

Calendar No. 376

115TH CONGRESS }
2d Session }

SENATE

{ REPORT
115-228

GULF ISLANDS NATIONAL SEASHORE LAND EXCHANGE ACT

APRIL 11, 2018.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany H.R. 2615]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (H.R. 2615) to authorize the exchange of certain land located in Gulf Islands National Seashore, Jackson County, Mississippi, between the National Park Service and the Veterans of Foreign Wars, 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.

AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Gulf Islands National Seashore Land Exchange Act of 2017”.

SEC. 2. LAND EXCHANGE, GULF ISLANDS NATIONAL SEASHORE, JACKSON COUNTY, MISSISSIPPI.

(a) LAND EXCHANGE AUTHORIZED.—The Secretary of the Interior, acting through the Director of the National Park Service (in this section referred to as the “Secretary”) may convey to the Veterans of Foreign Wars Post 5699 (in this section referred to as the “Post”) all right, title, and interest of the United States in and to a parcel of real property, consisting of approximately 1.542 acres, located within the Gulf Islands National Seashore in Jackson County, Mississippi, and identified as “NPS Exchange Area” on the map entitled “Gulf Islands National Seashore, Proposed Land Exchange with VFW, Davis Bayou Area—Jackson County, MS”, numbered 635/133309, and dated June 2016.

(b) LAND TO BE ACQUIRED.—In exchange for the property described in subsection (a), the Post shall convey to the Secretary all right, title, and interest of the Post

in and to a parcel of real property, consisting of approximately 2.161 acres, located in Jackson County, Mississippi, and identified as “VFW Exchange Area” on the map described in subsection (a).

(c) EQUAL VALUE EXCHANGE.—

(1) IN GENERAL.—The values of the parcels of real property to be exchanged under this section shall be determined by an appraisal conducted—

(A) by a qualified and independent appraiser; and

(B) in accordance with nationally recognized appraisal standards.

(2) EQUALIZATION.—If the values of the parcels of real property to be exchanged under this section, as determined pursuant to paragraph (1), are not equal, the values shall be equalized through—

(A) a cash payment; or

(B) adjustments to the acreage of the parcels of real property to be exchanged.

(d) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the Post to cover costs to be incurred by the Secretary, or to reimburse the Secretary for such costs incurred by the Secretary, to carry out the land exchange under this section, including survey costs, costs related to environmental documentation, and any other administrative costs related to the land exchange. If amounts are collected from the Secretary in advance of the Secretary incurring the actual costs and the amount collected exceeds the costs actually incurred by the Secretary to carry out the land exchange, the Secretary shall refund the excess amount to the Post.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover those costs incurred by the Secretary in carrying out the land exchange. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of property to be exchanged under this section shall be determined by surveys satisfactory to the Secretary and the Post.

(f) CONVEYANCE AGREEMENT.—The exchange of real property under this section shall be accomplished using a quit claim deed or other legal instrument and upon terms and conditions mutually satisfactory to the Secretary and the Post, including such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(g) VALID EXISTING RIGHTS.—The exchange authorized under this section shall be subject to valid existing rights.

(h) TITLE APPROVAL.—Title to the real property described in subsection (a) and the real property described in subsection (b) to be exchanged under this section shall be in a form acceptable to the Secretary.

(i) TREATMENT OF ACQUIRED LAND.—Land and interests in land acquired by the United States under subsection (b) shall be administered by the Secretary as part of the Gulf Islands National Seashore.

(j) MODIFICATION OF BOUNDARY.—Upon completion of the land exchange under this section, the Secretary shall modify the boundary of the Gulf Islands National Seashore to reflect such land exchange.

PURPOSE

The purpose of H.R. 2615 is to authorize the exchange of certain Federal land located in Gulf Islands National Seashore for certain non-Federal land in Jackson County, Mississippi.

BACKGROUND AND NEED

The Veterans of Foreign Wars Post 5699 (Post) is located in Ocean Springs, Mississippi. The Post owns a 3.3-acre lot adjacent to the Gulf Islands National Seashore’s Davis Bayou Area. National Park Service (NPS) property separates the Post from the public road. The only access to the Post’s property is by way of a one-lane dirt access road across NPS land. The NPS allowed the Veterans of Foreign Wars (VFW) to construct and maintain the access road under an informal agreement. However, no right-of-way or special use permit was ever issued. As a means of guaranteeing

access to the driveway, the VFW is seeking a mutually beneficial land exchange with the NPS, as outlined on NPS Map Number 635/133309, dated June 2016. As proposed, the 2.16 acres of VFW land would be exchanged for 1.54 acres of NPS land.

