

HAZARD ELIGIBILITY AND LOCAL PROJECTS ACT

DECEMBER 12, 2019.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DEFAZIO, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 2548]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 2548) to modify eligibility requirements for certain hazard mitigation assistance programs, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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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 “Hazard Eligibility and Local Projects Act”.

SEC. 2. AUTHORITY TO BEGIN IMPLEMENTATION OF ACQUISITION OR RELOCATION PROJECTS.**(a) ELIGIBILITY FOR ASSISTANCE FOR INITIATED PROJECTS.—**

(1) **IN GENERAL.**—Notwithstanding any other provision of law, an entity seeking assistance under a hazard mitigation assistance program shall be eligible to receive such assistance for a covered project if the entity—

(A) complies with all other eligibility requirements of the hazard mitigation assistance program for acquisition or relocation projects, including extinguishing all incompatible encumbrances; and

(B) complies with all Federal requirements for the project.

(2) **COSTS INCURRED.**—An entity seeking assistance under a hazard mitigation assistance program shall be responsible for any project costs incurred by the entity for a covered project if the covered project is not awarded, or is determined to be ineligible for, assistance.

(b) **APPLICABILITY.**—This section shall apply to any application for assistance for a covered project submitted on or after January 1, 2016.

(c) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **COVERED PROJECT.**—The term “covered project” means—

(A) an acquisition or relocation project for which an entity began implementation prior to grant award under a hazard mitigation assistance program; and

(B) a project for which an entity initiated planning or construction before or after requesting assistance for the project under a hazard mitigation assistance program qualifying for a categorical exemption under the National Environmental Policy Act.

(2) **HAZARD MITIGATION ASSISTANCE PROGRAM.**—The term “hazard mitigation assistance program” means—

(A) the predisaster hazard mitigation grant program authorized under section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133);

(B) the hazard mitigation grant program authorized under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c); and

(C) the flood mitigation assistance program authorized under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c).

PURPOSE OF LEGISLATION

The purpose of H.R. 2548, as amended, is to modify eligibility requirements for certain hazard mitigation assistance programs.

BACKGROUND AND NEED FOR LEGISLATION

Under current federal law, local, and state agencies applying for federal funding to begin certain Hazard Mitigation Grant Program (HMGP)-funded projects must wait until they receive approval from the Federal Emergency Management Agency (FEMA) before purchasing land or beginning construction on said projects. Purchasing land or beginning construction absent full approval from FEMA will disqualify a project from receiving HMGP assistance. This process prevents simple land acquisition and mitigation projects from starting, further delaying the recovery of disaster-impacted communities and improvements in community resilience. This legislation will expedite the start of certain types of projects following Presidentially-declared disasters while waiting for FEMA’s full approval.

HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress, the following hearing was used to develop or consider H.R. 2548:

On May 22, 2019, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing titled, “Disaster Preparedness: DRRRA Implementation and FEMA Readiness.” Witnesses included: Dr. Daniel Kaniewski, Deputy Administrator for Resilience, FEMA; Ms. Sima Merick, Executive Director, Ohio Emergency Management Agency, testifying on behalf of the National Emergency Management Association; Mr. Nick Crossley, Director, Hamilton County Ohio Emergency Management and Homeland Security Agency, testifying on behalf of the International Association of Emergency Managers; Mr. James Gore, Supervisor, County of Sonoma, California, testifying on behalf of the National Association of Counties; Mr. Al Davis, Deputy Director, Texas A&M Engineering Extension Service, testifying on behalf of the National Domestic Preparedness Consortium; and Mr. Randy Noel, President, Reve, Inc., testifying on behalf of the National Association of Home Builders. Topics discussed included the state of federal disaster preparedness and mitigation programs since the enactment of the Disaster Recovery Reform Act of 2018 (Division D of P.L. 115–254) and the status of federal disaster recovery assistance funding authorized in the wake of significant disaster activity in 2017 and 2018.

LEGISLATIVE HISTORY AND CONSIDERATION

H.R. 2548 was introduced in the House on May 7, 2019, by Mrs. Fletcher, Mr. Olson, Mr. Butterfield, and Mr. Meadows, and referred to the Committee on Transportation and Infrastructure and in addition to the Committee on Financial Services. Within the Committee, H.R. 2548 was referred to the Subcommittee on Economic Development, Public Buildings, and Emergency Management.

The Subcommittee on Economic Development, Public Buildings, and Emergency Management was discharged from further consideration of H.R. 2548 on June 26, 2019.

The Full Committee met in open session to consider H.R. 2548 on June 26, 2019 and ordered the measure to be reported to the House with a favorable recommendation, as amended, by voice vote with a quorum present.

The following amendment was offered:

An Amendment in the Nature of a Substitute offered by Mrs. Fletcher (#1); was AGREED TO, without amendment, by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against.

There were no recorded votes taken in connection with consideration of H.R. 2548.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 2548, as amended, from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 25, 2019.

