Calendar No. 557

117TH CONGRESS, 2d Session | SENATE | REPORT 117–205

HAZARD ELIGIBILITY AND LOCAL PROJECTS ACT

REPORT

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 1877

TO MODIFY ELIGIBILITY REQUIREMENTS FOR CERTAIN HAZARD MITIGATION ASSISTANCE PROGRAMS, AND FOR OTHER PURPOSES

NOVEMBER 17, 2022.—Ordered to be printed

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NOVEMBER 17, 2022.—Ordered to be printed

Mr. PETERS, from the Committee on Homeland Security and Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 1877]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1877) to modify eligibility requirements for certain hazard mitigation assistance programs, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

CONTENTS

I. PURPOSE AND SUMMARY

S. 1877, the *Hazard Eligibility and Local Projects Act*, makes an entity seeking assistance under a Federal Emergency Management Agency (FEMA) Hazard Mitigation Assistance (HMA) program eligible to receive such assistance for acquisition and demolition projects in progress before a grant is awarded. Currently, an applicant beginning work on a project before FEMA grants an award would make it ineligible to receive assistance.

Additionally, the bill creates requirements for the FEMA Administrator to submit an annual report to Congress on the use of authority under this legislation. The bill includes a sunset provision of three years after the date of enactment.

II. BACKGROUND AND NEED FOR THE LEGISLATION

Buyouts are a mitigation tool used by the government to purchase private property, demolish structures, and create open-space preserved land that serve natural flood and other hazard mitigation purposes.[1] Under the HMA program, acquisitions are eligible uses to qualify for FEMA grants, and are often used to reduce flood risk. For decades, FEMA has provided state and local governments funding to buy out thousands of flood damaged properties in the United States.[2] Data shows that approximately 70 percent of FEMA approved buyout projects were approved within two years of respective disasters, 30 percent took longer, and typically several years pass between project approval and closeout.[3] This process sometimes forces people to live in disaster damaged homes while they wait for buyouts which puts them at additional risk for future disasters. Currently, FEMA is prohibited from awarding grants under HMA programs for projects where physical work has occurred prior to final approval of the grant.[4] Therefore, purchasing land and beginning demolition prior to full FEMA approval will disqualify a project from receiving a grant under HMA. This legislation would allow for these acquisition projects to begin before the approval of the HMA grant award.

This bill would not result in an increase in any fraudulent or poorly executed projects because all projects must still go through the normal FEMA review process regardless of whether they have been started prior to final approval. Projects started before receiving final approval from FEMA would still need to be selected for funding, and this measure does not require FEMA to approve a project solely because it meets eligibility criteria. An entity that begins a project that has not received final approval, or is found to be ineligible by FEMA, remains responsible for all financial costs incurred if not chosen for funding by FEMA.

Additionally, S. 1877 includes a sunset provision of three years after the date of enactment and requires the FEMA Administrator to submit an annual report to Congress on the use of authority this bill creates. These provisions give Congress an opportunity to review the effectiveness and outcomes of this legislation.

III. LEGISLATIVE HISTORY

S. 1877 was introduced on May 27, 2021, by Senators Tillis (R–NC), Burr (R–NC), Cornyn (R–TX), Cruz (R–TX) and Lankford (R–OK). Senator Warnock (D–GA) joined as a cosponsor on December 14, 2021, and Senator Hassan (D–NH) joined on August 2, 2022. Upon introduction, the bill was referred to the Senate Committee on Homeland Security and Governmental Affairs.

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[1] Congressional Research Service, *Flood Buyouts: Federal Funding for Property Acquisition* (IN11911) (Apr. 8, 2022).

[2] Natural Resources Defense Council, *Going Under: Long Wait Times for Post-Flood Buyouts Leave Homeowners Underwater* (R: 19–08–A) (Sept. 2019).

[3] Id.

[4] Federal Emergency Management Agency, *Hazard Mitigation Assistance Guidance Hazard: Mitigation Grant Program, Pre-Disaster Mitigation Program, and Flood Mitigation Assistance Program* (Feb. 27, 2015).

