



Legislative Bulletin.....March 20, 2012

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H.R. 2087 - To remove restrictions from a parcel of land situated in the Atlantic District, Accomack County, Virginia. (Rigell, R-VA)

Order of Business: The bill is scheduled to be considered on Tuesday, March 20, 2012, under a modified open rule, H.Res. 587.¹ The rule provides for one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee of Natural Resources. After debate, the legislation shall be considered for amendment under the five-minute rule. The rule makes in order those amendments that were printed in the Congressional Record on March 19, 2012, summarized below. The rule also provides for one motion to recommit with or without instructions.

Summary: H.R. 2087 removes all easements, exceptions, reservations, terms, conditions and covenants from a 31.6 acre parcel of land in the Atlantic District of Accomack Country, Virginia. These restrictions will be removed by the Secretary of the Interior within 90 days of enactment.

Additional Information: The following background information can be found in House Report 112-369:²

In 1976, Accomack County, Virginia, acquired 32 acres through the Federal Lands to Parks program. The transfer dictated that the property be used for recreational purposes. Unfortunately, the park has received little use and the County would like to dedicate the property to a use which is likely to create jobs.

To appease the National Park Service (NPS) and the dictates of the deed, the County offered to make an acre-for-acre land swap and create a park in a more suitable location, but NPS is unwilling to do a swap—insisting that the County buy out the restrictive clause for \$815,000, which is over \$25,000 per acre. The County has explained it does not have those funds available, and consequently H.R. 2087 will remove that restriction. Once the restriction is removed, the County will proceed by developing a research and

¹ http://www.rules.house.gov/Media/file/PDF_112_2/Resolutions/BILLS-112HRes-ORH-Rule-HR2087.pdf

² <http://www.gpo.gov/fdsys/pkg/CRPT-112hrpt369/pdf/CRPT-112hrpt369.pdf>

technology park which will lead to short-term construction jobs and hundreds of new long-term jobs. During markup, the Natural Resources Committee adopted an amendment offered by Congressman Robert Wittman (R-VA) to require the Secretary of the Interior to remove the restriction within 90 days of enactment of the legislation.

Amendments Made In Order Under the Rule:

Grijalva (D-AZ): The amendment requires Accomack County, Virginia, to pay the U.S. the fair market value of the land. The land will be appraised and, when estimating the fair market value, the appraiser shall consider revenues generated by the sale, rent, or lease of the land.

Hastings (D-FL): The amendment would require that an appraiser estimate the fair market value of the land in each of the following years: 1776, 1865, 2013, 2017, 2032, and 2212.

Committee Action: H.R. 2087 was introduced on June 2, 2011, and was referred to the House Natural Resources Subcommittee on National Parks, Forests and Public Lands. On September 15, 2011, the subcommittee held a hearing on the bill. On November 17, 2011, the full committee held a markup and agreed to the legislation, as amended, by a roll call vote of 32-11.³

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that implementing the legislation would have no significant impact on the federal budget.

Does the Bill Expand the Size and Scope of the Federal Government?: No. The legislation removes existing restrictions that could cause the land to revert to federal ownership.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: House Report 112-369 states that H.R. 2087 “contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.”⁴

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation contains no earmarks.

Constitutional Authority: Rep. Rigell’s statement of constitutional authority states: “Congress has the power to enact this legislation pursuant to the following: The constitutional authority of Congress to enact this legislation is provided by Article I, section 8 of the United States Constitution, specifically clause 1 (relating to the power of Congress to provide for the general welfare of the United States) and clause 18 (relating

³ http://naturalresources.house.gov/UploadedFiles/RC_HR2087_Final.pdf

⁴ <http://www.gpo.gov/fdsys/pkg/CRPT-112hrpt369/pdf/CRPT-112hrpt369.pdf>

to the power to make all laws necessary and proper for carrying out the powers vested in Congress), and Article IV, section 3, clause 2 (relating to the power of Congress to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States).” The statement can be [viewed here](#).

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H.R. 665— Excess Federal Building and Property Disposal Act of 2011 (Chaffetz, R-UT)

Order of Business: The bill is scheduled to be considered on Tuesday, March 20, 2012, under a motion to suspend the rules and pass the bill. 40 minutes have been provided for debate.

Summary: [H.R. 665](#)’s purpose is to decrease the deficit by selling excess federal buildings and property. The bill empowers the executive branch to more quickly dispose of excess federal buildings while also permanently modernizing the existing disposal process through reductions in administrative overhead; creating new agency incentives; and requiring greater accountability from the property disposal apparatus.

