



Legislative Bulletin.....October 23, 2007

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H.R. 1483 — To amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the authorization for certain national heritage areas, and for other purposes

Summary of the Bill Under Consideration Today:

Total Number of New Government Programs: 6

Total Cost of Discretionary Authorizations: \$106 million

Effect on Revenue: \$0

Total Change in Mandatory Spending: 0

Total New State & Local Government Mandates: 0

Total New Private Sector Mandates: 0

Number of Bills Without Committee Reports: 0

Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority: 1

H.R. 1483 — To amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the authorization for certain national heritage areas, and for other purposes (Regula, R-OH)

Order of Business: H.R. 1483 is scheduled to be considered on Tuesday, October 23, 2007 subject to a closed rule (H.Res. 765). The rule:

- waives all points of order against *consideration* of the bill except those for earmarks and PAYGO;
- provides that in lieu of the amendments recommended by the Natural Resources Committee, an amendment in the nature of a substitute, as modified by a self-executing amendment, shall be considered as adopted;

- waives all points of order against the bill itself, as amended, except for the earmark point of order; and
- allows one motion to recommit, with or without instructions.

Summary: H.R 1483 would create six new National Heritage Areas to conduct heritage centered conservation and development projects within a designated geographic area. Each new Heritage Area would be authorized for 15 years and would be eligible to receive a maximum of \$1 million annually. The bill would also reauthorize nine existing heritage areas and require a feasibility study for a new area.

Designation of New Heritage Areas:

The bill would create six **new** Heritage Areas and authorize their designation for 15 years from the date of enactment. Each of the following areas would be authorized to receive up to \$1 million annually with a limit of \$15 million throughout the duration of the designation:

- Journey Through Hallowed Ground National Heritage Area in portions of Pennsylvania, Maryland, West Virginia, and Virginia
- Niagara Falls National Heritage Area in New York
- Muscle Shoals National Heritage Area in Alabama
- Freedom’s Way National Heritage Area in Massachusetts and New Hampshire
- Abraham Lincoln National Heritage Area in Illinois
- Santa Cruz Valley National Heritage Area in Arizona

The bill would designate a management entity for each new area. A management entity is to be made up of federal, state and local governments along with organizations, private industries and individuals involved in promoting the conservation and preservation of the area.

The entity would be responsible for developing, approving, and executing a management plan for the area, as well as the distribution of the \$15 million authorized by the legislation. The management entity would be required to submit reports regarding the heritage area’s management plan and conservation activities to Congress.

H.R. 1483 requires that any federal funds used under the Act must be matched by the management entity using either state, local, or private funds.

Each heritage area would offer private property protections, and to that end, H.R. 1483 states that nothing in the bill:

- “abridges the rights of any property owner, including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;
- “requires any property owner to permit public access to their property, or to modify public access or use of their property owner under any other Federal, State, Tribal, or local law;

- “alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State, Tribal, or local agency, or conveys any land use or other regulatory authority to any local entity;
- “authorizes or implies the reservation or appropriation of water or water rights;
- “diminishes the authority of the State to manage fish and wildlife; and
- “creates any liability of any private property owner with respect to any person injured on the private property.”

Note: There is no private property protection that allows a property owner to opt out of inclusions from the Heritage Area designation or requires the management entity to notify the property owner when the designation occurs.

Northern Neck National Heritage Area Study:

H.R. 1483 requires the Secretary of Interior to conduct a three year feasibility study to determine the suitability of designating an area in Virginia as the Northern Neck Heritage Area.

Reauthorization of Existing Heritage Areas:

The bill would reauthorize nine existing Heritage Areas that were created in 1996. The following Heritage Areas would be reauthorized for 20 years, through September 30, 2027. The reauthorization would increase the current level of funding from \$10 million to \$15 million with a maximum of \$1 million available annually. Below is a list of the Heritage Authorized being reauthorized, and the amount of federal money that each area has received since 1996:

- National Coal Heritage Area in West Virginia (\$1.9 million)
- Tennessee Civil War Heritage Area in Tennessee (\$2.1 million)
- Augusta Canal National Heritage Area in Georgia (\$4.7 million)
- Steel Industry American Heritage Area in Pennsylvania (\$9.4 million)
- Essex National Heritage Area in Massachusetts (\$9.3 million)
- South Carolina National Heritage Corridor in South Carolina (\$7.9 million)
- America’s Agricultural Partnership in Iowa (\$5.1 million)
- Ohio & Erie Canal National Heritage Corridor (redesignated as the Ohio & Erie National Heritage Canalway) in Ohio (\$9.4 million)
- Hudson River Valley National Heritage Area in New York (\$6 million)

Additional Background: The National Park Service (NPS) describes a National Heritage Area as a “complex matrix of public and private land” wherein conservation and preservation efforts are centrally managed. The designation creates a managing entity composed of federal, state, and local governments, along with private sector organizations. The goal of the collective is to encourage and develop conservation projects within the area. The managing entity creates a management plan and receives federal funds on the areas behalf. The National Park Service provides technical and financial assistance, for a limited number of years following designation. According to the National Heritage Area [website](#), the designation is permanent, but the role of the NPS is supposed to lessen over time.

Although no legislative criteria exist for designating a National Heritage Area, 37 have been created to date, with the majority in the eastern half of the country. Unlike a National Park

designation, the jurisdiction of a heritage area stretches across cities, states, and large swaths of privately owned land. For instance, the proposed Journey Through Hallowed Ground National Heritage Area, the most contentious heritage area in H.R. 1483, would be comprised of a 175 mile stretch through four different states.

