



No. 10

May 2, 2013

## S. 601 – Water Resources Development Act of 2013

### Noteworthy

- **Floor Situation:** The Senate is expected to vote on a motion to invoke cloture on the motion to proceed to S. 601 on May 6, 2013. Majority Leader Reid filed the motion to invoke cloture on the motion to proceed to S. 601 on April 25, 2013.
- **Background:** The bill was introduced on March 18, 2013, by Chairman Boxer and Ranking Member Vitter of the Environment and Public Works (EPW) Committee. The committee unanimously reported S. 601, as amended, on March 20, 2013.

### Overview

S. 601 promotes investment in the nation's water resources infrastructure, accelerates project delivery, and reforms implementation of Army Corps of Engineers projects. The 110<sup>th</sup> Congress enacted WRDA in 2007, authorizing \$29.8 billion in Corps of Engineers activities. Previously, WRDA was enacted roughly biennially in 1986, 1988, 1990, 1992, 1996, 1999, and 2000.

### House Action

The House Transportation and Infrastructure Committee's Subcommittee on Water Resources and Environment held its [first hearing](#) on developing WRDA legislation on April 16, 2013. The full House has not taken any action on S. 601 at this time.

## **Bill Provisions**

### **TITLE I – WATER RESOURCES PROJECTS**

#### **Project Authorizations**

Authorizes the Secretary of the Army to carry out projects for water resources development, conservation, and other purposes. Authorizes the Secretary to modify the authorized project cost by submitting required certification and additional information to Congress and after receiving an appropriation of funds. Each project authorization requires a Report of the Chief of Engineers and a referral to Congress as of the date of enactment of this Act for the project. This cost modification authority ends after three years.

### **TITLE II – WATER RESOURCES POLICY REFORMS**

#### **Safety Assurance Review**

Makes inapplicable the Federal Advisory Committee Act to safety assurance reviews conducted by independent experts. The independent experts ensure that design and construction activities for hurricane and storm damage reduction and flood damage reduction projects assure public health, safety, and welfare.

#### **Continuing Authority Programs**

Increases the amount the Secretary is authorized to allot from any appropriations made for rivers and harbors for the construction of small river and harbor improvement projects not specifically authorized by Congress to \$50 million (up from \$35 million) for any one fiscal year. Increases the limitation on allotment for construction of such projects at any single locality to \$10 million (up from \$7 million).

Increases the maximum allowable federal first cost for a project without specific authorization by Congress for the prevention or mitigation of shore damages attributable to federal navigation works and shore damage attributable to the Atlantic Intracoastal Waterway and the Gulf Intracoastal Waterway to \$10 million (up from \$5 million).

Increases the total allowable federal costs associated with construction of regional sediment management projects to \$10 million (up from \$5 million), and the authorized appropriations for such projects to \$50 million (up from \$30 million) per fiscal year.

Increases the allowable allotment for small flood control projects at any single locality to \$10 million (up from \$7 million).

Increases the allowable amount of federal funds to be spent on any single project modification to improve the environment to \$10 million (up from \$5 million). Strikes the limitation that no more than 80 percent of the non-federal share of a project modification to improve the environment can be “in kind,” allowing for 100 percent of the non-federal share to be “in kind.”

Increases the allowable amount of federal funds to be allotted to an aquatic ecosystem restoration project at any single locality to \$10 million (up from \$5 million).

Increases the allowable amount the Secretary is authorized to spend on compiling and disseminating information on flood hazards to \$50 million (up from \$15 million) per fiscal year.

### **Continuing Authority Program Prioritization**

Requires the Secretary to publish criteria for prioritizing annual funding for continuing authority program projects, to publish an annual report on the status of each continuing authority program, and to provide such information to Congress.

### **Fish and Wildlife Mitigation**

Prohibits the Secretary from submitting any proposal for the authorization of any water resources project to Congress in any report, and from selecting a project alternative in any report, unless the report contains a recommendation with a specific plan to mitigate damages to ecological resources, including terrestrial and aquatic resources.

Amends the requirement that a specific mitigation plan for a water resources project include a description of the land and interests in land to be acquired for the mitigation plan and the basis for a determination that the land is available for acquisition.

Authorizes the Secretary to develop programmatic mitigation plans to address the potential effects on ecological resources, fish, and wildlife associated with existing or future water resources development projects. Requires the use of programmatic mitigation plans, including those developed by a state or local government, "to the maximum extent practicable." Allows any federal agency responsible for environmental reviews, permits, or approvals for a water resources development project to use the recommendations in the programmatic environmental mitigation plan when carrying out its responsibilities under the National Environmental Policy Act (NEPA).

Allows mitigation efforts to include participation in mitigation banking or other third-party mitigation arrangements, such as the purchase of credits from commercial or state, regional, or local agency-sponsored mitigation banks and the purchase of credits from in-lieu fee mitigation programs. Allows mitigation efforts to include contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands. Allows the Secretary to use funds made available for preconstruction engineering and design prior to authorization of project construction to acquire interests in land necessary for meeting mitigation requirements.

