

The message also announced that pursuant to sections 276h-276k of title 22, United States Code, the Chair, on behalf of the Vice President, appoints Mr. KYL as chairman of the Senate delegation to the Mexico-United States Interparliamentary Group during the 104th Congress.

The message also announced that pursuant to sections 276h-276k of title 22, United States Code, as amended the Chair, on behalf of the Vice President, appoints Mr. DODD as vice chairman of the Senate delegation to the Mexico-United States Interparliamentary Group during the 104th Congress.

The message also announced that pursuant to sections 276a of title 22, United States Code, the Chair, on behalf of the Vice President, appoints Mr. BURNS as chairman of the Senate delegation to the Interparliamentary Union during the 104th Congress.

The message also announced that pursuant to sections 1928a-1928d of title 22, United States Code, the Chair, on behalf of the Vice President, appoints Mr. ROTH as chairman of the Senate delegation to the North Atlantic Assembly during the 104th Congress.

The message also announced that pursuant to sections 1928a-1928d of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mr. HEFLIN as vice chairman of the Senate delegation to the North Atlantic Assembly during the 104th Congress.

36.4 FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

The SPEAKER, pursuant to the provisions of Public Law 84-372, appointed to the Franklin Delano Roosevelt Memorial Commission, Mr. LEWIS of California, on the part of the House.

Ordered, That the Clerk notify the Senate of the foregoing appointment.

36.5 H. RES. 101—UNFINISHED BUSINESS

The SPEAKER pro tempore, Mr. QUINN, pursuant to clause 5, rule I, announced the unfinished business to be the question on agreeing to the resolution (H. Res. 101) providing for the consideration of the bill (H.R. 925) to compensate owners of private property for the effect of certain regulatory restrictions.

The question being put,

Will the House agree to said resolution?

The vote was taken by electronic device.

It was decided in the affirmative { Yeas 271 Nays 151

36.6 [Roll No. 189] YEAS—271

- Allard Archer Armye Bachus Baesler Baker (CA) Baker (LA) Ballenger Barcia Barr Barrett (NE) Bartlett Barton Bass Bateman Bereuter Beville Bilirakis Bliley Blute Boehlert Boehner Bonilla Bono Brewster Browder Brownback Bryant (TN) Bunn Bunning Burr Burton Buyer

- Callahan Calvert Camp Canady Castle Chabot Chambliss Chenoweth Christensen Chryslar Clinger Coble Coburn Collins (GA) Combest Condit Cooley Cox Cramer Crane Crapo Cremeans Cubin Cunningham Davis de la Garza Deal Diaz-Balart Dickey Doolittle Dornan Dreier Duncan Dunn Edwards Ehlers Ehrlich Emerson English Ensign Everett Ewing Fawell Fazio Fields (TX) Flanagan Foley Forbes Fowler Fox Franks (CT) Franks (NJ) Frelinghuysen Frisa Frost Funderburk Gallegly Ganske Gekas Geren Gilchrest Gillmor Gilman Goodlatte Goodling Gordon Goss Graham Green Greenwood Gunderson Gutknecht Hall (TX) Hancock Hansen Hastert Hastings (WA) Hayworth Hefley Hefner Heineman Herger Hillery Hobson Hoekstra Hoke Holden Horn Hostettler Houghton Hunter Hutchinson Hyde Inglis Istook Johnson (CT) Johnson, Sam Jones Kasich Kelly Kennelly Kim King Kingston Klink Klug Knollenberg Kolbe LaHood Largent Latham LaTourrette Laughlin Lazio Leach Lewis (CA) Lewis (KY) Lightfoot Linder Livingston LoBiondo Longley Lucas Manzullo Martinez Martini McCollum McCrery McDade McHale McHugh McInnis McIntosh McKeon McNulty Meehan Meyers Mica Miller (FL) Molinari Mollohan Montgomery Moorhead Morella Murtha Myers Myrick Nethercutt Neumann Ney Norwood Nussle Oxley Packard Parker Paxon Payne (VA) Peterson (MN) Petri Pickett

