

# Subcommittee on Water, Power and Oceans

Doug Lamborn, Chairman

Hearing Memorandum

October 31, 2017

To: All Subcommittee on Water, Power and Oceans Members

From: Majority Committee Staff, Subcommittee on Water, Power and Oceans (x58331)

Hearing: **Legislative hearing on H.R. 1176 (Rep. Chellie Pingree, D-ME)**, To amend the Coastal Zone Management Act of 1972 to establish a Working Waterfront Task Force and a working waterfronts grant program, and for other purposes.  
**November 2, 2017 at 10:00 AM; 1324 Longworth HOB**

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**H.R. 1176 (Rep. Chellie Pingree)**, “*Keep America’s Waterfronts Working Act*”

## **Bill Summary**

H.R. 1176 (Rep. Chellie Pingree), creates a Working Waterfronts Task Force organized by the Department of the Interior (Interior) to identify and prioritize needs in states with existing management plans under the Coastal Zone Management Act of 1972 (P.L. 92-583) with respect to working waterfronts and threats use of the coastal zone in conflict with the purposes of a working waterfront, as defined in the bill. H.R. 1176 further establishes a Working Waterfronts Grant Program for states – or qualified entities designated by a state – whose coastal zones have been identified as a priority by the Task Force and the state has developed a working waterfront plan approved by the Secretary of Commerce (Commerce). States and qualified entities may use these grants to maintain coastal zones in a manner consistent with the working waterfront plan.

This hearing will also include consideration of two other bills.

## **Cosponsors:**

Reps. Rob Wittman (R-VA) and Bill Keating (D-MA).

## **Invited Witnesses (in alphabetical order):**

*The Honorable Paul LePage*  
Governor of the State of Maine  
Augusta, Maine

*Mr. Robert Snyder*  
President, Island Institute  
Rockland, Maine

*The Honorable Wilbur Ross (Invited)*  
Secretary, U.S. Department of Commerce  
Washington, D.C.



Currently, 34 of 35 eligible States or territories have developed coastal zone management plans and participate in CZMA.<sup>8</sup> NOAA, acting through the Office for Coastal Management, administers the CZMA. While authorization for the program expired in 1999, Congress has continued to make appropriations to implement the CZMA. In 2016, approximately \$69.7 million in federal CZMA grants were matched by \$57.1 million in State, territory and local funding for the management of coastal zones.<sup>9</sup>

### *Working Waterfronts*

CZMA includes fishing and related development as among the coastal uses that management plans may consider and prioritize. Some have raised concerns that fishing interests are under threat from population shifts towards coastal areas and rising coastal property values that lead to private procurement of waterfront properties for purposes incompatible with fishing. H.R. 1176 attempts to address this perception through the establishment of a Working Waterfront Task Force and a Working Waterfront Grant utilizing existing CZMA funding.

While the Department of Commerce administers the CZMA, H.R. 1176 directs the Secretary of the Interior to establish and appoint members to a Working Waterfronts Task Force (Task Force) to identify and address state needs with respect to working waterfronts.<sup>10</sup> The Task Force would be comprised of experts on issues surrounding working waterfront and representatives from several federal agencies across the departments of Interior, Commerce, Agriculture, the Environmental Protection Agency (EPA), and the Navy.<sup>11</sup> The Task Force would identify economic and environmental challenges to working waterfronts and the Federal agencies best suited to combat these encroachments.<sup>12</sup> Each relevant Federal agency would then act to implement recommendations made in a report issued by the Task Force on its findings.

H.R. 1176 would further establish a specialized grant program within CZMA. States must have developed a Working Waterfront Plan (Plan) approved by the Secretary of Commerce (Secretary) before they may apply for a Working Waterfront Grant established under this act.<sup>13</sup> States, with the approval of the Secretary, may designate local governments or nongovernmental organizations (NGOs) as qualified holders to administer the grant consistent with the Plan.<sup>14</sup> Any entity holding title or interest in a working waterfront affected by a grant under this act is required to enter into a covenant with the qualified holder administering the grant to ensure compliance. A public hearing finding Plan noncompliance could result of forfeiture of title or interest in the working waterfront to the state.<sup>15</sup>

In the 110<sup>th</sup> Congress, the Subcommittee on Fisheries, Wildlife, and Oceans held a hearing on a nearly identical bill, H.R. 3223, sponsored by former Rep. Thomas Allen (D-ME).

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<sup>8</sup> <https://coast.noaa.gov/czm/mystate/>.

<sup>9</sup> NOAA's National Coastal Zone Management Program: Funding Summary 2016, Office of Coastal Management, <https://coast.noaa.gov/czm/media/funding-summary.pdf>.

<sup>10</sup> [Keeping America's Waterfronts Working Act, H.R. 1176, p. 3, ll. 17-21.](#)

<sup>11</sup> *Id.*, p. 3, lines 22-25; p. 4, lines 1-12.

<sup>12</sup> *Id.*, p. 4, lines 13-24; p. 5, lines 1-10.

<sup>13</sup> *Id.*, p. 6, lines 3-16.

<sup>14</sup> *Id.*, p. 14, lines 23-25; p. 15, lines 1-5.

<sup>15</sup> *Id.*, p. 15, lines 19-25; p. 16, lines 1-15.

At the February 2008 hearing, the Director of the Office of Ocean and Coastal Resource Management within the Obama Administration's NOAA testified that "[t]he Administration supports efforts to preserve working waterfronts. However, the Administration does not believe the grant program established by H.R. 3223 is the right tool to address this agreed upon goal... Moreover, the Administration believes that Federal funds should be used for public benefit, and is concerned that H.R. 3223 appears to promote one type of commercial activity over others."<sup>16</sup>

### **Major Provisions/ Analysis of H.R. 1176**

*Section 2* establishes the Working Waterfronts Task Force, organized and overseen by the Secretary of the Interior. The bill directs the Task Force to issue a report to Congress making recommendations to address challenges facing working waterfronts and authorizes identified federal agencies to act on the recommendations.

Section 2 also establishes a Working Waterfront Grant Program for coastal states with working waterfront plans consistent with their coastal management plans. States may apply to for a Working Waterfront Grant and allocate the grant to local governments or NGOs (qualified entities) to administer, consistent with the working waterfront plan. Entities with title to or interest in a working waterfront covered by the Plan must enter a working waterfront covenant to ensure they are in compliance with the terms of the grant.

Section 2 generally requires expansion of public access to coastal waters via the working waterfront.

Section 2 requires the grant recipient to provide 25% of the total cost of the project funded by the grant. However, the Secretary can waive the non-federal match requirement for an "underserved community," or the Secretary can treat the value of a working waterfront or conservation and other easements as the non-federal match.

Section 2 provides for a maximum of 5% of the funds in the grant program to be made available to States for technical and financial assistance in developing their Plans.

Finally, Section 2 defines key terms throughout the bill, including qualified holder, working waterfront, and working waterfront covenant.

### **Cost**

The Congressional Budget Office has yet completed a cost estimate of this bill.

### **Administration Position**

Unknown.

### **Effect on Current Law (Ramseyer)**

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<sup>16</sup> [Written Testimony of Mr. John H. Dunnigan before the House Subcommittee on Fisheries, Wildlife, and Oceans; Legislative Hearing on the Reauthorization of the Coastal Zone Management Act, and H.R. 3223, H.R. 5452, and H.R. 5453; Feb 28, 2008.](#)