

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 4715) TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT TO REAUTHORIZE THE NATIONAL ESTUARY PROGRAM, AND FOR OTHER PURPOSES, WAIVING A REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM THE COMMITTEE ON RULES, AND PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

APRIL 14, 2010.—Referred to the House Calendar and ordered to be printed

Ms. PINGREE, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 1248]

The Committee on Rules, having had under consideration House Resolution 1248, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 4715, the “Clean Estuaries Act of 2010,” under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Transportation and Infrastructure.

The resolution waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI. The resolution provides that the bill shall be considered as read. The resolution waives all points of order against the bill. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).

The rule further makes in order only those amendments printed in this report. The amendments made in order may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question. All points of order against the amendments are waived except those arising under clause 9 or 10 of rule XXI. The resolution provides that for those amendments reported from the

Committee of the Whole, the question of their adoption shall be put to the House en gros and without demand for division of the question. The resolution provides one motion to recommit with or without instructions.

The resolution provides that the Chair may entertain a motion that the Committee rise only if offered by the chair of the Committee on Transportation and Infrastructure or a designee. The resolution provides that the Chair may not entertain a motion to strike out the enacting words of the bill. The resolution waives clause 6(a) of rule XIII (requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee) against a resolution reported through the legislative day of Friday, April 16, 2010, providing for consideration of a measure relating to the extension of unemployment insurance. Finally, the resolution provides that it shall be in order at any time through the legislative day of Friday, April 16, 2010, for the Speaker to entertain motions that the House suspend the rules relating to a measure addressing the extension of unemployment insurance.

EXPLANATION OF WAIVERS

Although the resolution waives all points of order against consideration of the bill (except those arising under clause 9 or 10 of rule XXI), the Committee is not aware of any points of order. The waiver is prophylactic. Although the resolution waives all points of order against the bill, the Committee is not aware of any points of order against the bill. The waiver of all points of order against the bill is prophylactic.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 405

Date: April 14, 2010.

Measure: H.R. 4715.

Motion by: Mr. Dreier.

Summary of motion: To report an open rule.

Results: Defeated 3–7.

Vote by Members: McGovern—Nay; Hastings (FL)—Nay; Matsui—Nay; Arcuri—Nay; Perlmutter—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart, L.—Yea; Foxx—Yea; Slaughter—Nay.

SUMMARY OF AMENDMENTS MADE IN ORDER

1. Oberstar (MN): Would (1) ensure that program evaluations assess whether the implementation of a comprehensive conservation and management plan is achieving its stated goals; (2) enhance public education on the connections between air, land, and water and the potential impacts on estuarine health; (3) strike the existing statutory priority list for estuaries to clarify that existing and proposed management conferences enter or remain in the program on a competitive basis, and (4) remove individuals from the list of approved recipients for grants under this program. (10 minutes)

2. Pingree (ME), Cuellar (TX): Would require the administrator to evaluate the effectiveness of the program; identify and disseminate best practices for positive outcomes; and identify and limit redundant rules, regulations and reporting requirements. (10 minutes)

3. Kagen (WI): Would require estuary programs to include in their comprehensive conservation and management plans a coordinated monitoring strategy between federal, state, and local entities. (10 minutes)

4. Schauer (MI): Would define “estuary” under the Clean Water Act to include Great Lakes waters and wetlands that are similar to traditional estuaries covered by the National Estuary Program. (10 minutes)

5. Moore, Gwen (WI): Would add trend monitoring of the introduction and establishment of nonnative species, including their pathways for introduction in estuarine zones to the list of research programs the Administrator can carry out. (10 minutes)

6. Shea-Porter (NH): Would ensure that comprehensive conservation and management plans address the impacts and potential effects of sea level change. (10 minutes)

7. Kratovil (MD): Would make explicit that collaborative processes should be used to develop the management plan. It would call for the equitable inclusion of all relevant estuary stakeholders; the use of neutral facilitators and processes to resolve conflicts; and the inclusion and use of up-to-date information, among other considerations. (10 minutes)

TEXT OF AMENDMENTS TO BE MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE OBERSTAR OF MINNESOTA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 4, strike lines 13 through 15 and insert the following:

“(E) increases public education and awareness with respect to—

“(i) the ecological health of the estuary;

“(ii) the water quality conditions of the estuary; and

“(iii) ocean, estuarine, land, and atmospheric connections and interactions;

Page 8, line 15, insert “the implementation of” before “the plan”.

Page 8, line 22, insert “the implementation of” before “a comprehensive”.

Page 10, line 25, insert “, including monitoring activities,” after “activities”.

Page 11, after line 18, insert the following:

(1) RECIPIENTS.—Section 320(h)(1) of such Act (as redesignated by subsection (d) of this section) is amended by striking “other public” and all that follows before the period at the end and inserting “and other public or nonprofit private agencies, institutions, and organizations”.

Page 11, line 19, strike “(1) IN GENERAL.—” and insert “(2) EFFECTS OF PROBATIONARY STATUS.—”.

