

112TH CONGRESS
1ST SESSION

S. 127

To establish the Buffalo Bayou National Heritage Area in the State of Texas, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 25 (legislative day, JANUARY 5), 2011

Mrs. HUTCHISON introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To establish the Buffalo Bayou National Heritage Area in the State of Texas, 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 “Buffalo Bayou Na-
5 tional Heritage Area Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **HERITAGE AREA.**—The term “Heritage
9 Area” means the Buffalo Bayou National Heritage
10 Area, established in this Act.

1 (2) MANAGEMENT ENTITY.—The term “man-
2 agement entity” means the management entity for
3 the Heritage Area designated by this Act.

4 (3) MANAGEMENT PLAN.—The term “manage-
5 ment plan” means the management plan for the
6 Heritage Area required under this Act.

7 (4) MAP.—The term “map” means the map en-
8 titled “Buffalo Bayou National Heritage Area Pro-
9 posed Boundary”, numbered T11/101,592, and
10 dated March 2010.

11 (5) SECRETARY.—The term “Secretary” means
12 the Secretary of the Interior.

13 (6) STATE.—The term “State” means the State
14 of Texas.

15 **SEC. 3. BUFFALO BAYOU NATIONAL HERITAGE AREA.**

16 (a) ESTABLISHMENT.—There is established in the
17 State the Buffalo Bayou National Heritage Area.

18 (b) BOUNDARIES.—The Heritage Area shall consist
19 of areas included in the map in Harris County, Texas.

20 (c) MAP.—A map of the Heritage Area shall be—

21 (1) included in the management plan; and

22 (2) on file and available for public inspection in
23 the appropriate offices of the National Park Service.

1 (d) MANAGEMENT ENTITY.—The management entity
2 for the Heritage Area shall be the Buffalo Bayou National
3 Heritage Area Corporation.

4 **SEC. 4. ADMINISTRATION.**

5 (a) AUTHORITIES.—For purposes of carrying out the
6 management plan, the Secretary, acting through the man-
7 agement entity, may use amounts made available under
8 this Act to—

9 (1) make grants to the State or a political sub-
10 division of the State, nonprofit organizations, and
11 other persons;

12 (2) enter into cooperative agreements with, or
13 provide technical assistance to, the State or a polit-
14 ical subdivision of the State, nonprofit organizations,
15 and other interested parties;

16 (3) hire and compensate staff, which shall in-
17 clude individuals with expertise in natural, cultural,
18 and historical resources protection, and heritage pro-
19 gramming;

20 (4) obtain money or services from any source
21 including any that are provided under any other
22 Federal law or program;

23 (5) contract for goods or services; and

1 (6) undertake to be a catalyst for any other ac-
2 tivity that furthers the Heritage Area and is con-
3 sistent with the approved management plan.

4 (b) DUTIES.—The management entity shall—

5 (1) in accordance with section 5, prepare and
6 submit a management plan for the Heritage Area to
7 the Secretary;

8 (2) assist units of local government, regional
9 planning organizations, and nonprofit organizations
10 in carrying out the approved management plan by—

11 (A) carrying out programs and projects
12 that recognize, protect, and enhance important
13 resource values in the Heritage Area;

14 (B) establishing and maintaining interpre-
15 tive exhibits and programs in the Heritage
16 Area;

17 (C) developing recreational and educational
18 opportunities in the Heritage Area;

19 (D) increasing public awareness of, and
20 appreciation for, natural, historical, scenic, and
21 cultural resources of the Heritage Area;

22 (E) protecting and restoring historic sites
23 and buildings in the Heritage Area that are
24 consistent with Heritage Area themes;

1 (F) ensuring that clear, consistent, and ap-
2 propriate signs identifying points of public ac-
3 cess, and sites of interest are posted throughout
4 the Heritage Area; and

5 (G) promoting a wide range of partner-
6 ships among governments, organizations, and
7 individuals to further the Heritage Area;

8 (3) consider the interests of diverse units of
9 government, businesses, organizations, and individ-
10 uals in the Heritage Area in the preparation and im-
11 plementation of the management plan;

12 (4) conduct meetings open to the public at least
13 semiannually regarding the development and imple-
14 mentation of the management plan;

15 (5) for any year that Federal funds have been
16 received under this Act—

17 (A) submit an annual report to the Sec-
18 retary that describes the activities, expenses,
19 and income of the management entity (includ-
20 ing grants to any other entities during the year
21 that the report is made);

22 (B) make available to the Secretary for
23 audit all records relating to the expenditure of
24 the funds and any matching funds; and

1 (C) require, with respect to all agreements
2 authorizing expenditure of Federal funds by
3 other organizations, that the organizations re-
4 ceiving the funds make available to the Sec-
5 retary for audit all records concerning the ex-
6 penditure of the funds; and

7 (6) encourage by appropriate means economic
8 viability that is consistent with the Heritage Area.

9 (c) PROHIBITION ON THE ACQUISITION OF REAL
10 PROPERTY.—The management entity shall not use Fed-
11 eral funds made available under this Act to acquire real
12 property or any interest in real property.