Requires the Chief of Engineers to notify Congress and make publicly available reasons for not initiating independent peer review of a project study; the schedule for and information on experts conducting a review if one is ordered; and the findings of any review together with the Chief of Engineers' written response. Requires inclusion of the findings of any review together with the Chief of Engineers' written response in the final decision document for the project study.

Extends the applicability of rules governing independent peer review of project studies initiated on or after November 8, 2007, for an additional five years.

### **Operation and Maintenance of Navigation and Hydroelectric Facilities**

Excludes navigation facilities that have been, or are currently, under contract with a non-federal interest to perform operations and maintenance from being considered inherently governmental functions and not commercial activities. Prohibits the Secretary from contracting out future commercial activities at those navigation facilities.

### **Hydropower at Corps of Engineers Facilities**

Gives priority to the development of non-federal hydroelectric power at Corps of Engineers civil works projects, including locks and dams. Requires the Secretary to report to Congress about initiatives carried out to encourage the development of hydroelectric power by non-federal entities at Corps of Engineers civil works projects.

### **Clarification of Work-In-Kind Credit Authority**

Requires the Secretary to credit toward the non-federal share of the cost of a study, program or project the cost of work carried out in the coastal Louisiana ecosystem by non-federal interests for the project on or after the date of the execution of the partnership agreement for the study or project. Currently, this requirement applies before that date, and to the cost of a study or project, not a program.

Strikes a provision allowing any credit toward the non-federal share of the cost of a study, program, or project to be applied toward the non-federal share of the cost of any other study or project. Inserts a provision allowing the value of any land, easements, rights-of-way, relocations, and dredged material disposal areas and the costs of planning, design, and construction work provided by the non-federal interest that exceed the non-federal share for a study, program, or project to be applied toward the non-federal share for any other study, program, or project.

Establishes November 8, 2007, as the effective date of these amendments.

### **Transfer of Excess Work-In-Kind Credit**

Allows the Secretary to apply credit for in-kind contributions provided by a non-federal interest that is in excess of the required non-federal cost share for a water resources study or project toward the required non-federal cost share for a different water resources study or project. Establishes certain restrictions on, and criteria required to be considered when evaluating, the application of credit. Requires the Secretary to report to Congress on the use of this authority.

### **Credit for In-Kind Contributions**

Allows a written partnership agreement regarding the construction of a water resources project to require the Secretary to provide credit toward the non-federal share of the cost of the project, including a project implemented under an environmental infrastructure assistance program (in addition to a project implemented without specific authorization in law as specified by statute), the value of in-kind contributions made by the non-federal interest. Amends the eligibility for credit of work performed before or after the execution of an agreement.

### **Credit in Lieu of Reimbursement**

Allows the Secretary to provide a non-federal interest that has constructed a flood damage reduction project with a credit (in lieu of monetary reimbursement) that the non-federal interest

may apply to the share of cost of the non-federal interest of carrying out other flood damage reduction projects or studies.

### **Dam Optimization**

Authorizes the Secretary to carry out activities to improve the efficiency of the operations and maintenance of dams and related infrastructure operated by the Corps of Engineers, and to maximize authorized project purposes and other related project benefits, which include: environmental protection and restoration; increased water supply storage; increased hydropower generation; reduced flood risk; additional navigation; and improved recreation. Authorizes the Secretary to use funds from the general purposes and expenses account, the operations and maintenance account, and any other amounts that are appropriated to carry out this section. Authorizes the Secretary to accept and expend funds from non-federal entities and other federal agencies as well as to enter into cooperative agreements with other federal agencies and non-federal entities to carry out this section.

### **Water Supply**

Amends a provision in current law requiring congressional approval of modifications of reservoir projects to apply to projects that provide storage for municipal or industrial water supply that, when considered cumulatively with all previous modifications, would: seriously affect the purposes for which the project was authorized, surveyed, planned, or constructed; involve major structural or operational changes; or involve an allocation or reallocation of storage that is equal to or exceeds five percent of the conservation storage pool of the project.

### **Report on Water Storage Pricing Formulas**

Requires the Comptroller General to assess the water storage pricing formulas of the Corps of Engineers, including an assessment of specific factors, and to submit a report to Congress.

### **Clarification of Previously Authorized Work**

Allows the Secretary to carry out measures to improve fish species habitat within the footprint and downstream of a water resources project constructed by the Secretary that includes a fish hatchery if the Secretary has been explicitly authorized to compensate for fish losses associated with the project, and determines that the measures are feasible, consistent with authorized project purposes and the fish hatchery, and in the public interest. Requires the non-federal interest to contribute 35 percent of the total cost of carrying out the measures, including the costs relating to the provision or acquisition of required land, easements, rights-of-way, dredged material disposal areas, and relocations. Requires the non-federal interest to contribute 100 percent of the costs of operation, maintenance, replacement, repair, and rehabilitation of a project constructed under this section. Authorizes appropriations of \$30 million for each fiscal year to carry out this section.

