

112TH CONGRESS
2D SESSION

H. R. 6254

To amend the National Dam Safety Program Act to establish a program to provide grant assistance to States for the rehabilitation and repair of deficient dams.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2012

Mr. CARNAHAN (for himself and Mr. LATOURETTE) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend the National Dam Safety Program Act to establish a program to provide grant assistance to States for the rehabilitation and repair of deficient dams.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Dam Rehabilitation
5 and Repair Act of 2012”.

6 **SEC. 2. REHABILITATION AND REPAIR OF DEFICIENT**
7 **DAMS.**

8 (a) DEFINITIONS.—Section 2 of the National Dam
9 Safety Program Act (33 U.S.C. 467) is amended—

1 (1) by striking paragraph (3);

2 (2) by redesignating paragraphs (1) and (2) as
3 paragraphs (2) and (3), respectively;

4 (3) by inserting before paragraph (2) (as redesi-
5 gnated by paragraph (2) of this subsection) the fol-
6 lowing:

7 “(1) ADMINISTRATOR.—The term ‘Adminis-
8 trator’ means the Administrator of the Federal
9 Emergency Management Agency.”;

10 (4) by redesignating paragraphs (4), (5), (6),
11 (7), (8), (9), (10), (11), (12), and (13) as para-
12 graphs (5), (6), (7), (8), (9), (10), (13), (14), (15),
13 and (16), respectively;

14 (5) by inserting after paragraph (3) (as redesi-
15 gnated by paragraph (2) of this subsection) the fol-
16 lowing:

17 “(4) DEFICIENT DAM.—The term ‘deficient
18 dam’ means a dam that the State within the bound-
19 aries of which the dam is located determines—

20 “(A) fails to meet minimum dam safety
21 standards of the State; and

22 “(B) poses an unacceptable risk to the
23 public.”; and

1 (6) by inserting after paragraph (10) (as redese-
2 gnated by paragraph (4) of this subsection) the fol-
3 lowing:

4 “(11) PUBLICLY-OWNED DAM.—

5 “(A) IN GENERAL.—The term ‘publicly-
6 owned dam’ means a dam that is owned by 1
7 or more State agencies or governments, local
8 governments, municipal governments, or tribal
9 governments.

10 “(B) INCLUSIONS.—The term ‘publicly-
11 owned dam’ includes a dam owned by a non-
12 profit organization that—

13 “(i) is established by 1 or more State,
14 local, municipal, or tribal governments;
15 and

16 “(ii) provides public benefits, such
17 as—

18 “(I) local flood control districts;

19 “(II) regional public water utili-
20 ties; and

21 “(III) local irrigation districts.

22 “(12) REHABILITATION.—The term ‘rehabilita-
23 tion’ means the repair, replacement, reconstruction,
24 or removal of a dam that is carried out to meet ap-
25 plicable State dam safety standards.”.

1 (b) PROGRAM FOR REHABILITATION AND REPAIR OF
2 DEFICIENT DAMS.—The National Dam Safety Program
3 Act is amended by inserting after section 8 (33 U.S.C.
4 467f) the following:

5 **“SEC. 8A. REHABILITATION AND REPAIR OF DEFICIENT**
6 **DAMS.**

7 “(a) ESTABLISHMENT OF PROGRAM.—The Adminis-
8 trator shall establish, within FEMA, a program to provide
9 grant assistance to States for use in rehabilitation of defi-
10 cient dams that are publicly-owned dams.

11 “(b) AWARD OF GRANTS.—

12 “(1) APPLICATION.—

13 “(A) IN GENERAL.—A State interested in
14 receiving a grant under this section may submit
15 to the Administrator an application for the
16 grant.

17 “(B) REQUIREMENTS.—An application
18 submitted to the Administrator under this sec-
19 tion shall be submitted at such time, be in such
20 form, and contain such information as the Ad-
21 ministrator may prescribe by regulation.

22 “(2) GRANT.—

23 “(A) IN GENERAL.—The Administrator
24 may make a grant in accordance with this sec-
25 tion for rehabilitation of a deficient dam to a

1 State that submits an application for the grant
2 in accordance with the regulations prescribed by
3 the Administrator.

4 “(B) PROJECT GRANT AGREEMENT.—The
5 Administrator shall enter into a project grant
6 agreement with the State to establish the terms
7 of the grant and the project, including the
8 amount of the grant.

9 “(C) GRANT ASSURANCE.—As part of a
10 project agreement entered into under subpara-
11 graph (B), the Administrator shall require a
12 State to provide an assurance, with respect to
13 the dam to be rehabilitated under the project,
14 that the owner of the dam has developed and
15 will carry out a plan for maintenance of the
16 dam during the expected life of the dam.

