be left in the dark regarding the inclusion of their property in a federal designation. For the study process to be authentically derived from the community, the facts and limitations on property rights that may result from a designation must be revealed.

Finally, the study will identify those authorities that compel NPS to involve itself in local zoning. While federal designation of these rivers may be appealing to some, the affected communities should be aware that the Wild and Scenic Rivers Act requires local zoning to conform to the dictates of the Act. Representatives of the federal government would have a role in the development of local zoning ordinances. It should be noted that the study not only includes the Beaver, Chipuxet, Queen, Wood, and Pawcatuck Rivers, but tributaries to these rivers as well. The size and scope of the resulting designation could be well beyond what is currently anticipated in the impacted towns.

COMMITTEE ACTION

H.R. 3388 was introduced on November 4, 2011, by Congressman James Langevin (D-RI). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on National Parks, Forests and Public Lands. On April 17, 2012, the Subcommittee held a hearing on the bill. On June 7, 2012, the Full Resources Committee met to consider the bill. The Subcommittee on National Parks, Forests and Public Lands was discharged by unanimous consent. Congressman Rob Bishop (R-UT) offered amendment designated #1 to the bill; the amendment was adopted by unanimous consent. The bill, as amended, was then adopted and ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and

section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 3388—Wood-Pawcatuck Watershed Protection Act

H.R. 3388 would require the National Park Service (NPS) to study segments of the Beaver, Chipuxet, Queen, Wood, and Pawcatuck Rivers in Rhode Island and Connecticut for potential additions to the National Wild and Scenic Rivers System. Based on information provided by the NPS, CBO estimates that implementing the legislation would cost about \$400,000 over the next three years, assuming the availability of appropriated funds. Enacting H.R. 3388 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 3388 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Martin von Gnechten. The estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. Based on information provided by the NPS, CBO estimates that implementing the legislation would cost about \$400,000 over the next three years, assuming the availability of appropriated funds. Enacting H.R. 3388 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill, as ordered reported, is to amend the Wild and Scenic Rivers Act to designate a segment of the Beaver, Chipuxet, Queen, Wood, and Pawcatuck Rivers in the States of Connecticut and Rhode Island for study for potential addition to the National Wild and Scenic Rivers System.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill,

as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

WILD AND SCENIC RIVERS ACT

* * * * *

SEC. 5. (a) The following rivers are hereby designated for potential addition to the national wild and scenic rivers system:

(1) * * *

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() *BEAVER, CHIPUXET, QUEEN, WOOD, AND PAWCATUCK RIVERS, RHODE ISLAND AND CONNECTICUT.*—*The approximately 10-mile segment of the Beaver River from its headwaters in Exeter, Rhode Island, to its confluence with the Pawcatuck River; the approximately 5-mile segment of the Chipuxet River from Hundred Acre Pond to its outlet into Worden Pond; the approximately 10-mile segment of the upper Queen River from its headwaters to the Usquepaugh Dam in South Kingstown, Rhode Island, and including all its tributaries; the approximately 5-mile segment of the lower Queen (Usquepaugh) River from the Usquepaugh Dam to its confluence with the Pawcatuck River; the approximately 11-mile segment of the upper Wood River from its headwaters to Skunk Hill Road in Richmond and Hopkinton, Rhode Island, and including all its tributaries; the approximately 10-mile segment of the lower Wood River from Skunk Hill Road to its confluence with the Pawcatuck River; the approximately 28-mile segment of the Pawcatuck River from Worden Pond to Nooseneck Hill Road (RI Rte 3) in Hopkinton and Westerly, Rhode Island; and the approximately 7-mile segment of the lower Pawcatuck River from Nooseneck Hill Road to Pawcatuck Rock, Stonington, Connecticut, and Westerly, Rhode Island.*

(b)(1) * * *

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() *BEAVER, CHIPUXET, QUEEN, WOOD, AND PAWCATUCK RIVERS, RHODE ISLAND AND CONNECTICUT.*—*Not later than 3 years after the date on which funds are made available to carry out this paragraph, the Secretary of the Interior shall—*

(A) *complete the study of the Beaver, Chipuxet, Queen, Wood, and Pawcatuck Rivers, Rhode Island and Connecticut, described in subsection (a)();*

(B) *submit a report describing the results of that study to the appropriate committees of Congress;*

(C) *include in the report under subparagraph (B) the effect of the designation under this Act on—*

(i) *existing commercial and recreational activities, such as hunting, fishing, trapping, recreational shooting, motor boat use, or bridge construction;*

(ii) *the authorization, construction, operation, maintenance, or improvement of energy production and transmission infrastructure; and*

(iii) *the authority of State and local governments to manage those activities encompassed in clauses (i) and (ii); and*

(D) identify—

(i) all authorities that will authorize or require the Secretary to influence local land use decisions (such as zoning) or place restrictions on non-Federal land if the area studied is designated under this Act;

(ii) all authorities that the Secretary may use to condemn property if the area studied is designated under this Act; and

(iii) all private property located in the area studied under this provision.

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