



Conference Report Accompanying H.R. 1495 - Water Resources Development Act of 2007

Executive Summary

The Conference Report accompanying the Water Resources Development Act (H.R. 1495) authorizes close to \$21 billion for water resources studies and projects. This authorization is \$6 billion more than the House-passed version of H.R. 1495 and \$7 billion more than the Senate-passed version.

One of the highlights of the bill is the authorization of \$1.9 billion for hurricane relief for the coast of Louisiana. The bill also authorizes \$1.9 billion for a national levee safety program.

Background

On April 19, 2007, the House of Representatives passed H.R. 1495 by a recorded vote of 394 - 25 ([Roll no. 234](#)). The Senate received the bill and on May 16, 2007, passed the bill with an amendment by a recorded vote of 91 - 4 ([Record Vote Number: 170](#)). On July 25, 2007, Chairman Oberstar (D-MN) moved that the House disagree to the Senate amendment during conference proceedings. On the same day, the House agreed by voice vote to go to conference on this bill with the Senate.

The Water Resources Development Act (WRDA) authorizes water resources studies and projects and has traditionally been re-authorized every two years. The last authorization, however, was signed into law in 2000. During the 109th Congress, WRDA authorization (H.R. 2864) was considered by the House of Representatives and passed by a recorded vote of 406-14 on July 14, 2005 ([Roll no. 378](#)). The bill then passed the Senate, with an amendment, by voice vote. Conferees were appointed but no conference report was filed.

The Army Corps of Engineers receives its civil works authorization through WRDA. By Congressional direction, the Corps of Engineers designs, constructs, and maintains water resources facilities in the U.S. WRDA also gives the Corps the right to study water issues, and, more recently, to restore ecosystems.

Floor Situation

The Conference Report to H.R. 1495 is being considered on the floor under a closed rule. The rule:

- Waives all points of order against its consideration.

The Conference Report to H.R. 1495 is expected to be considered on the floor on August 1, 2007.

Title I – Water Resource Projects

The Conference Report authorizes almost 1,000 studies, modifications, or construction of federal water resources projects. The Secretary of the Army is also provided with the authority to carry out some projects that are deemed to be “feasible” (economically justified, environmentally acceptable, and technically achievable) in the project study. Existing authorizations from numerous laws (listed below) provide funds to carry out these projects even though they are not specifically authorized by Congress.

The provisions within Title I:

- Authorize 46 water projects within this section. The language contains the total cost of each project as well as the federal and non-federal cost. For a complete list of projects, see section 1001.

**Note: The House-passed version contained 43 water projects.*

- Includes 40 small projects for flood damage and reduction, if the individual projects are feasible. For a complete list of projects, see section 1002.

**Note: The House-passed version contained 31 projects under this section.*

**Note: The Flood Control Act of 1948 authorizes \$50 million each year for small projects for flood damage reduction that were not authorized by Congress. No individual project can receive more than \$7 million under this statute.*

- Includes 18 small projects for emergency streambank protection if the individual projects are feasible. The projects seek to prevent damage to highways, bridge approaches, public works, churches, hospitals, schools, and non-profit public services. For a complete list of projects, see section 1003.

**Note: The House-passed version contained 16 projects under this section.*

**Note: The Flood Control Act of 1946 authorizes \$15 million each year for small projects for emergency streambank protection that were not specifically authorized by Congress. No individual project can receive more than \$1 million under this statute.*

- Includes 21 small programs for navigation. For a complete list of projects, please see section 1004.

**Note: The House-passed version contained 9 projects under this section.*

**Note: The River and Harbor Act of 1960 authorizes \$35 million for small projects for navigation that were not specifically authorized by Congress.*

- Includes 7 small projects for improvement of the quality of the environment if the individual projects are feasible. For a complete list of projects, see section 1005.

