

S 407 IS

113th CONGRESS

1st Session

S. 407

To provide funding for construction and major rehabilitation for projects located on inland and intracoastal waterways of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

February 28, 2013

Mr. CASEY (for himself, Ms. LANDRIEU, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To provide funding for construction and major rehabilitation for projects located on inland and intracoastal waterways of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Reinvesting In Vital Economic Rivers and Waterways Act of 2013' or the `RIVER Act'.

SEC. 2. FINDINGS.

Congress finds that the inland waterways navigation system--

- (1) is an essential economic resource for the United States;
- (2) serves as the most efficient sustainable transportation mode for bulk commodities in the United States while maintaining environmental resources; and
- (3) as of the date of enactment of this Act, is underfunded and needs significant changes to remain viable in the future.

SEC. 3. PURPOSES.

The purpose of this Act is to establish a sustainable, cost-effective way to ensure that the inland and intracoastal waterways of the United States remain economically viable through--

- (1) the redesign of the program and project management process applicable to the construction and major rehabilitation of navigation projects on those waterways;
- (2) the continued development and improvement of inland waterways navigation systems;
- (3) enhanced efficiency of inland waterways navigation project completion schedules; and
- (4) inland waterways navigation capital investments to ensure that projects can be completed in a reasonable timeframe and to allow maximum systemwide benefits.

SEC. 4. DEFINITIONS.

In this Act:

- (1) INLAND AND INTRACOASTAL WATERWAYS- The term `inland and intracoastal waterways' means the inland and intracoastal waterways of the United States described in section 206 of the Inland Waterways Revenue Act of 1978 (33 U.S.C. 1804).
- (2) INLAND WATERWAY USERS BOARD- The term `Inland Waterway Users Board' means the Inland Waterway Users Board established by section 302 of the Water Resources Development Act of 1986 (33 U.S.C. 2251).
- (3) MAJOR REHABILITATION PROJECT- The term `major rehabilitation project' means a project for the restoration of a major project or major project feature of the inland and intracoastal waterways that has an estimated cost greater than \$50,000,000.
- (4) QUALIFYING PROJECT- The term `qualifying project' means any construction or major rehabilitation project for navigation infrastructure of the inland and intracoastal waterways that is--
 - (A) authorized before, on, or after the date of enactment of this Act;
 - (B) not completed as of the date of enactment of this Act; and

(C) funded at least in part from the Inland Waterways Trust Fund established by section 9506 of the Internal Revenue Code of 1986.

(5) SECRETARY- The term `Secretary' means the Secretary of the Army, acting through the Chief of Engineers.

SEC. 5. PROJECT DELIVERY PROCESS REFORMS.

(a) In General- The Secretary shall promulgate regulations that, at a minimum, shall require for each qualifying project--

(1) a cost estimation that is risk-based and has a confidence level of not less than 80 percent;

(2) an independent external peer review and submission to Congress (in the case of a feasibility report) or the Secretary (in the case of a rehabilitation evaluation report) for any qualifying project--

(A) that--

(i) has an estimated total project cost greater than \$45,000,000;

(ii) is subject to public safety concerns, as determined by the Secretary;

(iii) involves a high level of complexity or novel or precedent-setting approaches, as determined by the Secretary; or

(iv) is identified by the Secretary as a matter of significant interagency interest; or

(B) for which a review has been requested by the Governor of any State affected by the project;

(3) the appointment to a project development team for the qualifying project of a member of the Inland Waterways Users Board, as selected by a majority of the Inland Waterways Users Board;

(4) a quarterly update submitted to the Inland Waterways Users Board of the status of a qualifying project that is under construction;

(5) the inclusion of the Chairman of the Inland Waterways Users Board and the project development team appointee under paragraph (3) as signatories of the project management plan for a qualifying project;

(6) the establishment of a system to identify and apply on a continuing basis lessons learned from prior or ongoing projects so as to improve the likelihood

of on-time and on-budget completion of qualifying projects;

(7) the evaluation, including through the use of 1 or more pilot projects, of early contractor involvement acquisition procedures to improve on-time and on-budget project delivery performance; and

(8) any additional measures that the Secretary determines will achieve the purposes of this Act, including, as determined appropriate by the Secretary--

(A) the implementation of applicable practices and procedures drawn from the management of the military construction program by the Secretary;

(B) the development and use of a portfolio of standard designs for inland navigation locks;

(C) the use of full-funding contracts or the formulation of a revised continuing contracts provision; and

(D) the establishment of procedures for recommending new project construction starts using a capital projects business model.