13 (d) COST-SHARING REQUIREMENT.—The Federal
14 share of the cost of any activity carried out using any as-
15 sistance made available under this Act shall be 50 percent.

16 **SEC. 5. MANAGEMENT PLAN.**

17 (a) IN GENERAL.—Not later than 3 years after the
18 date of enactment of this Act, the management entity shall
19 submit to the Secretary for approval a proposed manage-
20 ment plan for the Heritage Area.

21 (b) REQUIREMENTS.—The management plan shall—

22 (1) incorporate an integrated and cooperative
23 approach for the protection, enhancement, and inter-
24 pretation of the natural, cultural, historic, scenic,
25 and recreational resources of the Heritage Area;

1 (2) take into consideration State and local
2 plans;

3 (3) include—

4 (A) an inventory of—

5 (i) the resources located in the core
6 area described in section 4(b); and

7 (ii) any other property in the core
8 area that—

9 (I) is related to the themes of the
10 Heritage Area; and

11 (II) should be preserved, re-
12 stored, managed, or maintained be-
13 cause of the significance of the prop-
14 erty;

15 (B) comprehensive policies, strategies, and
16 recommendations for conservation, funding,
17 management, and development of the Heritage
18 Area;

19 (C) a description of actions that govern-
20 ments, private organizations, and individuals
21 have agreed to take to protect the natural, his-
22 torical, and cultural resources of the Heritage
23 Area;

24 (D) a program of implementation for the
25 management plan by the management entity

1 that includes a description of actions to facili-
2 tate ongoing collaboration among partners to—

3 (i) promote plans for resource protec-
4 tion, restoration, and construction; and

5 (ii) specific commitments for imple-
6 mentation that have been made by the
7 management entity or any government, or-
8 ganization, or individual for the first 5
9 years of operation;

10 (E) the identification of sources of funding
11 for carrying out the management plan;

12 (F) analysis and recommendations for
13 means by which local, State, and Federal pro-
14 grams, including the role of the National Park
15 Service in the Heritage Area, may best be co-
16 ordinated to carry out this Act; and

17 (G) an interpretive plan for the Heritage
18 Area; and

19 (4) recommend policies and strategies for re-
20 source management that consider and detail the ap-
21 plication of appropriate land and water management
22 techniques, including the development of intergov-
23 ernmental and interagency cooperative agreements
24 to protect the natural, historical, cultural, edu-

1 cational, scenic, and recreational resources of the
2 Heritage Area.

3 (c) DEADLINE.—If a proposed management plan is
4 not submitted to the Secretary by the date that is 3 years
5 after the date of enactment of this Act, the management
6 entity shall be ineligible to receive additional funding
7 under this Act until the date that the Secretary receives
8 and approves the management plan.

9 (d) APPROVAL OR DISAPPROVAL OF MANAGEMENT
10 PLAN.—

11 (1) IN GENERAL.—Not later than 180 days
12 after the date of receipt of the management plan
13 under subsection (a), the Secretary, in consultation
14 with the State, shall approve or disapprove the man-
15 agement plan.

16 (2) CRITERIA FOR APPROVAL.—In determining
17 whether to approve the management plan, the Sec-
18 retary shall consider whether—

19 (A) the management entity is representa-
20 tive of the diverse interests of the Heritage
21 Area, including governments, natural and his-
22 toric resource protection organizations, edu-
23 cational institutions, businesses, and rec-
24 reational organizations;

1 (B) the management entity has afforded
2 adequate opportunity, including public hearings,
3 for public and governmental involvement in the
4 preparation of the management plan; and

5 (C) the resource protection and interpreta-
6 tion strategies contained in the management
7 plan, if implemented, would adequately protect
8 the natural, historical, and cultural resources of
9 the Heritage Area.

10 (3) ACTION FOLLOWING DISAPPROVAL.—If the
11 Secretary disapproves the management plan under
12 paragraph (1), the Secretary shall—

13 (A) advise the management entity in writ-
14 ing of the reasons for the disapproval;

15 (B) make recommendations for revisions to
16 the management plan; and

17 (C) not later than 180 days after the re-
18 ceipt of any proposed revision of the manage-
19 ment plan from the management entity, ap-
20 prove or disapprove the proposed revision.

21 (4) AMENDMENTS.—

22 (A) IN GENERAL.—The Secretary shall ap-
23 prove or disapprove each amendment to the
24 management plan that the Secretary determines

1 makes a substantial change to the management
2 plan.

3 (B) USE OF FUNDS.—The management
4 entity shall not use Federal funds authorized by
5 this Act to carry out any amendments to the
6 management plan until the Secretary has ap-
7 proved the amendments.

8 **SEC. 6. RELATIONSHIP TO OTHER FEDERAL AGENCIES.**

9 (a) IN GENERAL.—Nothing in this Act affects the au-
10 thority of a Federal agency to provide technical or finan-
11 cial assistance under any other law.

12 (b) CONSULTATION AND COORDINATION.—The head
13 of any Federal agency planning to conduct activities that
14 may have an impact on the Heritage Area is encouraged
15 to consult and coordinate the activities with the Secretary
16 and the management entity to the maximum extent prac-
17 ticable.