NAYS—151

- Abercrombie Ackerman Andrews Baldacci Barrett (WI) Becerra Beilenson Bentsen Berman Bishop Bonior Borski Boucher Brown (CA) Brown (FL) Brown (OH) Cardin Chapman Clayton Clement Clyburn Coleman Collins (IL) Collins (MI) Conyers Costello Coyne Danner DeFazio DeLauro Dellums Deutsch Dixon Doggett Dooley Durbin Engel Eshoo Evans Farr Fattah Fields (LA) Filner Flake Foglietta Ford Frank (MA) Furse Gejdenson Gephardt Gibbons Gutierrez Hall (OH)

- Pombo Porter Portman Poshard Pryce Quillen Quinn Radanovich Ramstad Regula Riggs Roberts Rogers Rohrabacher Ros-Lehtinen Rose Roth Roukema Royce Salmon Sanford Saxton Scarborough Schaefer Schiff Schumer Seastrand Sensenbrenner Shadegg Shaw Shays Shuster Sisisky Skewn Skelton Smith (MI) Smith (NJ) Smith (TX) Smith (WA) Solomon Souder Spence Stearns Stenholm Stockman Stump Stupak Talent Tanner Tate Tauzin Taylor (NC) Tejada Thomas Thornberry Tiahrt Torikildsen Torricelli Traficant Upton Vucanovich Waldholtz Walsh Wamp Watts (OK) Weldon (FL) Weldon (PA) Weller White Whitfield Wicker Wilson Wolf Wyden Young (AK) Young (FL) Zeliff Zimmer

- Hamilton Harman Hastings (FL) Hayes Hilliard Hinchey Hoyer Jackson-Lee Jacobs Jefferson Johnson (SD) Johnson, E.B. Johnston Kanjorski Kaptur Kennedy (MA) Kennedy (RI) Kildee Kleczka LaFalce Lantos Levin Lewis (GA) Lincoln Lipinski Lofgren Lowey Luther Maloney Manton Markey Mascara Matsui McCarthy McDermott McKinney Meek Menendez Mfume Miller (CA) Mineta Minge Mink Moran Nadler Neal Oberstar Olver Ortiz Orton Owens Pallone Pastor Payne (NJ) Pelosi Peterson (FL) Pomeroy Rahall Rangel Reed Reynolds Richardson Rivers Roemer Roybal-Allard

NOT VOTING—12

- Bilbray Bryant (TX) Clay DeLay Dicks Dingell Gonzalez Metcalf Moakley Stokes Torres Towns

So the resolution was agreed to. A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

36.7 PRIVATE PROPERTY RIGHTS

The SPEAKER pro tempore, Mr. QUINN, pursuant to House Resolution 101 and rule XXIII, declared the House resolved into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 925) to compensate owners of private property for the effect of certain regulatory restrictions.

Mr. SHUSTER, Chairman of the Committee of the Whole, resumed the chair; and after some time spent therein,

36.8 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. TAUZIN to the amendment in the nature of a substitute submitted by Mr. CANADY:

Amendment submitted by Mr. TAUZIN:

In section 3(a) after "agency action" the first place it appears insert ", under a specified regulatory law".

Add at the end of section 3(a) "If the diminution in value of a portion of that property is greater than 50 percent, at the option of the owner, the Federal Government shall buy that portion of the property for its fair market value."

In section 4, strike the first sentence and amend the second sentence to read "If a use is a nuisance as defined by the law of a State or is already prohibited under a local zoning ordinance, no compensation shall be made under this Act with respect to a limitation on that use."

In the heading for section 8, strike "Rule" and insert "Rules".

At the beginning of section 8, strike "Nothing" and insert:

(a) EFFECT ON CONSTITUTIONAL RIGHT TO COMPENSATION.—NOTHING

At the end of section 8, insert the following:

(b) EFFECT OF PAYMENT.—Payment of compensation under this Act (other than when the property is bought by the Federal Government at the option of the owner) shall not confer any rights on the Federal Government other than the limitation on use resulting from the agency action.