**Note: The section is exactly the same as section 1005 in the House-passed version.*

**Note: The Water Resources Act of 1986 authorizes \$25 million for small projects for improvement of the quality of the environment that were not specifically authorized by Congress. No individual project can receive more than \$5 million and the non-federal share of these projects is 25%.*

- Includes 43 small projects for aquatic ecosystem restoration if the individual projects are feasible. For a complete list of projects, see section 1006.

**Note: The House-passed version contained 27 projects under this section.*

**Note: The Water Resources Development Act of 1986 authorizes \$25 million for small projects for aquatic ecosystem restoration that were not specifically authorized by Congress. No individual project can receive more than \$5 million and the non-federal share of these projects is 35%.*

- Includes 8 small projects for shoreline protection if the individual projects are feasible. For a complete list of projects, see section 1007.

**Note: The House-passed version contained 7 projects under this section.*

**Note: In accordance with 33 U.S.C. 426g, \$30 million is authorized for small projects for shoreline protection that were not specifically authorized by Congress. No individual project can receive more than \$3 million.*

- Includes one small project for snagging and sediment removal in Kowawese Unique Area and Hudson River, New Windsor, New York, if the project is feasible.

**Note: The Flood Control Act of 1937 authorizes \$7.5 million for small projects for snagging and sediment removal. No individual project can receive more than \$500,000.*

- Includes 2 small projects to prevent or mitigate damage caused by navigation projects if the individual projects are feasible. For a complete list of projects, see

section 1000.

**Note: This provision was not in the House-passed version.*

- Requires the Secretary to carry out one small project for aquatic plant control in the Republican River Basin, Nebraska, if the project is feasible.

**Note: This provision was not in the House-passed version.*

Title II – General Provisions

This title focuses on Army Corps of Engineers reforms, including the implementation of a peer review process, adjustments in partnership agreements, project streamlining, and a variety of other changes to current processes.

This section:

- Prohibits the Secretary from soliciting contributions (in excess of the non-federal share) from non-Federal entities for flood control projects.
- Requires the Secretary to enter into a written agreement with each non-Federal interest for any water resources project, under which each party will agree to carry out its responsibilities and requirements for implementation or construction of the project or the appropriate element of the project.
- Requires non-Federal interests to enter into a partnership agreement with the Secretary, which includes: agreements to carry out requirements of the project, a provision for liquidated damages in the event of a failure to perform, and the value of in-kind contributions (planning, design, value of materials provided before the agreement, etc.). Additionally, this provision requires the issuance of guidelines that would delegate the following authorities to district engineers: approve policies in an agreement that have previously been approved by the Secretary, approve policies that have terms dictated in law, approve policies outlined in the Secretary's guidelines, and sign any partnership agreement unless the Secretary notifies the district engineer within 30 days that the Secretary would like to sign the agreement.

**Note: This provision was not in the House-passed version.*

**Note: A partnership agreement is not required when the administrative costs associated with the agreement exceed the contribution from the non-Federal interest and are less than \$25,000. Additionally, this provision requires a Report to Congress within two years of enactment about the number of partnership agreements and requires all agreements to be made available to the public within 120 days.*

- Allows the Secretary to recommend a navigation project that is not justified solely by national economic benefits if the Secretary determines that: the community is at least 70 miles from the nearest surface accessible commercial port, over 80% of the goods transported in the harbor would be consumed by the local community, and the long-term viability of the community would be threatened without the project.

**Note: This provision was not in the House-passed version.*

- Requires the Secretary to expedite the planning, design and construction of any project that has had flooding within the last five years, which has resulted in loss of life and caused a major disaster declaration.

**Note: This provision was in the House-passed version.*

- Adds five priority locations for selecting river basins and watersheds for assessments, and changes the non-Federal cost share to 25%.

**Note: This provision was in the House-passed version.*

**Note: Current law requires a 50% cost share for non-Federal entities.*

Includes the Secretary on a list of agencies that are allowed to enter in contracts with local government entities for fire suppression and detection.