The Committee considered the legislation at a business meeting on August 3, 2022. During the meeting, Chairman Peters offered an amendment in the nature of a substitute that incorporated technical drafting assistance from FEMA, limits the projects covered under this bill to acquisition and demolition projects, adds a sunset of three years, and creates a reporting requirement for FEMA to assess the use of this legislation. The Committee adopted the Peters substitute amendment and reported the bill favorably by voice vote, as amended. The Senators present were Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Lankford, Romney, Scott, and Hawley.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section designates the name of the bill as the "Hazard Eligibility and Local Projects Act."

Section 2. Authority to begin implementation of acquisition and demolition assistance projects

Subsection (a) defines the terms "Administrator", "Covered Project" and "Hazard Mitigation Assistance Program".

Subsection (b) provides requirements for eligibility under the Hazard Mitigation Grant Program for covered projects. Requirements include compliance with all other eligibility requirements of the assistance program for acquisition or demolition projects and compliance with all Federal requirements. This subsection also provides criteria for the FEMA Administrator to follow when determining if a project is covered or not. Additionally, this subsection states that an entity seeking assistance under the grant program is responsible for all project costs incurred if the project is determined to be ineligible or not awarded a grant.

Subsection (c) provides that applicability under this bill is limited to projects started on or after the date of enactment.

Subsection (d) requires the FEMA Administrator to submit annual reports to Congress on the use of authority under this legislation.

Subsection (e) provides a sunset provision that terminates this legislation 3 years after the date of enactment.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 9, 2022.

Hon. GARY C. PETERS,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed table summarizing estimated budgetary effects and mandates information for some of the legislation that has been ordered reported by the Senate Committee on Homeland Security and Governmental Affairs during the 117th Congress.

If you wish further details, we will be pleased to provide them. The CBO staff contact for each estimate is listed on the enclosed table.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

SUMMARY ESTIMATES OF LEGISLATION ORDERED REPORTED

The Congressional Budget Act of 1974 requires the Congressional Budget Office, to the extent practicable, to prepare estimates of the budgetary effects of legislation ordered reported by Congressional authorizing committees. In order to provide the Congress with as much information as possible, the attached table summarizes information about the estimated direct spending and revenue effects of some of the legislation that has been ordered reported by the Senate Committee on Homeland Security and Governmental Affairs during the 117th Congress. The legislation listed in this table generally would have small effects, if any, on direct spending or revenues, CBO estimates. Where possible, the table also provides information about the legislation's estimated effects on spending subject to appropriation and on intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act.

ESTIMATED BUDGETARY EFFECTS AND MANDATES INFORMATION

Bill Number	Title	Status	Last Action	Budget Function	Direct Spending, 2023–2032	Revenues, 2023–2032	Spending Subject to Appropriation, 2023–2027	Pay-As-You-Go Procedures Apply?	Increases On-Budget Deficits Beginning in 2033?	Mandates	Contact
S. 1877	Hazard Eligibility and Local Projects Act	Ordered reported	08/03/22	450	0	0	$10 million	No	No	No	Jon Sperl

S. 1877 would make additional projects eligible for funding under grant programs that the Federal Emergency Management Agency (FEMA) administers to help state and local governments and residential and commercial property owners avert damage from natural disasters in the future. Under the bill, FEMA could approve applications to acquire property or relocate structures if a project's planning or construction begins before a grant is awarded and if the project is exempt from environmental review under the National Environmental Policy Act. CBO estimates that enacting H.R. 1877 would not affect direct spending or revenues. CBO estimates that implementing the bill would increase discretionary costs by $10 million over the 2023–2027 period, but that spending would be subject to the availability of appropriated funds. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation would make no change in existing law, within the meaning of clauses (a) and (b) of subparagraph 12 of rule XXVI of the Standing Rules of the Senate, because this legislation would not repeal or amend any provision of current law.

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