### **Consideration of Federal Land In Feasibility Studies**

At the request of a non-federal interest, the Secretary shall include federal land as part of a regional or watershed study.

### **Planning Assistance to States**

Authorizes the Secretary to accept and expend funds in excess of the fees collected from states and other non-federal public bodies to whom technical assistance in managing water resources is

provided. Increases authorization of appropriations for the Secretary to provide technical assistance to governmental agencies or non-federal interests in managing water resources to \$30 million (up from \$10 million) annually, and increases the limit allowed to be spent in any one year in any one state to \$5 million (up from \$2 million). Increases authorization of appropriations for the Secretary to enter into cooperative agreements with nonprofit organizations to provide assistance to rural and small communities to \$15 million (up from \$5 million) annually.

### **Vegetation Management Policy**

Requires the Secretary to carry out a comprehensive review of the Corps of Engineers' national guidelines for management of vegetation on levees in order to determine whether current federal policy relating to levee vegetation is appropriate for all regions of the United States. Requires the Secretary to obtain peer review. Requires the Secretary to revise the national guidelines based on the results of the review within two years after the date of enactment of the Act. Requires the Secretary to concurrently proceed with ongoing or programmed projects and studies that are not directly related to vegetation variance policy. Until the revisions to the national guidelines are adopted, it prohibits the Secretary from requiring removal of existing vegetation as a condition or requirement for any approval or funding of a project, or any other action, unless the vegetation presents an unacceptable safety risk.

### **Levee Certifications**

Authorizes the Secretary to carry out a levee system evaluation and certification of a federally authorized levee for the national flood insurance program if requested by a non-federal interest. Establishes the non-federal share of the cost of carrying out a levee system evaluation and certification to be 35 percent, but allows the Secretary to adjust this based on ability to pay.

### **Restoration of Flood and Hurricane Storm Damage Reduction Projects**

Requires the Secretary to carry out any measures necessary to restore components of federally authorized and federally constructed flood and hurricane storm damage reduction projects to authorized levels of protection for reasons including settlement, subsidence, sea level rise, and new data, if the Secretary determines the necessary work is feasible. Establishes that the non-federal share of the cost of operations, maintenance, repair, replacement, and rehabilitation for a project is 100 percent. Requires the Secretary to report to Congress on the implementation of this section after eight years, and terminates the Secretary's authority to carry out this section after 10 years. Authorizes appropriations in the amount of \$250 million.

### **Operation and Maintenance of Certain Projects**

Authorizes the Secretary to assume operation and maintenance activities for a navigation channel deepened by a non-federal interest prior to December 31, 2012, if certain requirements are met.

### **Dredging Study**

Requires the Secretary to carry out a study to: compare domestic and international dredging markets; analyze practices used in dredging in the United States; and develop recommendations relating to the best practices for dredging. Requires a public comment period on any draft study findings and that the Secretary submit a report on the study to Congress within two years.

### **Non-Federal Project Implementation Pilot Program**

Requires the Secretary to establish and implement a pilot program to evaluate the cost-effectiveness and project delivery efficiency of allowing non-federal interests to carry out flood risk management, hurricane and storm damage reduction, and coastal harbor and channel and inland harbor navigation projects. Requires the Secretary to submit a report detailing the results of the pilot program to Congress within two years, and an updated report within five years. Terminates the Secretary's authority to commence a project under this section after five years. In addition to any amounts appropriated for a specific project, authorizes appropriations of \$25 million for each of fiscal years 2014 through 2018 to carry out the pilot program, including the costs of administration of the Secretary.

### **Non-Federal Implementation of Feasibility Studies**

Requires the Secretary to establish and implement a pilot program to evaluate the cost-effectiveness and project delivery efficiency of allowing non-federal interests to carry out feasibility studies for flood risk management, hurricane and storm damage reduction, ecosystem restoration, and coastal harbor and channel and inland harbor navigation. Requires the Secretary to submit a report detailing the results of the pilot program to Congress within two years and an updated report within five years. Terminates the Secretary's authority to commence a project under this section after five years. Authorizes appropriations of \$25 million for each of fiscal years 2014 through 2018 to carry out the pilot program.

### **Tribal Partnership Program**

Requires the Secretary to issue guidance on the procedures for determining the ability of a non-federal interest to pay its share in a cost-sharing agreement with the federal government for water-related planning activities and feasibility studies of water resources development projects that will benefit Indian tribes and are located primarily on Indian lands. Extends authorization of appropriations of \$5 million for each of fiscal years 2013 through 2023.

### **Cooperative Agreements with Columbia River Basin Indian Tribes**

Authorizes the Secretary to enter into a cooperative agreement with Indian tribes located within the Columbia River Basin.

### **Military Munitions Response Actions at Civil Works Shoreline Protection Projects**

Authorizes the Secretary to implement any response necessary at a site where a civil works project that includes placing sand on a beach results in military munitions originally released as a result of Department of Defense (DoD) activities being deposited on the beach. Requires such a response be funded from amounts made available to the agency within DoD responsible for the original release of the munitions.

