

112TH CONGRESS
1ST SESSION

H. R. 3648

To amend the Water Resources Development Act of 1986 to ensure that annual expenditures from the Harbor Maintenance Trust Fund to pay for operation and maintenance costs are allocated equitably among eligible harbor projects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 13, 2011

Mr. BISHOP of New York (for himself and Mr. LANDRY) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend the Water Resources Development Act of 1986 to ensure that annual expenditures from the Harbor Maintenance Trust Fund to pay for operation and maintenance costs are allocated equitably among eligible harbor projects, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Harbor Fairness Act
5 of 2011”.

1 **SEC. 2. ASSESSMENT OF DREDGING NEEDS.**

2 Section 210 of the Water Resources Development Act
3 of 1986 (33 U.S.C. 2238) is amended by adding at the
4 end the following:

5 “(c) ASSESSMENT OF OPERATION AND MAINTENANCE NEEDS.—

7 “(1) IN GENERAL.—Not later than 90 days
8 after the date of enactment of this subsection, and
9 biennially thereafter, the Secretary shall assess the
10 total operation and maintenance needs of the har-
11 bors referred to in subsection (a)(2), including har-
12 bors used—

13 “(A) for commercial navigation;

14 “(B) for commercial fishing;

15 “(C) for subsistence, including harbors uti-
16 lized by Indian tribes (as defined in section 4
17 of the Indian Self-Determination and Education
18 Assistance Act (25 U.S.C. 450b)) for subsist-
19 ence and ceremonial purposes;

20 “(D) as harbors of refuge;

21 “(E) for transportation of persons;

22 “(F) in relation to domestic energy produc-
23 tion, including harbors related to the fabrica-
24 tion, servicing, or supply of domestic offshore
25 energy production facilities;

1 “(G) by the Secretary of the department in
2 which the Coast Guard is operating;

3 “(H) for recreation purposes; and

4 “(I) for any other authorized purpose.

5 “(2) REPORT TO CONGRESS.—In conjunction
6 with the transmittal by the President of the budget
7 of the United States for fiscal year 2013, and bien-
8 nially thereafter, the Secretary shall submit to the
9 Committee on Transportation and Infrastructure of
10 the House of Representatives and the Committee on
11 Environment and Public Works of the Senate a re-
12 port that, with respect to commercial navigation
13 projects for the harbors referred to in subsection
14 (a)(2)—

15 “(A) identifies the operation and mainte-
16 nance costs associated with the projects, includ-
17 ing those costs required to achieve and main-
18 tain the authorized length, width, and depth for
19 the projects, on a project-by-project basis;

20 “(B) identifies the amount of funding re-
21 quested in the President’s budget for the oper-
22 ation and maintenance costs associated with the
23 projects, on a project-by-project basis;

1 “(C) identifies the unmet operation and
2 maintenance needs associated with the projects,
3 on a project-by-project basis; and

4 “(D) identifies the harbors for which the
5 President will allocate funding over next 5 fiscal
6 years for operation and maintenance activities,
7 on a project-by-project basis, including the
8 amounts to be allocated for such purposes.”.

9 **SEC. 3. ALLOCATION AND EXPENDITURES FOR LOCAL HAR-**
10 **BOR PROJECTS.**

11 Section 210 of the Water Resources Development Act
12 of 1986 (33 U.S.C. 2238) is further amended by adding
13 at the end the following:

14 “(d) EXPENDITURES FOR OPERATION AND MAINTENANCE OF HARBOR PROJECTS.—

16 “(1) IN GENERAL.—To the maximum extent
17 practicable, the Secretary shall make expenditures to
18 pay for operation and maintenance costs of the har-
19 bors referred to in subsection (a)(2), including ex-
20 penditures of funds appropriated from the Harbor
21 Maintenance Trust Fund, based on an equitable al-
22 location of funds among all such harbors, regardless
23 of the size or tonnage throughput of the harbor.

1 “(2) CRITERIA.—In determining the equitable
2 allocation of funds under paragraph (1), the Sec-
3 retary—

4 “(A) shall utilize the information obtained
5 in the assessment conducted under subsection
6 (c);

7 “(B) shall consider the national and re-
8 gional significance of harbor operation and
9 maintenance; and

10 “(C) shall not make such allocation based
11 solely on the tonnage transiting through a har-
12 bor.

13 “(3) MINIMUM ALLOCATION FOR MODERATE
14 AND LOW USE WATERWAYS.—Notwithstanding the
15 requirements of paragraph (1), in making expendi-
16 tures described in paragraph (1) for each of fiscal
17 years 2013 and 2014, the Secretary shall allocate
18 not less than 40 percent of the total amount of the
19 expenditures to pay for operation and maintenance
20 costs of moderate and low use harbors, as identified
21 by the Secretary.

22 “(4) EMERGENCY EXPENDITURES.—Nothing in
23 this subsection shall prohibit the Secretary from
24 making an expenditure to pay for the operation and
25 maintenance costs of a specific harbor, including the

1 transfer of funding from the operation and mainte-
2 nance of a separate project, if—

3 “(A) the Secretary determines that such
4 action is necessary to address the navigation
5 needs of a harbor where safe navigation has
6 been severely restricted due to an unforeseen
7 event; and

8 “(B) the Secretary provides advance notice
9 and information on the need for such a deter-
10 mination to the Committee on Transportation
11 and Infrastructure and the Committee on Ap-
12 propriations of the House of Representatives
13 and the Committee on Environment and Public
14 Works and the Committee on Appropriations of
15 the Senate.”.

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