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U.S. GOVERNMENT
INFORMATION
GPO

110TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPT. 110–842
Part 1

SMITHSONIAN INSTITUTION FACILITIES AUTHORIZATION ACT OF 2008

SEPTEMBER 11, 2008.—Ordered to be printed

Mr. BRADY of Pennsylvania, from the Committee on House Administration, submitted the following

R E P O R T

[To accompany H.R. 6627]

[Including cost estimate of the Congressional Budget Office]

The Committee on House Administration, to whom was referred the bill (H.R. 6627) to authorize the Board of Regents of the Smithsonian Institution to carry out certain construction projects, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE LEGISLATION

Section 2 of H.R. 6627, the "Smithsonian Institution Facilities Authorization Act of 2008," would authorize $41 million over three years for the design and construction of the Mathias Laboratory Renovation and Trailer Replacement Project at the Smithsonian Environmental Research Center (SERC) in Edgewater, Maryland. Of this amount, it is anticipated that $3.5 million, which has been included in the Interior Appropriations bill by the appropriations subcommittee, will be used to design the project in FY 2009. Construction is expected to cost $37.5 million over the following two fiscal years.

The current Mathias Laboratory complex houses approximately 146 employees and fellows. It exceeds its capacity for staff by 40%, and is considered unsuitable for SERC's scientific mission and the safety of staff. The proposed 52,000 square foot replacement laboratory would be connected with the modified existing structure, a building that was constructed in seven phases between 1978 and 2000.

The Smithsonian would also demolish a series of trailers and other ad hoc structures, some more than 30 years old, which pep-

per the site and which currently provide 65 percent of SERC's office space and 25 percent of its laboratory space.

Committee staff has visited SERC on several occasions over the last few years and advised Members on the decaying condition of the existing structures. The Committee views the project as a highly desirable and overdue modernization of a critical research facility that serves the Smithsonian's core scientific mission.

Section 3 of H.R. 6627 would authorize $14 million for fiscal 2009 and 2010 to construct and consolidate laboratory space to accommodate the terrestrial research program of the Smithsonian Tropical Research Institute (STRI) at a site in Gamboa, Panama. The project would consolidate space from existing locations scattered throughout Panama, and would demolish a 1930's-era school building to construct a replacement building on the site. Members and staff have visited STRI facilities in Panama in recent years, and in 2008 toured the site of the proposed Gamboa construction. The Committee supports the project.

ENHANCED OVERSIGHT OF SMITHSONIAN CONSTRUCTION NEEDED

In the course of reviewing Smithsonian construction projects, the Committee is concerned that the Smithsonian has conducted some planning and design activity without proper authorization. The Smithsonian has at times argued that the actual purpose of a project might be for a repair rather than new construction, and that it has permanent legal authority to undertake planning for that purpose; and that passage of an appropriation providing the necessary funds for construction also authorizes planning and design functions that necessarily precede construction, obviating the need for separate action by the Committee. With respect to SERC, the Smithsonian spent $500,000 on planning for the project in 2006, two years before it asked for legislation in Congress to authorize funds for planning and design, and now acknowledges that it lacked authority for such action because the construction being contemplated was not a repair.

Despite previous planning activities at SERC, the Smithsonian's Senate regents introduced S.J. Res. 34 on May 22, 2008, to authorize planning, design and construction. In the absence of similar action by the House regents, Chairman Brady introduced a companion bill in the House, H.R. 6542, on July 17, 2008. With respect to STRI, the Smithsonian did not ask the Committee for authority to plan and design, but relied on a previous appropriation for the funds. However, the Senate regents on May 22, 2008, introduced S.J. Res. 36, which provided authorization for planning, design and construction activities at that location. Again, Chairman Brady introduced H.R. 6541 on July 17, a companion bill. Portions of these two House bills were consolidated into a new bill ordered reported favorably by the Committee, H.R. 6627, introduced by Chairman Oberstar of the Committee on Transportation and Infrastructure with the concurrence of Chairman Brady.

The Smithsonian's reliance on claims of permanent authority or the existence of appropriated funds as justification for not requesting authorizing legislation undermines the Committee's legislative and oversight responsibilities under clause 1(j)(5) of rule X. Unauthorized or premature activities undertaken by the Smithsonian should cease; at any rate, the Committee will not allow such activi-

ties to hinder the Committee in considering the merits of planning and design for construction projects. The Committee evaluates these projects in the context of the totality of its responsibility for the Smithsonian, including an evaluation of the Institution's policies and priorities, administrative concerns, governance, and the fiscal impact of the projects on the Institution's budget.