Page 11, line 21, insert “further” before “amended”.

Page 12, line 17, strike “(2)” and insert “(3)”.

Page 15, after line 8, insert the following:

(i) CONVENING OF CONFERENCE.—Section 320(a)(2) of such Act (33 U.S.C. 1330(a)(2)) is amended—

- (1) by striking “(2) CONVENING OF CONFERENCE.—” and all that follows through “In any case” and inserting the following: “(2) CONVENING OF CONFERENCE.—In any case”; and
- (2) by striking subparagraph (B).

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE PINGREE OF MAINE, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 14, strike lines 17 through 23 and insert the following:

“(2) SPECIFIC ASSESSMENTS.—In conducting an evaluation under this subsection, the Administrator shall—

“(A) assess the effectiveness of the national estuary program in improving water quality, natural resources, and sustainable uses of the estuaries covered by management conferences convened under this section;

“(B) identify best practices for improving water quality, natural resources, and sustainable uses of the estuaries covered by management conferences convened under this section, including those practices funded through the use of technical assistance from the Environmental Protection Agency and other Federal agencies, and assess the reasons why such practices result in the achievement of program goals; and

“(C) identify any redundant requirements for reporting by recipients of a grant under this section, and develop and recommend a plan for limiting reporting redundancies.

Page 15, line 4, strike “TO PUBLIC”.

Page 15, line 6, insert “management conferences convened under this section and” before “the public”.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KAGEN OF WISCONSIN, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 4, line 19, strike “and” at the end.

Page 4, line 21, strike the first period through the final period and insert “; and”.

Page 4, after line 21, insert the following:

“(H) includes a coordinated monitoring strategy for Federal, State, and local governments and other entities.”.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SCHAUER OF MICHIGAN, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 15, after line 8, add the following:

(i) GREAT LAKES ESTUARIES.—Section 320(m) of such Act (as redesignated by subsection (d) of this section) is amended by striking the subsection designation and all that follows through “and those portions of tributaries” and inserting the following:

“(m) DEFINITIONS.—In this section, the terms ‘estuary’ and ‘estuarine zone’ have the meanings such terms have in section 104(n)(4), except that—

- “(1) the term ‘estuary’ also includes near coastal waters and other bodies of water within the Great Lakes that are similar

in form and function to the waters described in the definition of ‘estuary’ contained in section 104(n)(4); and

“(2) the term ‘estuarine zone’ also includes—

“(A) waters within the Great Lakes described in paragraph (1) and transitional areas from such waters that are similar in form and function to the transitional areas described in the definition of ‘estuarine zone’ contained in section 104(n)(4);

“(B) associated aquatic ecosystems; and

“(C) those portions of tributaries”.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MOORE OF WISCONSIN, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 14, strike lines 3 through 6 and insert the following:

(g) RESEARCH.—Section 320(k)(1)(A) of such Act (as redesignated by subsection (d) of this section) is amended—

(1) by striking “paramenters” and inserting “parameters”; and

(2) by inserting “(including monitoring of both pathways and ecosystems to track the introduction and establishment of non-native species)” before “, to provide the Administrator”.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SHEA-PORTER OF NEW HAMPSHIRE, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 4, line 10, strike “and” at the end.

Page 4, line 12, insert “and” after the semicolon.

Page 4, after line 12, insert the following:

“(iii) the impacts of changes in sea level on estuarine water quality, estuarine habitat, and infrastructure located in the estuary;

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KRATOVIL OF MARYLAND, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 6, strike line 3, and insert the following:

(b) MEMBERS OF CONFERENCE; COLLABORATIVE PROCESSES.—

(1) MEMBERS OF CONFERENCE.—Section 320(c)(5)

Page 6, after line 6, insert the following:

(2) COLLABORATIVE PROCESSES.—Section 320(d) of such Act (33 U.S.C. 1330(d)) is amended—

(A) by striking “(d)” and all that follows through “In developing” and inserting the following:

“(d) UTILIZATION OF EXISTING DATA AND COLLABORATIVE PROCESSES.—

“(1) UTILIZATION OF EXISTING DATA.—In developing”; and

(B) by adding at the end the following:

“(2) UTILIZATION OF COLLABORATIVE PROCESSES.—In updating a plan under subsection (f)(4) or developing a new plan under subsection (b), a management conference shall make use of collaborative processes to—

“(A) ensure equitable inclusion of affected interests;

- “(B) engage with members of the management conference, including through—
 - “(i) the use of consensus-based decision rules; and
 - “(ii) assistance from impartial facilitators, as appropriate;
- “(C) ensure relevant information, including scientific, technical, and cultural information, is accessible to members;
- “(D) promote accountability and transparency by ensuring members are informed in a timely manner of—
 - “(i) the purposes and objectives of the management conference; and
 - “(ii) the results of an evaluation conducted under subsection (f)(3);
- “(E) identify the roles and responsibilities of members—
 - “(i) in the management conference proceedings; and
 - “(ii) in the implementation of the plan; and
- “(F) seek resolution of conflicts or disputes as necessary.”.