**Note: This provision was in the House-passed version.*

- Authorizes the Secretary to enter into cooperative agreements with nonprofit organizations with expertise in wetlands restoration to carry out such design and construction on behalf of the Secretary for the purpose of expediting the cost-effective design and construction of wetlands restoration.
- Provides a statement of policy: “it is the policy of the United States to promote beach renourishment for the purpose of flood damage reduction and hurricane storm damage reduction...” Additionally, the bill provides priority for carrying out this policy for areas that have received a Federal investment and where there is a need for Federal activities.
- Authorizes \$50 million for the restoration and protection of aquatic ecosystems or estuaries if the Secretary determines that the project will improve the quality of the environment and is in the public interest, or it will improve the elements and features of an estuary.
- Increases the authorization for planning and design assistance for the remediation of abandoned mines from \$7.5 million to \$20 million.

- Requires a peer review of a project that has an estimated total cost of more than \$45 million or if the Governor requests an independent peer review. Additionally, the Chief of Engineers may require a peer review if the head of a Federal or state agency requests a peer review or if the Chief of Engineers determines that the project is controversial. The peer review panels shall be a Federal expense and cannot be more than \$500,000 (which can be waived by the Chief of Engineers). Reports to Congress are required upon the execution of a peer review. The independent peer review is to run concurrently with the Corps of Engineers' study process.

**Note: The House-passed version required a peer review at a cost of more than \$50 million.*

- The Chief of Engineers must ensure that the design and construction activities of hurricane and storm damage reduction and flood damage reduction projects are reviewed by independent experts if the Chief of Engineers determines that a review by independent experts is necessary to assure public health, safety, and welfare.
- WRDA 2007 also directs the Corps to update its primary guidance document, the Principles and Guidelines ("P&G").
- The new mitigation provision will ensure that necessary infrastructure projects will include complete, timely, and appropriate mitigation for environmental impacts.

Title III – Project-Related Provisions

This title includes 178 project-related provisions and modifications requested by Members that range from changes in authorization levels to adjustments in project instructions. For a complete list of project-related provisions, see Title III.

**Note: The House-passed version contained 116 project-related provisions under this title.*

Title IV – Studies

This title includes almost 100 studies of projects throughout the country. For a complete list of studies, see Title IV.

**Note: The House-passed version contained 83 studies under this title.*

Title V – Miscellaneous

This title contains almost 400 project-specific miscellaneous provisions. For a complete list of these provisions, see Title V.

**Note: The House-passed version contained 117 project-specific provisions under this title.*

Title VI – Florida Everglades

This title includes provisions that make adjustments to the restoration of the Florida Everglades.

This title:

- Adjusts provisions regarding the Hillsboro and Okeechobee Aquifer, including a modification to the total cost of the project to \$42,500,000.

**Note: This project was authorized in the Water Resources Development Act of 1999.*

- Directs the Corps of Engineers through report language to expedite completion of an ongoing study of water deliveries through the Tamiami Trail to achieve necessary flows called for in the Modified Water Deliveries project for restoration of the Everglades, and to recommend a resolution to this project in July 2008.
- Title I of WRDA authorizes construction of the first three project components of the Comprehensive Everglades Restoration Plan, authorized in the Water Resources Development Act of 2000: Indian River Lagoon, Picayune Strand, and Site 1 Impoundment.
- De-authorizes the uncompleted portions of three restoration projects.

Title VII – Louisiana Coastal Area

- Requires the Secretary to develop a comprehensive plan (and submit to Congress within one year) for protecting and restoring the coastal Louisiana ecosystem. This plan is required to be integrated into the comprehensive hurricane protection study, which was authorized in the 2006 Energy and Water Appropriations Act (PL 109-103). Additionally, the plan should be consistent with the Comprehensive Coastal Protection Master Plan, which was passed by the Louisiana State Legislature in 2005.