(b) Report Requirement-

(1) IN GENERAL- For each fiscal year, the Secretary shall submit to Congress a report that describes each project, if any, that receives more than 50 percent of the total amount of funds made available in that fiscal year under the Inland Waterways Trust Fund established by section 9506 of the Internal Revenue Code of 1986.

(2) REQUIREMENT- For each project described in paragraph (1) that exceeds the estimated cost of carrying out that project for 3 or more consecutive years, the Secretary shall include in the report submitted under that paragraph alternative financing plans for the project.

SEC. 6. 20-YEAR CAPITAL INVESTMENT PROGRAM.

(a) Program Required-

(1) IN GENERAL- Not later than 1 year after the date of enactment of this Act, the Secretary, in conjunction with the Inland Waterways Users Board, shall submit to Congress a 20-year program for making capital investments on the inland and intracoastal waterways, which shall include plans to update communications technology and be based on the application of objective national project-selection prioritization criteria, as developed by the Secretary.

(2) CONTENTS- The 20-year program described in paragraph (1) may be based on the 20-year capital investment strategy contained in the Inland Marine Transportation System Capital Projects Business Model, Final Report published on April 13, 2010, as approved by the Inland Waterways Users Board.

(b) Annual Review and Update-

(1) IN GENERAL- Beginning not later than 1 year after the date on which a 20-year program is submitted to Congress under subsection (a), and each year thereafter, the Secretary, in conjunction with the Inland Waterways Users Board, shall submit to Congress an updated 20-year program.

(2) CONTENTS- The updated program described in paragraph (1) shall include an identification and explanation of any changes that were made to the project-specific recommendations included in the previous 20-year program, including any changes that were made to the objective national project-selection prioritization criteria used to develop the updated recommendations.

(c) Strategic Review and Update-

(1) IN GENERAL- Not later than 5 years after the date of enactment of this Act, and every 5 years thereafter, the Secretary, in conjunction with the Inland Waterways Users Board, shall submit to Congress a strategic review of the capital investment program for the Inland Marine Transportation System, including any revisions to the program that the Secretary and the Users Board jointly consider to be appropriate.

(2) INCLUSIONS- The review described in paragraph (1) shall include an analysis of the communications technology in use on the inland and intracoastal waterways system and a description of any plans to modernize that technology to increase safety and maximize efficiency.

SEC. 7. LIMITATION ON EXPENDITURES FROM THE INLAND WATERWAYS TRUST FUND.

Section 9506 of the Internal Revenue Code of 1986 is amended--

(1) in subsection (c)(1), by--

(A) inserting `and subject to subsection (d),' after `Except as provided in paragraph (2),'; and

(B) inserting before the period at the end `, provided that such expenditures may not exceed 50 percent of the total cost of the construction or rehabilitation'; and

(2) by inserting at the end the following:

` (d) Limitation on Expenditures From Trust Fund-

` (1) IN GENERAL- Amounts in the Inland Waterways Trust Fund shall not be available for expenditures for--

` (A) construction or rehabilitation of dams, or

` (B) any rehabilitation expenditure that does not equal or exceed \$50,000,000.

` (2) RESTRICTION ON TOTAL COST- Amounts in the Inland Waterways Trust Fund shall not be used to pay for any part of the cost to construct an authorized Federal project that exceeds the sum of--

` (A) the amount equal to--

` (i) the total authorized cost to construct the Federal project as specified in the Public Law that authorized construction of the project or, in the case of a rehabilitation project, in the relevant rehabilitation evaluation report, multiplied by

` (ii) the cost-of-living adjustment determined under section 1(f)(3) for the year in which construction or rehabilitation under the project begins (determined by substituting the year that precedes the calendar year in which such project was authorized for ` 1992' in subparagraph (B) of such section), and

` (B) any additional amount that is jointly agreed to by the Secretary and the Inland Waterways Users Board as appropriate to the project.'

SEC. 8. REVISION TO INLAND WATERWAYS USER FEE.

Section 4042(b)(2)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

` (A) The Inland Waterways Trust Fund financing rate is the rate determined in accordance with the following table:

The tax per

` If the use occurs:

gallon is:

During 2013

--20 cents

After 2013

--29 cents'.

END

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