### **Beach Nourishment**

Authorizes the Secretary to provide periodic beach nourishment for each water resources development project for which that nourishment has been authorized for an additional period of time, not to exceed the later of: 50 years after the date on which the construction of the project is initiated; or the date on which the last estimated periodic nourishment for the project is to be carried out. At the request of a non-federal interest, allows the Secretary to evaluate the feasibility of continuing federal participation in the project for a period not to exceed 15 years.

### **Regional Sediment Management**

Amends the purposes for using sediment for the construction, repair, modification, or rehabilitation of a federal water resources project to include transporting and placing suitable sediment for the purposes of improving environmental conditions in marsh and littoral systems, stabilizing stream channels, enhancing shorelines, and supporting state and local risk management adaptation strategies. Authorizes the Secretary to reduce the non-federal share of the construction costs of a project if, through the beneficial use of sediment at another federal project, there will be an associated reduction of federal cost. Authorizes the Secretary to select, with the consent of the non-federal interest, a more expensive dredged material disposal method if the incremental costs are reasonable in relation to: the environmental benefits, including the benefits to the aquatic environment to be derived from the creation of wetlands and control of shoreline erosion; or the flood and storm damage and flood reduction benefits. Authorizes comprehensive state or regional sediment management plans.

### **Study Acceleration**

Finds that efforts undertaken by the Corps of Engineers to reduce the time and cost of completing a feasibility study according to its “3-3-3” plan should be continued. Requires a feasibility study to be completed within three years, at a maximum federal cost of \$3 million, and to be reviewed at the Corps’ three levels -- district, division, and headquarters. Requires the Secretary to submit an annual report to Congress on implementation of the “3-3-3” process.

### **Project Acceleration**

Finds that recommendations to Congress regarding water resources projects should be accelerated to prevent or quickly resolve disputes during development and implementation.

Requires the Secretary to annually prepare a separate list of each study that the Secretary has determined: applies to the development of projects that require an environmental impact statement (EIS); and does not have adequate funding to make substantial progress on the planning activities for the project. Requires a description of the estimated amounts necessary to make substantial progress on each study on the list.

Requires the Secretary to develop and implement a coordinated review process for the development of projects. Requires issuance of guidance to allow for the use of programmatic approaches to carry out the environmental review process. Participating agencies must identify and resolve issues that could delay completion of the environmental review process or result in the denial of any approval required for the project under applicable laws.

Authorizes the Secretary to convene a meeting with federal and non-federal interests within 30 days after the close of the public comment period on a draft EIS to establish a schedule of deadlines to complete decisions regarding the project. The Secretary may lengthen a schedule “for good cause” and shorten a schedule with concurrence of affected interests.

At the request of relevant interests, requires the Secretary to resolve issues that could delay completing the environmental review process or result in denial of any approvals required for the project. The Secretary may convene an issue resolution meeting at any time, regardless of whether a meeting is requested. If resolution is not achieved within 30 days of the issue

resolution meeting, the Secretary must refer the matter to the Council on Environmental Quality (CEQ). The CEQ must then meet with the heads of relevant interests within 30 days. If a resolution is not achieved within 30 days after the CEQ issue resolution meeting, the Secretary shall refer the matter directly to the President.

Establishes a financial penalty for a federal agency that fails to render a decision under any federal law relating to a project that requires the preparation of an EIS or environmental assessment, including the issuance or denial of a permit, license, or other approval within the later of 180 days after: completion of the application for the permit, license, or approval; and the federal lead agency issues a decision on the project under NEPA. The financial penalty requires funding to be transferred from the applicable head of the agency to the agency or division charged with rendering a decision regarding the application within one day of the missed deadline, and once each week thereafter, until a final decision is rendered, in the amount of: \$20,000 for any project requiring the preparation of an EIS or environmental assessment; or \$10,000 for any project requiring any type of review under NEPA other than an EIS or environmental assessment.

Requires the Secretary to establish a program to measure and report on progress made toward improving and expediting the planning and environmental review process. If requested by a state or non-federal interest, authorizes the lead agency, in consultation with other federal interests, to establish memoranda of agreement to carry out early coordination activities, including providing technical assistance in identifying potential impacts and mitigation issues.

Requires the Secretary to: survey the use by the Corps of Engineers of categorical exclusions in water resources projects since 2005; publish a review of the survey that includes a description of the types of actions categorically excluded and any requests previously received by the Secretary for new categorical exclusions; and solicit requests from other federal agencies and non-federal interests for new categorical exclusions. Requires the Secretary to initiate rulemakings to propose new categorical exclusions based on this review to the extent they meet the criteria for categorical exclusions under federal regulations.

Requires the Comptroller General and the Inspector General of the Corps of Engineers to submit reports based on their separate assessments of the water resources project acceleration reforms.

### **Feasibility Studies**

Requires the Secretary to determine a set of milestones needed for the completion of a feasibility study, including all major actions, report submissions, and responses, reviews, and comment periods. Each district engineer shall establish a detailed project schedule accordingly, and notify relevant non-federal interests. The Secretary shall submit an annual report listing all project schedules and an explanation of any missed deadlines. A district engineer must report the reasons for missing deadlines and revised project schedules with amended deadlines.