In section 9, after paragraph (4) insert the following:

(5) the term "specified regulatory law" means—

(A) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(B) the Endangered Species Act of 1979 (16 U.S.C. 1531 et seq.);

(C) title XIII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.); or

(D) with respect to an owner's right to use or receive water only—

(i) the Act of June 17, 1902, and all Acts amendatory thereof or supplementary thereto, popularly called the "Reclamation Acts" (43 U.S.C. 371 et seq.);

(ii) the Federal Land Policy Management Act (43 U.S.C. 1701 et seq.); or

(iii) section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604);

Redesignate succeeding paragraphs accordingly.

Amendment in the nature of a substitute submitted by Mr. CANADY:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Property Protection Act of 1995".

SEC. 2. FEDERAL POLICY AND DIRECTION.

(a) GENERAL POLICY.—It is the policy of the Federal Government that no law or agency action should limit the use of privately owned property so as to diminish its value.

(b) APPLICATION TO FEDERAL AGENCY ACTION.—Each Federal agency, officer, and employee should exercise Federal authority to ensure that agency action will not limit the use of privately owned property so as to diminish its value.

SEC. 3. RIGHT TO COMPENSATION.

(A) IN GENERAL.—The Federal Government shall compensate an owner of property whose use of any portion of that property has been limited by an agency action that diminishes the fair market value of that portion by 10 percent or more. The amount of the compensation shall equal the diminution in value that resulted from the agency action.

(b) DURATION OF LIMITATION ON USE.—Property with respect to which compensation has been paid under this Act shall not thereafter be used contrary to the limitation imposed by the agency action, even if that action is later rescinded or otherwise vitiated. However, if that action is later rescinded or otherwise vitiated, and the owner elects to refund the amount of the compensation, adjusted for inflation, to the Treasury of the United States, the property may be so used.

SEC. 4. EFFECT OF STATE LAW.

No compensation shall be made under this Act if the use limited by Federal agency action is proscribed under the law of the State in which the property is located (other than a proscription required by a Federal law, either directly or as a condition for assistance). If a use is a nuisance as defined by the law of a State or is prohibited under a local zoning ordinance, that use is proscribed for the purposes of this subsection.

SEC. 5. EXCEPTIONS.

(a) PREVENTION OF HAZARD TO HEALTH OR SAFETY OR DAMAGE TO SPECIFIC PROPERTY.—No compensation shall be made under this

Act with respect to an agency action the primary purpose of which is to prevent an identifiable—

(1) hazard to public health or safety; or

(2) damage to specific property other than the property whose use is limited.

(b) NAVIGATION SERVITUDE.—No compensation shall be made under this Act with respect to an agency action pursuant to the Federal navigation servitude, as defined by the courts of the United States, except to the extent such servitude is interpreted to apply to wetlands.

SEC. 6. PROCEDURE.

(a) REQUEST OF OWNER.—An owner seeking compensation under this Act shall make a written request for compensation to the agency whose agency action resulted in the limitation. No such request may be made later than 180 days after the owner receives actual notice of that agency action.

(b) NEGOTIATIONS.—The agency may bargain with that owner to establish the amount of the compensation. If the agency and the owner agree to such an amount, the agency shall promptly pay the owner the amount agreed upon.

(c) CHOICE OF REMEDIES.—If, not later than 180 days after the written request is made, the parties do not come to an agreement as to the right to and amount of compensation, the owner may choose to take the matter to binding arbitration or seek compensation in a civil action.

(d) ARBITRATION.—The procedures that govern the arbitration shall, as nearly as practicable, be those established under title 9, United States Code, for arbitration proceedings to which that title applies. An award made in such arbitration shall include a reasonable attorney's fee and other arbitration costs (including appraisal fees). The agency shall promptly pay any award made to the owner.

(e) CIVIL ACTION.—An owner who does not choose arbitration, or who does not receive prompt payment when required by this section, may obtain appropriate relief in a civil action against the agency. An owner who prevails in a civil action under this section shall be entitled to, and the agency shall be liable for, a reasonable attorney's fee and other litigation costs (including appraisal fees). The court shall award interest on the amount of any compensation from the time of the limitation.