The comprehensive plan must include: the role of federal and state agencies, the means of integrating a new technology, ecological success criteria, proposed projects that could contribute to the protection of coastal wetlands and flood protection of communities, and the framework of a long-term program that is integrated with the hurricane and storm damage reduction, flood damage

reduction and navigation activities that provide for comprehensive protection, conservation and restoration.

- Allows the Secretary to carry out ecosystem restoration projects for the Louisiana Coastal Area. Additionally, this provision provides priorities for carrying out the program (priorities are listed in section 7003).

**Note: The Secretary is also required to review all authorized projects in the coastal Louisiana ecosystem to determine whether the project needs to be modified to comply with this provision.*

- Creates the Coastal Louisiana Ecosystem Protection and Restoration Task Force, which includes the Secretary, Secretary of the Interior, Secretary of Commerce, Administrator of the Environmental Protection Agency, Secretary of Agriculture, Secretary of Transportation, Secretary of Energy and the Director of the Federal Emergency Management Agency (FEMA), Commandant of the Coast Guard, Coastal Advisor to the Governor, Secretary of the Louisiana Department of Natural Resources, and a Representative of the Governor's Advisory Panel on Coastal Restoration and Conservation.
- Requires the Secretary to carry out a coastal Louisiana ecosystem science and technology program, which is authorized at a total cost of \$100 million. Individual projects within this program can not exceed \$25 million. The purpose of this program is to identify any uncertainty relating to the physical, chemical, geological, biological, and cultural baseline conditions in the coastal Louisiana ecosystem, to improve knowledge of the physical, chemical, geological, biological, and cultural baseline conditions in the coastal Louisiana ecosystem, to identify and develop technologies, models, and methods to carry out this subsection, and to advance and expedite the implementation of the comprehensive plan.
- Requires the Secretary to establish the Louisiana Water Resources Council, which will be a peer review panel for projects within this title.
- Authorizes the Secretary to raise levee heights and enhance the Lake Pontchartrain and Vicinity Project and the West Bank and Vicinity Project to provide levels of protection needed to achieve certification required for participation in the National Flood Insurance Act of 1965. Additionally, authorizes the Secretary to make other modifications to the New Orleans vicinity in order to increase flood protection.
- De-authorizes the Mississippi River Gulf Outlet and requires a study project to modify the Mississippi River-Gulf Outlet and authorizes \$5 million for the costs of the study and report.

**Note: This title is almost identical to Title VII of the House-passed version.*

Title VIII – Upper Mississippi River and Illinois Waterway System

- Requires the Secretary to undertake navigation improvements and restoration of the ecosystem for the Upper Mississippi River and Illinois Water System.
- Authorizes \$256 million for the Secretary to construct certain mooring facilities, provide switchboats at specific locks and conduct development and testing of an appointment scheduling system.
- Authorizes \$1.948 billion for the Secretary to construct new 1,200 foot locks at seven locations.
- Authorizes the Secretary to carry out ecosystem restoration projects and outlines 14 purposes that may be included.

**Note: This title is almost identical to Title VIII of the House-passed version.*

Title IX – National Levee Safety Program

- Establishes the Committee on Levee Safety, which will make recommendations for a national levee safety program, including a strategic plan for implementation of the program.
- Authorizes \$20 million for each fiscal year for the Army Corps of Engineers to develop and maintain an inventory of levees nationwide, as well as provide for the inspection of levees.

**Note: This title was not included in the House-passed version.*

Cost

The Congressional Budget Office has not scored the Conference Report to H.R. 1495. Please find below the Cost Estimate for the original House-passed version.

“Assuming appropriation of the necessary amounts, including adjustments for increases in anticipated inflation, CBO estimates that implementing H.R. 1495 would cost about \$6.7 billion over the 2008-2012 period and an additional \$6.5 billion over the 10 years after 2012. (Some construction costs and operations and maintenance would continue or commence after those first 15 years.)” CBO Cost Estimate

Staff Contact

For questions or further information contact Chris Vieson at (202) 226-2302.