### **Accounting and Administrative Expenses**

Requires the Secretary to provide a detailed accounting of federal expenses associated with a water resources project, and conduct a study on the efficiency of the Corps of Engineers' staff salaries and administrative expense procedures.

**Determination of Project Completion**

Requires the Secretary to transfer to the non-federal interest responsibility for the operation and maintenance of any relevant water resources project upon completion.

**Project Partnership Agreements**

Requires the Secretary to carry out a comprehensive review of the process for preparing, negotiating, and approving project partnership agreements and the related template.

**Interagency and International Support Authority**

Authorizes the Secretary to use the Corps of Engineers' technical and managerial expertise to address domestic and international problems related to environmental restoration. Authorizes appropriations of \$1 million for fiscal year 2014 and each fiscal year thereafter. Authorizes the Secretary to accept and expend additional funds from nongovernmental organizations.

**Acceptance of Contributed Funds to Increase Lock Operations**

Requires the Secretary to establish a pilot program for the acceptance and expenditure of funds contributed by non-federal interests to increase the hours of operation of locks at water resources development projects, and to report to Congress on the effectiveness of such program.

Terminates the Secretary's authority to accept such funds after five years.

**Emergency Response to Natural Disasters**

Authorizes emergency funding for the repair or restoration of any federally authorized hurricane or shore protective project damaged or destroyed by wind, wave, or water action other than an ordinary nature -- to return the structure or project back to its design level of protection. The Chief of Engineers may modify the structure or project to address major deficiencies.

**Systemwide Improvement Framework**

States that a levee system shall remain eligible for rehabilitation assistance as long as the levee system sponsor continues to make satisfactory progress on an approved systemwide improvement framework or letter of intent.

**Funding to Process Permits**

Amends the requirement that all final permit decisions be made available to the public, to be provided in a manner that distinguishes final permit decisions under this section from other final actions of the Secretary. Requires the Secretary to: make public a standard decision for evaluating all permits; to make public all active agreements to accept funds under this section; and to make public an annual report on the implementation of this section, including specific information. Permanently extends the Secretary's authority to accept and expend funds contributed by a non-federal public entity to expedite the evaluation of a permit.

**National Riverbank Stabilization and Erosion Prevention Study and Pilot Program**

Requires the Secretary to establish and carry out for a period of five fiscal years a national riverbank stabilization and erosion prevention pilot program to address riverbank erosion along inland and intracoastal waterways. Authorizes appropriations of \$25 million for each of fiscal years 2014 through 2019.

### **Hurricane and Storm Damage Risk Reduction Prioritization**

Requires the Secretary to give funding priority to and expedite projects and studies relating to the protection of communities affected by natural disasters.

### **Prioritization of Ecosystem Restoration Efforts**

Requires the Secretary to give funding priority to ecosystem restoration projects meeting specified criteria.

### **Special Use Permits**

Authorizes the Secretary to issue special use permits for appropriate recreation uses and to establish fees for outdoor recreation equipment and services at public recreation areas located at lakes and reservoirs operated by the Corps of Engineers. Authorizes the Secretary to enter into an agreement with a non-federal interest to manage public recreation areas. Authorizes the Chief of Engineers to provide awards of up to \$100 in value to volunteers in recognition of their services.

### **Operations and Maintenance on Fuel Taxed Inland Waterways**

Requires the Secretary to be responsible for 65 percent of the costs of the operation, maintenance, repair, and replacement of any flood gate, as well as any pumping station constructed within the channel as a single unit with that flood gate.

### **Corrosion Prevention**

Requires the Secretary to develop guidance and procedures for the certification of qualified contractors for the application of protective coatings and the removal of hazardous protective coatings, and to use such certified contractors for such purposes.

### **Project Deauthorizations**

Requires the Secretary to notify a non-federal interest (in addition to other parties specified by statute) when its project appears on a list of projects submitted to Congress that have been authorized but that have received no obligations during the five full fiscal years preceding submission of the list. Deauthorizes projects included on the list if certain conditions are met.

Requires the Secretary to annually submit to Congress a list of: projects authorized for construction for which funding has been obligated in the five previous fiscal years; the amount of funding obligated per fiscal year; the current phase of each project; and the amount required to complete those phases.

Requires the Secretary to compile and publish a complete list of all uncompleted, authorized projects of the Corps of Engineers, including specified information for each project on that list. The Secretary shall submit a copy of the list to Congress and the Office of Management and Budget, and make it publicly available.

Establishes an independent commission to be known as the Infrastructure Deauthorization Commission for purposes of: establishing a process for identifying authorized Corps of Engineers water resources projects that are no longer in the federal interest and no longer feasible; creating a commission to review suggested deauthorizations, including consideration of recommendations of the states and the Secretary for the deauthorization of water resources

projects, and to make recommendations to Congress; to ensure public participation and comment; and to provide oversight on any recommendations made to Congress by the commission.