18 (c) OTHER FEDERAL AGENCIES.—Nothing in this
19 Act—

20 (1) modifies, alters, or amends any law or regu-
21 lation authorizing a Federal agency to manage Fed-
22 eral land under the jurisdiction of the Federal agen-
23 cy;

1 (2) limits the discretion of a Federal land man-
2 anager to implement an approved land use plan within
3 the boundaries of the Heritage Area; or

4 (3) modifies, alters, or amends any authorized
5 use of Federal land under the jurisdiction of a Fed-
6 eral agency.

7 **SEC. 7. PRIVATE PROPERTY PROTECTION.**

8 Nothing in this Act—

9 (1) abridges the rights of any property owner
10 (whether public or private), including the right to re-
11 frain from participating in any plan, project, pro-
12 gram, or activity conducted within the Heritage
13 Area;

14 (2) requires any property owner to permit pub-
15 lic access (including access by Federal, State, or
16 local agencies) to the property of the property
17 owner, or to modify public access or use of property
18 of the property owner under any other Federal,
19 State, or local law;

20 (3) alters any duly adopted land use regulation,
21 approved land use plan, or other regulatory author-
22 ity of any Federal, State or local agency, or conveys
23 any land use or other regulatory authority to the
24 management entity;

1 (4) authorizes or implies the reservation or ap-
2 propriation of water or water rights;

3 (5) diminishes the authority of the State to
4 manage fish and wildlife, including the regulation of
5 fishing and hunting within the Heritage Area; or

6 (6) creates any liability, or affects any liability
7 under any other law, of any private property owner
8 with respect to any person injured on the private
9 property.

10 **SEC. 8. WATER RIGHTS.**

11 (a) STATEMENT OF POLICY.—Nothing in this Act is
12 meant to modify the Rio Grande Natural Area Act.

13 (b) APPLICABILITY.—Nothing in this Act—

14 (1) amends, modifies, or is in conflict with the
15 Act of May 31, 1939 (53 Stat. 785, chapter 155);

16 (2) authorizes the regulation of private land in
17 the Heritage Area;

18 (3) authorizes the imposition of any mandatory
19 streamflow requirements;

20 (4) creates an express or implied Federal re-
21 served water right;

22 (5) imposes any Federal water quality standard
23 within or upstream of the Heritage Area that is
24 more restrictive than would be applicable had the
25 Heritage Area not been established; or

1 (6) prevents the State of Texas from acquiring
2 an instream flow through the Heritage Area under
3 the terms, conditions, and limitations of State law to
4 assist in protecting the natural environment to the
5 extent and for the purposes authorized by State law.

6 **SEC. 9. EVALUATION REPORT.**

7 (a) IN GENERAL.—Not later than 3 years before the
8 date on which authority for Federal funding terminates
9 for the Heritage Area, the Secretary shall—

10 (1) conduct an evaluation of the accomplish-
11 ments of the Heritage Area; and

12 (2) prepare a report in accordance with sub-
13 section (c).

14 (b) EVALUATION.—An evaluation conducted under
15 subsection (a)(1) shall—

16 (1) assess the progress of the management enti-
17 ty with respect to—

18 (A) accomplishing the purposes of this Act
19 for the Heritage Area; and

20 (B) achieving the goals and objectives of
21 the approved management plan for the Heritage
22 Area;

23 (2) analyze the Federal, State, local, and pri-
24 vate investments in the Heritage Area to determine
25 the leverage and impact of the investments; and

1 (3) review the management structure, partner-
2 ship relationships, and funding of the Heritage Area
3 for purposes of identifying the critical components
4 for sustainability of the Heritage Area.

5 (c) REPORT.—

6 (1) IN GENERAL.—Based on the evaluation con-
7 ducted under subsection (a)(1), the Secretary shall
8 prepare a report that includes recommendations for
9 the future role of the National Park Service, if any,
10 with respect to the Heritage Area.

11 (2) REQUIRED ANALYSIS.—If the report pre-
12 pared under paragraph (1) recommends that Fed-
13 eral funding for the Heritage Area be reauthorized,
14 the report shall include an analysis of—

15 (A) ways in which Federal funding for the
16 Heritage Area may be reduced or eliminated;
17 and

18 (B) the appropriate time period necessary
19 to achieve the recommended reduction or elimi-
20 nation.

21 (3) SUBMISSION TO CONGRESS.—On completion
22 of the report, the Secretary shall submit the report
23 to—

24 (A) the Committee on Energy and Natural
25 Resources of the Senate; and

1 (B) the Committee on Natural Resources
2 of the House of Representatives.

3 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

4 There is authorized to be appropriated to carry out
5 this Act \$10,000,000, of which not more than \$1,000,000
6 may be made available for any fiscal year.

7 **SEC. 11. TERMINATION OF AUTHORITY.**

8 The authority of the Secretary to provide assistance
9 under this Act terminates on the date that is 15 years
10 after the date that funds are first made available to carry
11 out this Act.

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