LEGISLATIVE HISTORY

H.R. 2615 was introduced in the House of Representatives by Rep. Palazzo on May 23, 2017, and referred to the Committee on Natural Resources. H.R. 2615 was reported by the House Committee on Natural Resources (H. Rept. 115–302) on September 11, 2017, and passed the House of Representatives by voice vote on November 28, 2017.

A companion measure, S. 1260, was introduced by Senators Cochran and Wicker on May 25, 2017. The Senate Subcommittee on National Parks conducted a hearing on H.R. 2615 and S. 1260 on February 14, 2018. Similar language is included in section 7133 of S. 1460, the Energy and Natural Resources Act of 2017 (Cal. 162).

In the 114th Congress, similar legislation, H.R. 4119 was introduced in the House of Representatives on November 19, 2015, by Rep. Palazzo. H.R. 4119 was reported favorably by the House Committee on Natural Resources on March 2, 2016, and passed the House of Representatives on March 22, 2016, by voice vote. The Senate Energy and Natural Resources Committee's Subcommittee on National Parks held a hearing on H.R. 4119 on June 15, 2016. The Committee on Energy and Natural Resources ordered H.R. 4119 favorably reported with amendments on July 13, 2016 (S. Rept. 114–340).

The Committee on Energy and Natural Resources met in open business session on March 8, 2018, and ordered H.R. 2615 and S. 1260 favorably reported.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on March 8, 2018, by a majority voice vote of a quorum present, recommends that the Senate pass H.R. 2615, as amended.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 contains the short title.

Section 2. Definitions

Section 2 contains key definitions.

Section 3. Gulf Islands National Seashore Land Exchange

Section 3(a) authorizes the Secretary of the Interior, acting through the NPS Director, to convey to the Post approximately 1.542 acres of Federal property located within the Gulf Islands National Seashore in Jackson County, Mississippi, in exchange for a 2.161 acre parcel of land owned by the Post.

Subsection (b) requires the values of the Federal and non-federal parcels to be exchanged to be equal, as determined by a qualified and independent appraiser. If the values are not found to be equal,

this subsection directs the equalization of such values through a cash payment or adjustments to the acreage of the Federal or non-Federal land, as applicable.

Subsection (c)(1) requires the Post to pay the costs of exchange incurred by the Secretary, or provide for the Secretary's reimbursement, including costs associated with surveys, environmental documentation, and any other administrative costs relating to the land exchange.

Paragraph (2) directs the Secretary to provide the Post with a refund if the amount collected by the Secretary from the Post exceeds the costs actually incurred in carrying out the land exchange.

Paragraph (3) specifies that amounts received by the Secretary from the Post as reimbursement for costs incurred shall be credited to the fund or account from which amounts were used to pay the costs incurred by the Secretary in carrying out the land exchange; merged with amounts in the fund or account to which the amounts were credited; and available for the same purposes, subject to the same conditions and limitations.

Subsection (d) requires the exact acreage and legal description of the Federal land and non-Federal land to be exchanged to be determined by surveys that are satisfactory by both the Secretary and the Post.

Subsection (e) directs the land exchange to be carried out through a quitclaim deed or other legal instrument. This subsection further specifies that the land exchange shall be subject to such terms and conditions as are mutually satisfactory to the Secretary and the Post, including additional terms or conditions the Secretary considers to be appropriate to protect the interests of the United States.

Subsection (f) subjects the land exchange to valid existing rights.

Subsection (g) states that the title to the land to be exchanged shall be in an acceptable form to the Secretary.

Subsection (h) specifies that any land acquired under this section by the United States shall be administered by the Secretary as part of the Gulf Islands National Seashore.

Subsection (i) directs the Secretary to modify the boundaries of the Gulf Islands National Seashore upon completion of the land exchange to reflect the exchange.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the costs of this measure has been provided by the Congressional Budget Office: H.R. 2615 would authorize the National Park Service (NPS) to exchange about 2 acres of land within the Gulf Islands National Seashore in Mississippi with the Veterans of Foreign Wars (VFW) Post 5699. The exchange would provide the VFW with an access road.