Allows each state, in consultation with local interests, to submit to the commission and Congress a detailed statewide water resources plan that includes a list of each water resources project that the state recommends for deauthorization within two years. Allows the Secretary to submit to the commission and Congress a detailed plan that: contains a detailed list of each water resources project that the Corps of Engineers recommends for deauthorization; and is based on an assessment by the Secretary of the needs of the United States for water resources infrastructure, taking into account public safety, the economy, and the environment.

Requires the commission to submit to Congress a list of water resources projects of the Corps of Engineers for deauthorization within four years. Specifies certain types of projects that shall not be eligible for review for deauthorization by the commission. Requires that any project recommended for deauthorization on the list submitted to Congress be deemed to be deauthorized unless Congress passes a joint resolution disapproving of the entire list of deauthorized water resources projects within 180 days after the date on which the commission submits the list to Congress.

#### **Reports to Congress**

Requires the Secretary to complete and submit to Congress reports that address public safety and enhanced local participation in project delivery under specified subsections. If the Secretary fails to provide a report within 180 days of the date required for that report, \$5,000 shall be reprogrammed from the general expense account of the civil works program of the Corps of Engineers into the account of the division of the Corps of Engineers with responsibility for completing that report. For each additional week a report remains uncompleted and unsubmitted to Congress, \$5,000 shall be reprogrammed from the Office of the Assistant Secretary of the Army for Civil Works into the account of the division of the Secretary of the Army with responsibility for completing that report. Authorizes \$10 million to carry out this section.

#### **Indian Self-Determination and Education Assistance Act Conforming Amendment**

Allows a tribal organization to spend funds provided under a self-determination contract for interest payments, the retirement of principal, the costs of issuance, and the costs of insurance or a similar credit support for a debt financing instrument, the proceeds of which are used to support a contracted construction project, without the approval of the Secretary.

#### **Invasive Species Review**

Requires the Secretary to review existing federal authorities relating to invasive species.

#### **Wetlands Conservation Study**

Requires the Comptroller General to carry out a study to identify all federal programs relating to wetlands conservation.

### **Dam Repair Study**

Requires the Comptroller General to carry out a study to evaluate repairs made at dams on the Cumberland River as compared to similar repairs made by the Corps of Engineers at other dams.

## **TITLE III – PROJECT MODIFICATIONS**

Modifies projects, including: Chatfield Reservoir in Colorado; Lower Yellowstone Project in Montana; Raritan River Basin, Green Brook Sub-Basin, in New Jersey; Red River Basin in Oklahoma, Texas, Arkansas, and Louisiana; and Point Judith Harbor of Refuge in Rhode Island.

Deauthorizes the following projects: Goose Creek (Somerset County, Maryland); Lower Thoroughfare (Deal Island, Maryland); Thomaston Harbor (Georges River, Maine); Warwick Cove (Rhode Island); Clatsop County Diking District No. 10 (Karlson Island, Oregon); Numberg Dike No. 34 Leveed Area, Clatsop County Diking District No. 13 (Clatsop County, Oregon ); Port of Hood River (Oregon).

## **TITLE IV – WATER RESOURCE STUDIES**

### **Initiation of New Water Resource Studies**

Authorizes the Secretary to initiate a study: to determine the feasibility of carrying out projects for flood risk management, storm damage reduction, ecosystem restoration, navigation, hydropower, or related purposes; or to carry out watershed and river basin assessments. The Secretary may only initiate a study if specified criteria are met and Congress appropriates the money to fund it. Imposes certain limitations on the initiation of a study and terminates the Secretary's authority to do so after three years. Authorizes appropriations of \$25 million for each of fiscal years 2014 through 2017.

## **TITLE V – REGIONAL AND NONPROJECT PROVISIONS**

Provides for programs related to: Northeast Coastal Region Ecosystem Restoration; Chesapeake Bay Environmental Restoration; Rio Grande Environmental Management; Lower Columbia River and Tillamook Bay Ecosystem Restoration; the Arkansas River; Aquatic Invasive Species Prevention and Management for the Columbia River Basin; Upper Missouri Basin Flood and Drought Monitoring; Northern Rockies Headwaters Extreme Weather Mitigation; Aquatic Nuisance Species Prevention for the Great Lakes and Mississippi River Basin.

## **TITLE VI – LEVEE SAFETY**

### **National Levee Safety Program**

Requires the Secretary, in consultation with the Federal Emergency Management Agency (FEMA), to establish a national levee safety program, including: a national levee database; inspection of levees; safety guidelines; a hazard potential classification system; a public awareness program; coordination of safety, floodplain management, and environmental protection activities; development of state and tribal safety programs; and the provision of technical assistance and materials to state and Indian tribes.

### **National Levee Safety Advisory Board**

Requires the Secretary, in coordination with FEMA, to establish a National Levee Safety Advisory Board to: advise the Secretary and Congress on levee safety; monitor the safety of levees in the United States; assess the effectiveness of levee safety programs; and ensure the safety program is consistent with other federal flood risk management efforts.

