

## COMMITTEE AMENDMENT

[STAFF WORKING DRAFT]

September 6, 2002

Purpose: To amend the Coastal Zone Management Act of 1972 to authorize the acquisition of coastal areas in order better to ensure their protection from conversion or development.

**IN THE COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION—107TH Cong., 2D Sess.**

**S. 2608**, 107TH Congress, 2D Session

SEPTEMBER —, 2002

INTENDED to be proposed by Mr. \_\_\_\_\_

Viz: Strike out all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Coastal and Estuarine  
3 Land Protection Act”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) Coastal and estuarine areas provide impor-  
7 tant nursery habitat for two-thirds of the nation’s  
8 commercial fish and shellfish, provide nesting and  
9 foraging habitat for coastal birds, harbor significant  
10 natural plant communities, and serve to facilitate  
11 coastal flood control and pollutant filtration.

1           (2) The Coastal Zone Management Act of 1972  
2           (16 U.S.C. 1451 et seq.) recognizes the national im-  
3           portance of these areas and their ecological vulner-  
4           ability to anthropogenic activities by establishing a  
5           comprehensive Federal-State partnership for pro-  
6           tecting natural reserves and managing growth in  
7           these areas.

8           (3) The National Estuarine Research Reserve  
9           system established under that Act relies on the pro-  
10          tection of pristine designated areas for long-term  
11          protection and for the conduct of education and re-  
12          search critical to the protection and conservation of  
13          coastal and estuarine resources.

14          (4) Intense development pressures within the  
15          coastal zone are driving the need to provide coastal  
16          managers with a wider range of tools to protect and  
17          conserve important coastal and estuarine areas.

18          (5) Protection of undeveloped coastal lands  
19          through the acquisition of interests in property from  
20          a willing seller are a cost-effective means of pro-  
21          viding these areas with permanent protection from  
22          development.

23          (6) Permanent protection of lands in the coast-  
24          al zone is a necessary component of any program to  
25          maintain and enhance coastal and estuarine areas

1 for the benefit of the Nation, including protection of  
2 water quality, access to public beachfront, con-  
3 serving wildlife habitat, and sustaining sport and  
4 commercial fisheries.

5 (7) Federal-State-nongovernmental organization  
6 pilot land acquisition projects have already substan-  
7 tially contributed to the long-term health and viabil-  
8 ity of coastal and estuarine systems.

9 (8) Enhanced protection of estuarine and coast-  
10 al areas can be attained through watershed-based  
11 acquisition strategies coordinated through federal,  
12 state, regional, and local efforts.

13 **SEC. 3. ESTABLISHMENT OF PROGRAM.**

14 The Coastal Zone Management Act of 1972 (16  
15 U.S.C. 1451 et seq.) is amended by inserting after section  
16 306A (16 U.S.C. 1455a) the following:

17 **“SEC. 306B. COASTAL AND ESTUARINE LAND PROTECTION**  
18 **PROGRAM.**

19 “(a) IN GENERAL.—The Secretary shall establish a  
20 Coastal and Estuarine Land Protection Program, in co-  
21 operation with appropriate State, regional, and other units  
22 of government for the purposes of protecting the environ-  
23 mental integrity of important coastal and estuarine areas,  
24 including wetlands and forests, that have significant con-  
25 servation, recreation, ecological, historical, or aesthetic

1 values, and that are threatened by conversion from their  
2 natural, undeveloped, or recreational state to other uses.  
3 The program shall be administered by the National Ocean  
4 Service of the National Oceanic and Atmospheric Adminis-  
5 tration through the Office of Ocean and Coastal Resource  
6 Management.

7 “(b) PROPERTY ACQUISITION GRANTS.—The Sec-  
8 retary shall make grants under the program to coastal  
9 states with approved coastal zone management plans or  
10 National Estuarine Research Reserve units for the pur-  
11 pose of acquiring property or interests in property de-  
12 scribed in subsection (a) that will further the goals of—

13 “(1) a Coastal Zone Management Plan or Pro-  
14 gram approved under this title; or

15 “(2) a National Estuarine Research Reserve  
16 management plan; or

17 “(3) a regional or state watershed protection  
18 plan involving coastal states with approved coastal  
19 zone management plans.