(f) SOURCE OF PAYMENTS.—Any payment made under this section to an owner, and any judgment obtained by an owner in a civil action under this section shall, notwithstanding any other provision of law, be made from the annual appropriation of the agency whose action occasioned the payment or judgment. If the agency action resulted from a requirement imposed by another agency, then the agency making the payment or satisfying the judgment may seek partial or complete reimbursement from the appropriated funds of the other agency. For this purpose the head of the agency concerned may transfer or reprogram any appropriated funds available to the agency. If insufficient funds exist for the payment or to satisfy the judgment, it shall be the duty of the head of the agency to seek the appropriation of such funds for the next fiscal year.

SEC. 7. LIMITATION.

Notwithstanding any other provision of law, any obligation of the United States to make any payment under this Act shall be subject to the availability of appropriations.

SEC. 8. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to limit any right to compensation that exists under the Constitution or under other laws of the United States.

SEC. 9. DEFINITIONS.

For the purposes of this Act—

(1) the term "property" means land and includes the right to use or receive water;

(2) a use of property is limited by an agency action if a particular legal right to use that property no longer exists because of the action;

(3) the term "agency action" has the meaning given that term in section 551 of title 5, United States Code, but also includes the making of a grant to a public authority conditioned upon an action by the recipient that would constitute a limitation if done directly by the agency;

(4) the term "agency" has the meaning given that term in section 551 of title 5, United States Code;

(5) the term "State" includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States; and

(6) the term "law of the State" includes the law of a political subdivision of a State.

It was decided in the } Yeas 301
affirmative } Nays 128

¶36.9		[Roll No. 190]
		AYES—301
Allard	DeLay	Hutchinson
Andrews	Deutsch	Hyde
Archer	Diaz-Balart	Inglis
Armye	Dickey	Istook
Bachus	Dicks	Johnson (CT)
Baesler	Dooley	Johnson (SD)
Baker (CA)	Doolittle	Johnson, Sam
Baker (LA)	Dornan	Jones
Ballenger	Doyle	Kanjorski
Barcia	Dreier	Kasich
Barr	Duncan	Kelly
Barrett (NE)	Dunn	Kennelly
Bartlett	Durbin	Kim
Barton	Edwards	King
Bass	Ehrlich	Kingston
Bateman	Emerson	Klink
Bereuter	English	Klug
Bevill	Ensign	Knollenberg
Bilbray	Everett	Kolbe
Bilirakis	Ewing	LaFalce
Bishop	Fawell	LaHood
Billey	Fazio	Largent
Blute	Fields (TX)	Latham
Boehner	Flanagan	LaTourette
Bonilla	Foley	Laughlin
Bono	Forbes	Lazio
Boucher	Fowler	Leach
Brewster	Fox	Lewis (CA)
Browder	Franks (CT)	Lewis (KY)
Brown (OH)	Frisa	Lincoln
Brownback	Frost	Linder
Bryant (TN)	Funderburk	Livingston
Bunn	Gallegly	LoBiondo
Bunning	Ganske	Longley
Burr	Gephardt	Lucas
Burton	Geran	Maloney
Buyer	Gillmor	Manton
Callahan	Gilman	Manzullo
Calvert	Goodlatte	Martinez
Camp	Goodling	Mascara
Canady	Gordon	Matsui
Castle	Goss	McCollum
Chabot	Graham	McCrery
Chambliss	Green	McDade
Chapman	Greenwood	McHale
Chenoweth	Gunderson	McHugh
Christensen	Gutknecht	McInnis
Chrysler	Hall (TX)	McIntosh
Clement	Hancock	McKeon
Clinger	Hansen	McNulty
Clyburn	Harman	Metcalf
Coble	Hastert	Mica
Coburn	Hastings (WA)	Miller (FL)
Coleman	Hayes	Minge
Collins (GA)	Hayworth	Mollinari
Combest	Hefley	Mollohan
Condit	Hefner	Montgomery
Cooley	Heineman	Moorhead
Cox	Herger	Moran
Cramer	Hilleary	Murtha
Crane	Hilliard	Myers
Crapo	Hobson	Myrick
Creameans	Hoekstra	Neal
Cubin	Holden	Nethercutt
Cunningham	Horn	Neumann
Danner	Hostettler	Ney
Davis	Houghton	Norwood
de la Garza	Hoyer	Nussle
Deal	Hunter	Obey