Requires various reports. Within three years, requires the Secretary, in coordination with the board, to submit to Congress a report that includes recommendations regarding the advisability and feasibility of, and potential approaches for, establishing a joint national dam and levee safety program. Within two years, requires the Comptroller General to submit a report on opportunities to align federal programs to provide incentives to state, tribal, and local governments and other entities to: promote shared responsibility for levee safety; encourage strong state and tribal levee safety programs; better align the national levee safety program with other federal flood risk management programs; and promote increased levee safety through other federal programs.

### **Authorization of Appropriations**

Authorizes appropriations for:

- Funding the administration and staff of the national levee safety program, the Board, the Standing Committees of the Board, and participating programs, \$5 million for each of fiscal years 2014 through 2023;
- Technical programs, including the development of levee safety guidelines, publications, training, and technical assistance: \$5 million for each of fiscal years 2015 through 2018; \$7.5 million for each of fiscal years 2019 and 2020; and \$10 million for each of fiscal years 2021 through 2023;
- Public involvement and education programs, \$3 million for each of fiscal years 2014 through 2023;
- Carrying out the levee inventory and inspection, \$30 million for each of fiscal years 2014 through 2018;
- Grants to State and tribal levee safety programs, \$300 million for fiscal years 2014 through 2023; and
- Levee rehabilitation assistance grants, \$300 million for fiscal years 2014 through 2023.

## **TITLE VII – INLAND WATERWAYS**

### **Project Delivery Process Reforms**

Requires specified project delivery process reforms. Authorizes pilot projects to evaluate processes or procedures for the study, design, or construction of qualifying projects, including evaluating: early contractor involvement in the development of features and components; an appropriate use of continuing contracts for the construction of features and components; and applicable principles, procedures, and processes used for military construction projects.

Amends the duties of the Inland Waterways Users Board to require that it specifically provide advice and recommendations to the Secretary and Congress regarding: construction and rehabilitation priorities and spending levels; any report of the Chief of Engineers relating to those features and components; an increase in the authorized cost of those features and components; a long-term capital investment program. Requires appointment of a representative from the board

to serve on the project development team for a qualifying project or the study or design of a commercial navigation feature or component of the inland waterways and inland harbors of the United States. Requires the Secretary to communicate quarterly with the board.

Requires the Secretary, in coordination with the board, to develop and submit to Congress within one year a report describing a 20-year program for making capital investments on the inland and intracoastal waterways. Requires the Secretary and board to submit a strategic review every five years.

### **Major Rehabilitation Standards**

Requires the Secretary to develop a methodology for applying standard accounting principles when classifying activities as major rehabilitation projects.

### **Inland Waterways System Revenues**

Finds that the Inland Waterways Trust Fund, which is financed through a fee of \$0.20 per gallon on fuel used by commercial barges, has experienced significantly declining balances in recent years. Finds that \$18 billion from fiscal years 2011 through 2030 is needed for construction and major rehabilitation projects on the inland waterways system. Finds that users of the inland waterways system are supportive of an increase in the existing revenue sources for inland waterways system construction and major rehabilitation activities to expedite the most critical of those construction and major rehabilitation projects. Establishes the “sense of Congress” that the existing revenue sources for inland waterways system construction and rehabilitation activities are insufficient to cover the costs of non-federal interests of construction and major rehabilitation projects on the inland waterways system, which should be addressed.

### **Efficiency of Revenue Collection**

Within two years, requires the Comptroller General to prepare a report on the efficiency of collecting the fuel tax for the Inland Waterways Trust Fund.

## **TITLE VIII – HARBOR MAINTENANCE**

### **Funding for Harbor Maintenance Programs**

Establishes a Harbor Maintenance Trust Fund guarantee by: limiting the amounts made available from the trust fund each fiscal year to be equal to the level of receipts plus interest credited to the trust fund for that fiscal year; allowing the use of such amounts only for harbor maintenance programs; and making it out of order for Congress to consider any legislation that would reduce total budget resources for harbor maintenance programs. Amends the authorization of appropriations out of the trust fund to pay for operation and maintenance costs assigned to commercial navigation of all harbors and inland harbors within the United States by requiring the Secretary to give priority to those projects in a specified order.

Amends the non-federal share of the cost of operation and maintenance of a deep-draft harbor to 50 percent of the excess of the cost of the operation and maintenance of such project over the cost that the Secretary determines would be incurred for operation and maintenance of such project if such project had a depth of 50 feet (as opposed to a depth of 45 feet currently provided for in statute). Defines operation and maintenance activities eligible for the federal cost share and

prioritizes projects that have received the lowest rate of funding from the trust fund in the previous three years.

### **Civil Works Program of the Corps of Engineers**

Establishes a point of order against any legislation that would make the amounts available for a given fiscal year to carry out all programs, projects, and activities of the civil works program of the Corps of Engineers other than the harbor maintenance programs to be less than the amounts made available for those purposes in the previous fiscal year. Excludes emergency and disaster relief funds from the calculation of amounts.

## **TITLE IX – DAM SAFETY**

### **Inspection of Dams**

Amends the National Dam Safety Program to require a federal agency to provide information to the state dam safety agency on the condition or provisions for emergency operations.