HON. PETER A. DEFAZIO,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2548, the Hazard Eligibility and Local Projects Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jon Sperl.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

H.R. 2548, Hazard Eligibility and Local Projects Act			
As ordered reported by the House Committee on Transportation and Infrastructure on June 26, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	17	17
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	17	17
Spending Subject to Appropriation (Outlays)	0	0	0
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

The Federal Emergency Management Agency (FEMA) administers several grant programs that provide assistance to state and local governments, as well as residential and commercial property owners, in an effort to mitigate damages that may be caused by future disasters. In fiscal year 2018, the Congress provided appropriations for those programs as follows:

- \$540 million for the Hazard Mitigation Grant (HMG) program;
- \$249 million for the Predisaster Mitigation (PDM) program; and
- \$175 million for the Flood Mitigation Assistance (FMA) program.

H.R. 2548 would expedite the approval of grants for certain property acquisition and relocation projects that are funded by those programs. The bill would require FEMA to approve grants for all applications submitted under those programs—including those submitted after January 1, 2016—if a project satisfies the following two conditions:

- The project is for acquisition or relocation of a vulnerable property, regardless of whether the applicant initiated planning or construction before or after applying for assistance;¹ and
- The project is exempt from environmental review requirements under the National Environmental Policy Act (NEPA).

Over the 2014–2018 period, FEMA received nearly 9,000 applications for grants under the three mitigation programs and provided awards to between 1,100 and 1,500 applicants each year over that period. Using information from FEMA, CBO estimates that less than 1 percent of those grants (about 50 projects each year) were awarded to acquisition or relocation projects that are exempt from review under NEPA. Additionally, CBO estimates that roughly 5 applications each year were denied awards because work on the projects began before the applicant had been approved for a grant.

¹ Under current law, grants generally cannot be used for project costs that the applicant incurs prior to a grant being awarded; applicants who begin work on a project before a grant has been awarded are disqualified from the application process.

H.R. 2548 would affect direct spending because it would require FEMA to approve grants submitted after January 1, 2016, that under current law have been denied. Using information about the number of applications received and approved since 2016, CBO estimates that about 20 projects would meet the bill's criteria and be retroactively approved for grants. CBO assumes H.R. 2548 will be enacted near the end of 2019 and that any budgetary effects would begin in 2020. Accordingly, CBO estimates FEMA would provide awards for the otherwise disqualified grants in 2020 and 2021 at an estimated cost of \$17 million. That estimate is based on the average award amount over the past five years of \$840,000 per project.

The CBO staff contact for this estimate is Jon Sperl. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to expedite the commencement of post-disaster mitigation projects.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 2548 as amended establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9 of rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee finds that H.R. 2548, as amended, does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION, AS AMENDED

Section 1. Short title

This section provides that the bill may be cited as the “Hazard Eligibility and Local Projects Act”.

Sec. 2. Authority to begin planning and construction of certain hazard mitigation projects

Subsection (a) describes the requirements for eligibility for assistance under the act, which include compliance with the requirements of the hazard mitigation assistance program and other federal requirements. Subsection (b) states that the section shall apply to any application for hazard mitigation assistance for a covered project submitted on or after January 1, 2016. Subsection (c) of this section provides definitions for the terms “covered project” and “hazard mitigation assistance program”.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 2548, as amended, makes no changes in existing law.

COMMITTEE CORRESPONDENCE

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, December 11, 2019.

Hon. PETER A. DEFAZIO,
Chairman, House Committee on Transportation and Infrastructure,
Washington, DC.

DEAR MR. CHAIRMAN: I am writing concerning H.R. 2548, the Hazard Eligibility and Local Projects Act. In order to permit H.R. 2548 to proceed expeditiously to the House Floor, I agree to forgo formal consideration of the bill.

The Committee on Financial Services takes this action to forego formal consideration of H.R. 2548 with our mutual understanding that, by foregoing formal consideration of H.R. 2548, we do not waive any jurisdiction over the subject matter contained in this or similar legislation, and that our Committee will be appropriately consulted and involved as this or similar legislation moves forward with regard to any matters in the Committee’s jurisdiction. I appreciate your commitment to work with the Committee to address any outstanding issues as the bill is considered in the Senate. The Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation that involves the Committee’s jurisdiction and request your support for any such request.

Finally, I would appreciate your response to this letter confirming this understanding, and I would ask that a copy of our exchange of letters on this matter be included in the *Congressional Record* during Floor consideration of H.R. 2548.

Sincerely,

MAXINE WATERS,
Chairwoman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, December 11, 2019.

Hon. MAXINE WATERS,
*Chairwoman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR CHAIRWOMAN WATERS: Thank you for your letter regarding H.R. 2548, the *Hazard Eligibility and Local Projects Act*, which was ordered to be reported out of the Committee on Transportation and Infrastructure on June 26, 2019. I appreciate your willingness to work cooperatively on this legislation.

I acknowledge that by foregoing formal consideration on H.R. 2548, the Committee on Financial Services does not waive any future jurisdictional claims to provisions in this or similar legislation, and that your Committee will be consulted and involved on any matters in your Committee's jurisdiction should this legislation move forward. In addition, should a conference on the bill be necessary, I would support your effort to seek appointment of an appropriate number of conferees to any House-Senate conference involving provisions within this legislation on which the Committee on Financial Services has a valid jurisdictional claim.

I appreciate your cooperation regarding this legislation, and I will ensure that our exchange of letters is included in the *Congressional Record* during floor consideration of H.R. 2548.

Sincerely,

PETER A. DEFazio,
Chair.