20 “(c) GRANT PROCESS.—The Secretary shall allocate  
21 funds to coastal states or National Estuarine Research  
22 Reserves under this section through a competitive grant  
23 process in accordance with guidelines that meet the fol-  
24 lowing requirements:

1           “(1) The Secretary shall consult with the  
2           State’s coastal zone management program, any Na-  
3           tional Estuarine Research Reserve in that State, and  
4           the lead agency designated by the Governor for co-  
5           ordinating the establishment and implementation of  
6           the Coastal and Estuarine Land Protection Act (if  
7           different from the coastal zone management pro-  
8           gram).

9           “(2) Each participating State shall identify pri-  
10          ority conservation needs within the State, the values  
11          to be protected by inclusion of lands of the program,  
12          and the threats to those values that should be avoid-  
13          ed.

14          “(3) Each participating State shall evaluate  
15          how the acquisition of property or easements might  
16          impact working waterfront needs.

17          “(4) The applicant shall identify the values to  
18          be protected by inclusion of the lands in the pro-  
19          gram, management activities that are planned and  
20          the manner in which they may affect the values  
21          identified, and any other information from the land-  
22          owner relevant to administration and management of  
23          the land.

24          “(5) Awards shall be based on demonstrated  
25          need for protection and ability to successfully lever-

1       age funds among participating entities, including  
2       federal programs, regional organizations, State and  
3       other governmental units, landowners, corporations,  
4       or private organizations.

5               “(6) Applications must be determined to be  
6       consistent with the State’s or territory’s approved  
7       coastal zone plan, program and policies prior to sub-  
8       mittal to the Secretary.

9               “(7) Priority shall be given to lands described  
10      in subsection (a) that can be effectively managed  
11      and protected and that have significant ecological or  
12      watershed protection value.

13              “(8) In developing guidelines under this section,  
14      the Secretary shall consult with other Federal agen-  
15      cies and non-governmental entities expert in land ac-  
16      quisition and conservation procedures.

17              “(9) Eligible States or National Estaurine Re-  
18      search Reserves may allocate grants to local govern-  
19      ments or agencies eligible for assistance under sec-  
20      tion 306A(e) and may acquire lands in cooperation  
21      with nongovernmental entities and federal agencies.

22              “(10) The Secretary shall develop performance  
23      measures that will allow periodic evaluation of the  
24      program’s effectiveness in meeting the purposes of

1       this section and such evaluation shall be reported to  
2       Congress.

3       “(d) MATCHING REQUIREMENTS.—

4             “(1) IN GENERAL.—The Secretary may not  
5       make a grant under the program unless the Federal  
6       funds are matched by non-Federal funds in accord-  
7       ance with this subsection.

8             “(2) MAXIMUM FEDERAL SHARE.—

9             “(A) 75 PERCENT FEDERAL FUNDS.—No  
10       more than 75 percent of the funding for any  
11       grant under this section shall be derived from  
12       Federal sources, unless such requirement is  
13       specifically waived by the Secretary.

14            “(B) WAIVER OF REQUIREMENT.—The  
15       Secretary may grant a waiver of the limitation  
16       in subparagraph (A) for underserved commu-  
17       nities, communities that have an inability to  
18       draw on other sources of funding because of the  
19       small population or low income of the commu-  
20       nity, or for other reasons the Secretary deems  
21       appropriate.

22            “(3) OTHER FEDERAL FUNDS.—Where finan-  
23       cial assistance awarded under this section represents  
24       only a portion of the total cost of a project, funding  
25       from other Federal sources may be applied to the

1 cost of the project. Each portion shall be subject to  
2 match requirements under the applicable provision  
3 of law.

4 “(4) SOURCE OF MATCHING COST SHARE.—For  
5 purposes of paragraph (2)(A), the non-Federal cost  
6 share for a project may be determined by taking  
7 onto account the following:

8 “(A) Land value may be used as non-Federal  
9 match if the lands are identified in project plans and  
10 acquired within three years prior to the submission  
11 of the project application or after the submission of  
12 a project application until the project grant is closed  
13 (not to exceed 3 years). The appraised value of the  
14 land at the time of project closing will be considered  
15 the non-Federal cost share.