### **National Dam Safety Program**

Includes in the objectives of the program developing and implementing a comprehensive dam safety hazard education and public awareness program to assist the public in preparing for dam incidents. Includes representatives from nongovernmental organizations as persons whom can be invited to participate in meetings of the Board of the program as nonvoting members.

### **Public Awareness and Outreach for Dam Safety**

Requires the Secretary, in consultation with others, to carry out a nationwide public awareness and outreach program to assist the public in preparing for, mitigating, responding to, and recovering from dam incidents.

### **Authorization of Appropriations**

Authorizes appropriations of:

- \$9.2 million for each of fiscal years 2014 through 2018 for the national dam safety program. Establishes that for fiscal year 2014 and each subsequent fiscal year the amount of funds allocated to a State may not exceed the amount of funds committed by the State to implement dam safety activities;
- \$500,000 for each of fiscal years 2014 through 2018 for the national dam inventory;
- \$1 million for each of fiscal years 2014 through 2018 for public awareness;
- \$1.45 million for each of fiscal years 2014 through 2018 for research;
- \$750,000 for each of fiscal years 2014 through 2018 for dam safety training;
- \$1 million for each of fiscal years 2014 through 2018 for staff.

## **TITLE X – INNOVATIVE FINANCING PILOT PROJECTS**

### **Authority to Provide Assistance**

Authorizes the Secretary and the Administrator of the EPA to provide financial assistance to carry out pilot projects to assess various capabilities of innovative financing tools to promote development of critical water resources infrastructure.

### **Secured Loans**

Authorizes the Secretary or Administrator to enter into agreements to make secured loans to finance eligible project costs. Authorizes the Secretary or EPA Administrator to provide a loan guarantee if the Secretary or Administrator determines that the budgetary cost is substantially the same as that of a secured loan.

### **Program Administration**

Requires the Secretary or Administrator to establish a uniform system to service the federal credit instruments made available under this title. Authorizes collection and expenditure of fees, contingent on authority being provided in appropriations acts. Authorizes appointment of a financial entity to assist the Secretary or Administrator in servicing the federal credit instruments made available under this title. Authorizes retention of services, including counsel, of organizations and entities with expertise in the field of municipal and project finance to assist in the underwriting and service of federal credit instruments provided under this title.

### **Funding**

Authorizes appropriations to each of the Secretary and the Administrator of \$50 million for each of fiscal years 2014 through 2018, of which no more than \$2.2 million for each of fiscal years 2014 through 2018 may be used for administrative costs, including for the provision of technical assistance to aid project sponsors in obtaining the necessary approvals for the project.

### **Report to Congress**

Requires the Secretary and Administrator to submit to Congress every two years a report summarizing specified information for the projects that are receiving, or have received, financing under this title.

## **TITLE XI – EXTREME WEATHER**

### **Study on Risk Reduction**

Within 18 months, requires the Secretary, in coordination with the Secretary of Interior and the Secretary of Commerce, to enter into an arrangement with the National Academy of Sciences to carry out a study and make recommendations relating to infrastructure and coastal restoration options for reducing risk to human life and property from extreme weather events, such as hurricanes, coastal storms, and inland flooding.

### **GAO Study on Management of Flood, Drought, and Storm Damage**

Within one year, requires the Comptroller General to submit to Congress a study of the strategies used by the Corps of Engineers for the comprehensive management of water resources in response to floods, storms, and droughts, including an historical review of the ability of the Corps of Engineers to manage and respond to historical drought, storm, and flood events.

### **Post-Disaster Watershed Assessments**

In an area that the President has declared a major disaster, authorizes the Secretary to carry out a watershed assessment to identify specific flood risk reduction, hurricane and storm damage reduction, or ecosystem restoration project recommendations that will help to rehabilitate and improve the resiliency of damaged infrastructure and natural resources to reduce risks to human

life and property from future natural disasters. Limits the federal share of the cost of carrying out a watershed assessment to \$1 million. Authorizes appropriations of \$25 million for each of fiscal years 2014 through 2018.

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### **Administration Position**

The Obama Administration has not taken a position on S. 601 at this time.

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### **Amendments**

There are no amendments to S. 601 pending at this time.

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### **Cost**

The Congressional Budget Office [estimates](#) that implementing S. 601, as reported, would cost \$5.7 billion from 2014 to 2018, and \$6.5 billion from 2019 to 2023.

CBO estimates that federal spending subject to appropriation over the 2014 to 2018 period would total:

- \$3.4 billion for water resource projects (Title I);
- \$1 billion for water resources policy reforms (Title II);
- \$103 million for water resources studies (Title IV);
- \$271 million for regional and nonproject provisions (Title V);
- \$443 million for levee safety (Title VI);
- \$235 million for harbor maintenance (Title VIII);
- \$63 million for dam safety (Title IX);
- \$40 million for innovative financing pilot projects (Title X);
- \$100 million for extreme weather (Title XI);
- \$3 million for miscellaneous provisions.