17 “(3) APPLICABILITY OF REQUIREMENTS.—The
18 Administrator shall require recipients of grants
19 under this section to assure compliance with the
20 standards set forth in section 611(j)(9) of the Rob-
21 ert T. Stafford Disaster Relief and Emergency As-
22 sistance Act (42 U.S.C. 5196(j)(9)), as in effect on
23 the date of enactment of this section, in the same
24 manner that recipients of financial contributions

1 under section 611(j) of such Act are required to as-
2 sure compliance with such standards.

3 “(c) PRIORITY SYSTEM.—The Administrator, in con-
4 sultation with the Board, shall develop a risk-based pri-
5 ority system for use in identifying deficient dams for which
6 grants may be made under this section.

7 “(d) ALLOCATION OF FUNDS.—The total amount of
8 funds appropriated pursuant to subsection (h)(1) for a fis-
9 cal year shall be allocated for making grants under this
10 section to States applying for the grants for that fiscal
11 year as follows:

12 “(1) $\frac{1}{3}$ divided equally among applying States.

13 “(2) $\frac{2}{3}$ divided among applying States based on
14 the proportion that—

15 “(A) the number of non-Federal publicly-
16 owned dams that the Secretary of the Army
17 identifies in the national inventory of dams
18 maintained under section 6 as constituting a
19 danger to human health and that are located
20 within the boundaries of the State; bears to

21 “(B) the number of non-Federal publicly-
22 owned dams that are so identified and that are
23 located within the boundaries of all applying
24 States.

1 “(e) USE OF FUNDS.—None of the funds provided
2 in the form of a grant or otherwise made available under
3 this section shall be used—

4 “(1) to rehabilitate a Federal dam;

5 “(2) to perform routine operation or maintenance of a dam;

6 “(3) to modify a dam to produce hydroelectric
7 power;

8 “(4) to increase water supply storage capacity;

9 or
10

11 “(5) to make any other modification to a dam
12 that does not also improve the safety of the dam.

13 “(f) COST SHARING.—The Federal share of the cost
14 of rehabilitation of a deficient dam for which a grant is
15 made under this section may not exceed 65 percent of the
16 cost of the rehabilitation.

17 “(g) CONTRACTUAL REQUIREMENTS.—

18 “(1) IN GENERAL.—Subject to paragraph (2),
19 as a condition on the receipt of a grant under this
20 section, a State that receives the grant shall require
21 that each contract and subcontract for program
22 management, construction management, planning
23 studies, feasibility studies, architectural services,
24 preliminary engineering, design, engineering, surveying,
25 mapping, and related services entered into

1 using funds from the grant be awarded in the same
2 manner as a contract for architectural and engineer-
3 ing services is awarded under—

4 “(A) chapter 11 of title 40, United States
5 Code; or

6 “(B) an equivalent qualifications-based re-
7 quirement prescribed by the State.

8 “(2) NO PROPRIETARY INTEREST.—A contract
9 awarded in accordance with paragraph (1) shall not
10 be considered to confer a proprietary interest upon
11 the United States.

12 “(h) AUTHORIZATION OF APPROPRIATIONS.—

13 “(1) IN GENERAL.—There are authorized to be
14 appropriated to carry out this section—

15 “(A) \$10,000,000 for fiscal year 2013;

16 “(B) \$15,000,000 for fiscal year 2014;

17 “(C) \$25,000,000 for fiscal year 2015;

18 “(D) \$50,000,000 for fiscal year 2016;

19 and

20 “(E) \$100,000,000 for fiscal year 2017.

21 “(2) STAFF.—There is authorized to be appro-
22 priated to provide for the employment of such addi-
23 tional staff of FEMA as are necessary to carry out
24 this section \$400,000 for each of fiscal years 2013
25 through 2017.

1 “(3) PERIOD OF AVAILABILITY.—Amounts
2 made available under this section shall remain avail-
3 able until expended.”.

4 **SEC. 3. RULEMAKING.**

5 (a) PROPOSED RULEMAKING.—Not later than 90
6 days after the date of enactment of this Act, the Adminis-
7 trator of the Federal Emergency Management Agency
8 shall issue a notice of proposed rulemaking regarding the
9 amendments made by section 2 to the National Dam Safe-
10 ty Program Act (33 U.S.C. 467 et seq.).

11 (b) FINAL RULE.—Not later than 120 days after the
12 date of enactment of this Act, the Administrator of the
13 Federal Emergency Management Agency shall promulgate
14 a final rule regarding the amendments described in sub-
15 section (a).

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