Because H.R. 1483 has no provision that would require the notification or consent of private property owners included in the heritage area, residents are often unknowingly lumped into the designation. In addition, the bill lacks language that would allow private property owners to withdraw from the heritage area boundary or require that they be notified before they are included. Such provisions are commonplace in previous National Heritage Area designations (see requirements for the inclusion of private property in previous Heritage Area authorization bills [here](#)). Furthermore, a recent [Heritage Foundation report](#) referred to a stand alone version of the Journey Through Hallowed Ground National Heritage Area designation as, “a badly flawed bill that would give a handful of environmentalists and wealthy landowners extraordinary powers over the use of private property along the Route 15 corridor.”

Previous National Heritage Area designations have been unpopular with the residents who were either unknowingly included in the boundary or were not aware of the level of regulating power the management entity had over the designated area. The Yuma Crossing Heritage Area, which was authorized by Congress in 2000, surprised and frustrated many residents who complained about the restrictive zoning regulations associated with historic preservation. The bill creating the Yuma Crossing Heritage Area was eventually amended in the 109th Congress as a direct result of the public outcry. According to [House Report 109-294](#):

When the Yuma Crossing Heritage Area was authorized in 2000, the public in Yuma County did not understand the scope of the project and was surprised by the size of the designation. Citizens originally believed that the heritage area would focus mainly around the historic districts and the wetlands. Furthermore, many property owners were not aware that they were also included in the new designation. Concerns were raised by citizens about the size of the designation and the potential for additional Federal oversight. The fear of adverse impacts on private property rights were realized when local government agencies began to use the immense heritage area boundary to determine zoning restrictions.

Often times, the managing entity is able to regulate zoning and other restrictions across local governments. As a result, residents are often not aware of newer restrictions imposed by heritage area designations because they are different than local regulations.

In addition to property rights issues that are associated with National Heritage Areas, it is often difficult to track the federal money spent by the management entities because there is very little oversight. In a letter to the Natural Resources Committee concerning the Journey Through Hallowed Ground National Heritage Area, the National Center for Public Policy Research referred to heritage areas as “the Kelo decision and earmarks rolled into one.” For example, the Journey Through Hallowed Ground management entity was given funding by way of an anonymous \$1 million earmark two full years before it was even introduced into Congress. Although it does not identify which member of Congress included it or what its purpose may be,

the [Safe, Accountable, Flexible, Efficient Transportation Equity Act](#) (SAFETEA) of 2005 lists the following earmark:

VA	The Journey Through Hallowed Ground Rt. 15 scenic corridor management planning and implementation, FY 2006.	\$1,000,000
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In response to these issues, certain Members of Congress whose districts are inside of potential heritage area designations have made attempts to improve current legislation.

On March 1, 2007, Congressman Roscoe Bartlett (R-MD), whose district includes a large portion of the proposed Journey Through Hallowed Ground National Heritage Area, offered H.R. 1270, which would establish the heritage area, but includes additional protection for private property, and removes all references to federal funding. When no action was taken by the Committee, Rep. Bartlett and Rep. Virgil Goode, whose district would be included in the same designation, attempted to offer an amendment to have their districts removed from the heritage area, but it was rejected by the majority. According to the dissenting views signed by 13 Republicans on the Natural Resources Committee, an amendment by Rep. Rob Bishop to “allow residents to remove their land from the heritage area boundaries and require the management entity of a heritage area to obtain written consent from an owner before their property is conserved, preserved, or promoted” was also rejected. Since the bill will be considered under a closed rule, neither of these amendments will be considered on the floor.

Possible Conservative Concerns: Some conservatives may be concerned that National Heritage Area designations can lead to restrictive federal zoning and land-use planning. The management plan could restrict how residential and commercial property owners utilize their private property without any notice or warning. Furthermore, some conservatives may be concerned because H.R. 1483 would not allow a property owner to escape inclusion in the heritage area.

Some conservatives may be concerned that funds for National Heritage Areas are difficult to monitor and that management entities often receive funding through earmarks. In addition, funding and federal support for National Heritage Areas is intended to decrease as the management entity becomes more autonomous over time, but H.R. 1483 increases funding for nine existing heritage areas and extends their federal authorization for 20 years.

Finally, some conservatives may be concerned that H.R. 1483 is being considered under a closed rule and, as such, Members will be unable to address concerns they may have with the bill, especially Members whose districts will be directly impacted.

Committee Action: H.R. 1483 was introduced on March 12, 2007, and referred to the Committee on Natural Resources, where a mark-up was held on September 26, 2007. The bill was reported by a vote of 23 – 12.

Administration Position: A statement of the Administration’s position is currently unavailable.

Cost to Taxpayers: According to CBO, implementing H.R. 1483 would cost \$46 million from FY 2008 – FY 2012, and \$60 million thereafter, assuming the appropriation of the necessary funds.

Does the Bill Expand the Size and Scope of the Federal Government? Yes, the bill creates six new National Heritage Areas to receive federal funds and manage the public-private conservation entity.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The Natural Resources Committee, in [House Report 110 – 338](#), asserts that, “H.R. 1483 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.”

Constitutional Authority: The Natural Resources Committee, in [House Report 110 – 338](#), cites constitutional authority in Article I, Section 8, but does not cite a specific clause. House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” *[emphasis added]*

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