16 “(B) Costs associated with land acquisition,  
17 land management planning, remediation, restoration,  
18 and enhancement may be used as non-Federal  
19 match if the activities are identified in the plan and  
20 expenses are incurred within the period of the grant  
21 award. These costs may include either case or in-  
22 kind contributions.

23 “(e) REGIONAL WATERSHED DEMONSTRATION  
24 PROJECT.—The Secretary may provide up to \$5,000,000

1 for a regional watershed protection demonstration project  
2 that will meet the requirements of this section and:

3 “(1) leverages land acquisition funding from  
4 other federal land conservation or acquisition pro-  
5 grams such that other Federal contributions, at a  
6 minimum, equal the amounts provided by the Sec-  
7 retary;

8 “(2) involves partnerships from a broad spec-  
9 trum of federal, State, and non-governmental enti-  
10 ties;

11 “(3) provides for the creation of conservation  
12 corridors and preservation of unique coastal habitat;

13 “(4) protects largely unfragmented habitat  
14 under imminent threat of development or conversion;

15 “(5) provides water quality protection for areas  
16 set aside for research under the National Estuarine  
17 Research Reserve program; and

18 “(6) provides a model for future regional water-  
19 shed protection projects.

20 “(f) RESERVATION OF FUNDS FOR NATIONAL ESTU-  
21 ARINE RESEARCH RESERVE SITES.—No less than 15 per-  
22 cent of funds made available under this section shall be  
23 available for acquisitions benefiting National Estuarine  
24 Research Reserve acquisitions.

1           “(g) LIMIT ON ADMINISTRATIVE COSTS.—No more  
2 than 5 percent of the funds made available to the Sec-  
3 retary under this section shall be used by the Secretary  
4 for planning or administration of the program. The Sec-  
5 retary shall provide a report to Congress with an account  
6 of all expenditures under this section for fiscal year 2003,  
7 fiscal year 2004, fiscal year 2005, and triennially there-  
8 after.

9           “(h) TITLE AND MANAGEMENT OF ACQUIRED PROP-  
10 ERTY.—

11           “(1) IN GENERAL.—If any property is acquired  
12 in whole or in part with funds made available  
13 through a grant under this section, the grant recipi-  
14 ent shall provide such assurances as the Secretary  
15 may require that—

16           “(A) the title to the property will be held  
17 by the grant recipient or other appropriate pub-  
18 lic agency designated by the recipient in per-  
19 petuity;

20           “(B) the property will be managed in a  
21 manner that is consistent with the purposes for  
22 which the land entered into the program and  
23 shall not convert such property to other uses;  
24 and

1           “(C) if the property or interest in land is  
2           sold, exchanged, or divested, funds equal to the  
3           correct value will be returned to the Secretary,  
4           for re-distribution in the grant process.

5           “(2) CONSERVATION EASEMENT.—In this sub-  
6           section, the term ‘conservation easement’ includes an  
7           easement, recorded deed, or interest deed where the  
8           grantee acquires all rights, title, and interest in a  
9           property, that do not conflict with the goals of this  
10          Act except those rights, title, and interests that may  
11          run with the land that are expressly reserved by a  
12          grantor and are agreed to at the time of purchase.

13          “(i) AUTHORIZATION OF APPROPRIATIONS.—There  
14          are authorized to be appropriated to the Secretary—

15                 “(1) \$60,000,000 for fiscal year 2003 and each  
16                 fiscal year thereafter to carry out this section (other  
17                 than subsection (e)); and

18                 “(2) \$5,000,000 for fiscal year 2003 to carry  
19                 out subsection (e), such sum to remain available  
20                 without fiscal year limitation.”.

21         **SEC. 4. ASSISTANCE FROM OTHER AGENCIES.**

22                 Section 310(a) of the Coastal Zone Management Act  
23                 of 1972 (16 U.S.C. 1456c(a)) is amended by striking “any  
24                 qualified person for the purposes of carrying out this sub-  
25                 section.” and inserting “any other Federal agencies (in-

1 cluding interagency financing of Coastal America activi-  
2 ties) and any other qualified person for the purposes of  
3 carrying out this section.”.

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