If appraisals indicate that the value of the parcels to be exchanged are different, the act would require that the party receiving the more valuable land provide a cash equalization payment or adjust the acreage of the land exchange. If the NPS were to acquire land of a higher value than the federal land exchanged, the NPS could make a cash payment to the VFW. Using information from the NPS, CBO expects that the properties to be exchanged are of roughly equal value and that any such payment would not exceed \$500,000; such spending would be subject to the availability of ap-

propriated funds. H.R. 2615 would require the VFW to cover all administrative costs associated with the land exchange.

Enacting H.R. 2615 could affect direct spending; therefore, pay-as-you-go procedures apply. If the NPS were to acquire land of a lower value than the federal land exchanged, the NPS could receive a cash payment to equalize the values; any such payments would be recorded as offsetting receipts, which are treated as reductions in direct spending. However, CBO estimates that any such payment would not exceed \$500,000. Enacting H.R. 2615 would not affect revenues.

CBO estimates that enacting H.R. 2615 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 2615 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The act would authorize a land exchange between the federal government and a private entity, and that exchange would have a small incidental effect on property taxes collected by local governments in Mississippi. That effect, however, would not result from an intergovernmental mandate as defined in UMRA.

On September 8, 2017, CBO transmitted a cost estimate for H.R. 2615, the Gulf Islands National Seashore Land Exchange Act of 2017, as ordered reported by the House Committee on Natural Resources on July 26, 2017. On March 20, 2018, CBO transmitted a cost estimate for S. 1260, the Gulf Islands National Seashore Land Exchange Act, as ordered reported by the Senate Committee on Energy and Natural Resources on March 8, 2018. All of the pieces of legislation are similar, and CBO's estimates of their budgetary effects are the same.

The CBO staff contact for this estimate is Janani Shankaran. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 2615. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 2615, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

H.R. 2615, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of the Interior at the February 14, 2018, hearing on H.R. 2615 follows:

STATEMENT OF P. DANIEL SMITH, DEPUTY DIRECTOR, EXERCISING THE AUTHORITY OF THE DIRECTOR OF THE NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE ENERGY AND NATURAL RESOURCES SUBCOMMITTEE ON NATIONAL PARKS, CONCERNING H.R. 2615 AND S. 1260, BILLS TO AUTHORIZE A LAND EXCHANGE BETWEEN GULF ISLANDS NATIONAL SEASHORE AND THE VETERANS OF FOREIGN WARS POST 5699

Chairman Daines, Ranking Member King, and members of the Subcommittee, thank you for the opportunity to present the Department of the Interior's views on H.R. 2615 and S. 1260, bills to authorize a land exchange between Gulf Islands National Seashore and the Veterans of Foreign Wars Post 5699.

The Department supports H.R. 2615 and S. 1260. The two bills, which would resolve an access issue at Gulf Islands National Seashore in Mississippi, are drafted differently but contain substantially the same provisions. Either version is acceptable to the Department.

The Veterans of Foreign Wars (VFW) Post 5699 owns a parcel that is bordered on two sides by land that is under the administrative jurisdiction of the National Park Service (NPS) and managed as part of Gulf Islands National Seashore. The VFW property is not connected to a public road, and its only access is across NPS lands.

Under a previous informal agreement with the National Seashore, the VFW created and maintained a one-lane dirt access road across NPS property from the public road to its building. The VFW also removed vegetation and mowed NPS property adjacent to that access road. No right-of-way or special use permit was ever issued.

In 2015, the VFW approached the National Seashore with a proposal to exchange 2.16 acres of undeveloped land, adjacent to NPS land, at the south end of its property for 1.54 acres of NPS land in order to connect its property to the public road. This land exchange would formalize the existing land use, providing the VFW with ownership and permanent access, and providing the National Seashore undeveloped acreage adjacent to other undeveloped, NPS-managed lands. These parcels are delineated on the map referenced in both bills.

H.R. 2615 and S. 1260 would authorize this land exchange. The bills would require the values of the parcels to be exchanged to be determined through an appraisal conducted by a qualified and independent appraiser and in accordance with nationally recognized appraisal standards. If the values are not equal, they would be required to be equalized through cash payments or adjustments to the acreage of the parcels. In addition, the bills would require the VFW to pay for the costs associated with the exchange, including any required costs for environmental compliance. Finally, the bills would modify the boundary of the National Seashore to reflect the land exchange upon its completion.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill as ordered reported.

