

## Calendar No. 266

109TH CONGRESS }  
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SENATE

{ REPORT  
109-165

### LITTLE BUTTE/BEAR CREEK SUBBASINS WATER FEASIBILITY ACT

OCTOBER 27, 2005.—Ordered to be printed

Mr. DOMENICI, from the Committee on Energy and Natural  
Resources, submitted the following

### R E P O R T

[To accompany S. 251]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 251) to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a water resource feasibility study for the Little Butte/Bear Creek Subbasins in Oregon, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 2, line 2, strike “conduct” and insert “participate in”.
2. On page 2, strike lines 9 through 11 and insert the following:

“(c) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to the Bureau of Reclamation \$500,000 to carry out activities under this Act.

“(2) NON-FEDERAL SHARE.—

“(A) IN GENERAL.—The non-Federal share shall be 50 percent of the total costs of the Bureau of Reclamation in carrying out subsection (b).

“(B) FORM.—The non-Federal share required under subparagraph (A) may be in the form of any in-kind services that the Secretary of the Interior determines would contribute substantially toward the conduct and completion of the study and environmental impact statement required under subsection (b).”.

## PURPOSE OF THE MEASURE

The purpose of S. 251 is to authorize the Secretary of the Interior, acting through the Bureau of Reclamation (Bureau), to conduct a water resource feasibility study for the Little Butte/Bear Creek Subbasins in Oregon.

## BACKGROUND AND NEED

The Water for Irrigation, Streams, and the Economy (WISE) Project is a proposed water management project designed to improve the Little Butte and Bear Creek watersheds within Jackson County in southern Oregon. Little Butte Creek and Bear Creek are tributaries of the Rogue River. Little Butte Creek has been designated as spawning habitat for Coho salmon, listed as threatened under the Endangered Species Act, and the Bear Creek Valley supports over 34,000 acres of agricultural land. Nineteen agricultural, municipal, environmental, and water resource agencies and groups comprise the WISE Project Advisory Committee (PAC).

The water management feasibility study and environmental impact statement (EIS) authorized by S. 251 is to be conducted in accordance with a July 2, 2004, Memorandum of Agreement (MOA) between the Bureau and the City of Medford, Oregon. PAC members are also signatories to the MOA. The MOA identifies the roles of the parties in the development and preparation of technical studies for the WISE Project. The feasibility study and EIS will evaluate integrated water resource management and supply needs in the Little Butte/Bear Creek Subbasins and will seek to identify ways to improve stream flows and water quality. The work will also explore opportunities for conservation, improved irrigation system efficiencies, and wastewater reclamation within the Talent, Rogue River, and Medford Irrigation Districts.

## LEGISLATIVE HISTORY

S. 251 was introduced by Senators Smith and Wyden on February 1, 2005, and referred to the Committee on Energy and Natural Resources. The Water and Power Subcommittee held a hearing on S. 251 on April 19, 2005 (S. Hrg. 109-96). At the business meeting on September 28, 2005, the Committee on Energy and Natural Resources ordered S. 251 favorably reported, with amendments.

In the 108th Congress, Senators Smith and Wyden introduced S. 2958, identical legislation to the measure now under consideration, but the bill was not taken up. H.R. 3210, companion legislation to S. 2958, passed the House on September 28, 2004.

## COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on September 28, 2005, by unanimous vote of a quorum present, recommends that the Senate pass S. 251, if amended as described herein.

## COMMITTEE AMENDMENTS

Two amendments were adopted to add a local cost-share component.

## SECTION-BY-SECTION ANALYSIS

Section 1(a) sets forth the short title.

Subsection (b) authorizes the Secretary of the Interior, acting through the Bureau of Reclamation, to participate in the Water for Irrigation, Streams and the Economy Project water management feasibility study and the environmental impact statement. Such work is to be conducted in accordance with the July 2, 2004 Memorandum of Agreement between the Bureau and the City of Medford.

Subsection (c)(1) authorizes \$500,000 for the Bureau's activities.

Subsection (c)(2)(A) requires the non-Federal cost-share to be 50% of the Bureau's costs.

Subsection (c)(2)(B) allows the 50% non-Federal cost-share to be in the form of in-kind services, as long as the Secretary of the Interior determines that such in-kind services would substantially contribute to the feasibility study and the environmental impact statement at issue.

## COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

*S. 251—Little Butte/Bear Creek Subbasins Water Feasibility Act*

S. 251 would authorize the Bureau of Reclamation to participate in a water management feasibility study of the Little Butte and Bear Creek watersheds in Medford, Oregon. The study would identify ways to meet future water supply needs and to improve water quality, as well as water conservation and storage measures. S. 251 would authorize the appropriation of \$500,000 for this study.

Assuming appropriation of the specified amounts, CBO estimates that implementing S. 251 would cost \$500,000 in 2006. Enacting S. 251 would not affect direct spending or revenues.

S. 251 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Rachel Milberg. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 251.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 251, as ordered reported.

## EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of the Interior at the Subcommittee hearing on S. 251 follows:

STATEMENT OF WILLIAM RINNE, DEPUTY COMMISSIONER OF  
RECLAMATION, U.S. DEPARTMENT OF THE INTERIOR

Madam Chairman and Members of the Subcommittee, I am William Rinne, Deputy Commissioner of Reclamation. Thank you for the opportunity to testify on S. 251.

This legislation would authorize the Bureau of Reclamation to conduct a water resource feasibility study in the Bear Creek/Little Butte Creek sub-basins of the Rogue River in southwestern Oregon, and to prepare an environmental impact statement provided for in the Act. The study would investigate opportunities to implement water conservation measures within the three irrigation districts (Talent, Rogue River and Medford IDs) served by Reclamation's Rogue River Project, and to increase water supplies, including use of reclaimed water from the City of Medford and modifications to existing storage facilities. Because alternatives being studied would impact the facilities and operations of the Rogue River Project, Reclamation must be involved in the effort.

It is Reclamation's understanding that a broad range of stakeholders has come together to achieve consensus on project goals and gain community support. The primary goals are to: 1) solve the sewage and storm water discharge problems of the City of Medford; 2) increase instream flows in Little Butte Creek and Bear Creek for threatened coho salmon; and 3) improve irrigation efficiency within the three irrigation districts. The project would improve the long-term viability of the three irrigation districts. The Bureau of Reclamation has cooperated with this local collaborative effort to proactively address water resource issues that could become contentious in the future.

Partial funding for this study has been obtained by the City of Medford via a grant administered by the U.S. Environmental Protection Agency. The grant is being used to fund a contractor to initiate technical studies. The local study partners believe they will be able to obtain additional funding to complete the technical studies required to meet Reclamation's standards for water resources planning. Appropriated funds would be needed to cover Reclamation staff costs to review and revise as necessary the contractor's technical work, undertake Endangered Species Act consultations with other Federal agencies, and publish the notices and documents required under the National Environmental Policy Act.

The administration cannot support S. 251 at this time. The legislation does not require at least 50% non-federal cost share for the feasibility study, as is required by Reclamation policy. Federal funds obtained by Medford

through other agencies would not qualify for the cost-share requirement.

This concludes my statement. I will be glad to answer any questions.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 251, as ordered reported.