In order to move this legislation to the House floor, the Committee and the Committee on Transportation and Infrastructure, which has jurisdiction pursuant to clause 1(r)(11) of rule X, agreed to introduce H.R. 6627 and to consider it in a form which authorized "design and construction" for SERC, resulting in an additional referral to House Administration, and "construction" only for projects at STRI, which was referred to Transportation and Infrastructure. The agreement applies only to the two projects covered by this particular bill. It has no precedential value relating to the future need for authorizations to plan, design and construct Smithsonian projects prior to their initiation, or to future bill referrals, and does not affect how this Committee may choose to approach these issues in the future.

If there is a need for additional legislation of this kind in subsequent Congresses, as there surely will be, the Committee will insist that all such projects be presented to it in advance of any Smithsonian planning activities.

SUMMARY OF THE LEGISLATION

Section 1 provides that the Act may be cited as the "Smithsonian Institution Facilities Authorization Act of 2008."

Section 2 would authorize the Smithsonian Institution to design and construct laboratory and support space for the Mathias Laboratory at the Smithsonian Environmental Research Center in Edgewater, Maryland. The bill would authorize $41 million for fiscal years 2009 through 2011, to remain available until expended.

Section 3 would authorize $14 million in fiscal 2009 and 2010, to remain available until expended, to construct laboratory space to accommodate the terrestrial research program of the Smithsonian Tropical Research Institute in Gamboa, Panama.

COMMITTEE ACTION

H.R. 6627 was introduced on July 29, 2008. It was ordered reported favorably by the Committee on House Administration on July 30, 2008 by unanimous voice vote, without amendment

MATTERS REQUIRED UNDER THE RULES OF THE HOUSE

Constitutional authority

Clause 3(d)(1) of House Rule XIII requires each committee report on a public bill or joint resolution to include a statement citing the specific constitutional power(s) granted to the Congress on which the Committee relies for enactment of the measure under consideration. The Committee finds that Congress has the authority to pass this measure pursuant to Article I, section 8 of the Constitution.

Committee votes

Clause 3(b) of House Rule XIII requires the results of each recorded vote on an amendment or motion to report, together with

the names of those voting for and against, to be printed in the committee report. No amendments were offered and no recorded votes were taken during the Committee's consideration of H.R. 6627.

Congressional Budget Office estimate

Clause 3(c)(3) of House Rule XIII requires the report of a committee on a measure which has been approved by the committee to include a cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act (CBA), if timely submitted. The Director submitted the following estimate:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 25, 2008.

Hon. ROBERT A. BRADY,
Chairman, Committee on House Administration,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 6627, the Smithsonian Institution Facilities Authorization Act of 2008.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Christina Hawley Anthony.

Sincerely,

PETER H. FONTAINE
(For Peter R. Orszag, Director).

Enclosure.

H.R. 6627—Smithsonian Institution Facilities Authorization Act of 2008

H.R. 6627 would authorize the appropriation of $41 million for laboratory and support space at the Smithsonian Environmental Research Center in Edgewater, Maryland, and $14 million for laboratory space at the Smithsonian tropical research institute in Gamboa, Panama. Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 6627 would cost $55 million over the 2009–2013 period. Enacting the bill would not affect direct spending or receipts.

H.R. 6627 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

On August 25, 2008, CBO transmitted an identical cost estimate for H.R. 6627 as ordered reported by the House Committee on Transportation and Infrastructure on July 31, 2008.

The CBO staff contact for this estimate is Christina Hawley Anthony. This estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

Federal mandates

Section 423 of the CBA requires a committee report on any public bill or joint resolution that includes a federal mandate to include specific information about such mandates. The Committee states that H.R. 6627 includes no federal mandates.

Preemption clarification

Section 423 of the CBA requires a committee report on any public bill or joint resolution to include a committee statement on the extent to which the measure is intended to preempt state or local law. The Committee states that H.R. 6627 is not intended to preempt any state or local law.

Oversight findings

Clause 3(c)(1) of rule XIII requires each committee report to contain oversight findings and recommendations required pursuant to clause 2(b)(1) of House Rule X. The Committee's findings are incorporated in the body of the report.

Statement of general performance goals and objectives

Clause 3(c)(4) of House Rule XIII requires committee reports to include a statement of general performance goals and objectives. The Committee believes that completion of the construction projects authorized by the bill will result in more cost-effective use of Federal resources provided to the Smithsonian, provide a safer work environment, and enhance the Institution's ability to provide world-class scientific research.

Congressional "earmarks"

Clause 9 of House Rule XXI requires committee reports on public bills and resolutions to contain an identification of congressional "earmarks," limited tax benefits, limited tariff benefits, and the names of requesting Members. The bill contains no such items.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 6627 makes no changes in existing law.

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