H.R. 665 differs from H.R. 1734 (the Civilian Property Realignment Act) because H.R. 665 does not rely on future Congressional action for buildings to be disposed. Congressional action greatly inhibits buildings from being sold or disposed, which makes it unlikely for the federal footprint to actually be reduced. H.R. 1734 would create a BRAC-like commission to study and nominate buildings for disposal. Unlike previous bills, once H.R. 665 is signed, the GSA and OMB immediately have the tools to more quickly and effectively dispose of unneeded buildings.

Pilot Program:

Under the pilot program created by Section 2, the OMB Director (with the General Services Administration) is directed to identify, with input from federal agencies, 15 real properties to be placed on a rolling list for disposal. These properties must meet certain criteria, such as possessing high fair market value. Certain properties such as United States Postal Service properties and properties owned by Indian and Native Alaskans are excluded from the pilot.

The OMB Director is further directed to dispose of the properties through a public auction. This method of disposal was recommended by the CBO. Once a property is auctioned and transferred, the Administrator of OMB has 15 days to identify another property to be placed on the list for disposal. This rolling list is also referred to as the real property pilot program. It is authorized for five years.

The Committee anticipates that during the pilot program, the standard disposal process under Title 40 will occur contemporaneously. Pilot properties are exempt from certain

statutory constraints to disposal. For example, properties sold as part of the pilot program will not be subject to the requirements of Title V of the McKinney-Vento Homeless Assistance Act or the public benefit conveyance requirements.

Proceeds from sales under the pilot program are required to be distributed as follows: 98 percent to the General Fund of the Treasury and two percent is authorized to be appropriated for a grant program for homeless assistance providers.

With the two percent proceeds, the Department of Housing and Urban Development (HUD) is authorized to make grants to nonprofit entities for the purchase or rehabilitation of real property suitable to assist the homeless. The HUD Secretary is directed to give preference to nonprofit entities located in the areas in which real property is being sold through the pilot program.

Section 2 also requires the GAO to conduct a study of the effectiveness of the pilot program.

Additional Authorities and Guidance:

Section 3 directs the GSA to issue guidance for agencies regarding the development of real property plans. Under the legislation, agencies are required to continuously monitor their real property portfolio and dispose of any unneeded properties in a timely manner. GSA is required to report (one time) on the efficacy section 3 three years after enactment.

Section 7 codifies the requirement for a federal real property database and requires the GSA to publish the existing database. Section 8 directs agencies to recycle at least 50 percent of construction and demolition materials.

Streamlining the McKinney-Vento Homeless Assistance Act:

Section 9 streamlines the McKinney-Vento homeless review process. Under Title V of the McKinney-Vento Homeless Assistance Act, a surplus federal property must be made available to entities serving the homeless before it can be conveyed for other public use. Section 9 excludes national security properties from the review conducted by HUD.

Under the current process, HUD publishes available properties in the Federal Register. According to HUD, this is an onerous requirement (see [here](#)). Section 9 repeals that requirement and directs HUD or GSA to publish the available properties on a website.

Committee Action: [H.R. 665](#) was introduced on February 11, 2011, and referred to the House Oversight and Government Reform Committee. On November 17, 2011, it was reported out by voice vote after a mark-up session (House Report [112-402](#)).

Additional Background: The federal government owns more real property than any other entity in America: 900,000 buildings and structures covering 3.38 billion square feet. According to a February 10, 2011, Government Accountability Office [report](#), 24

federal agencies identified 45,190 underutilized buildings that cost \$1.66 billion annually to operate (here's an example relatively close by: [Old Post Office](#)).

The sale of excess federal real property is included in Citizens Against Government Waste (CAGW)'s [2011 Prime Cuts](#), a compendium of 691 recommendations that would save taxpayers \$391.9 billion in the first year and \$1.8 trillion over five years. Specifically, CAGW's Prime Cuts estimates that the sale of excess federal real property could save taxpayers at least \$3 billion in the first year and \$15 billion over five years.

President Obama included in his February 14, 2011, budget proposal a plan to dispose of federal civilian real property, which the administration reported would yield \$16 billion in savings between 2013 and 2017. However, according to a June 27, 2011 [letter](#) from the Congressional Budget Office (CBO), the administration's proposal would actually cost the government millions of dollars. Because the President's plan would leave the current convoluted disposal process in place, the CBO estimates that only 1 percent of the 14,000 properties identified by the administration would actually be sold, largely because many would be transferred to other public agencies or demolished.

Additional Information: This bill has been through several revisions. This last revision substantially lowered the CBO score and removed Section 624(a), regarding agency reimbursements, from the reported version of the legislation. The old version with that section can be found [here](#).

An earlier version of H.R. 665 directed 2% of Pilot Program proceeds to homeless assistant providers, the current version merely "authorizes" 2% for homeless assistant provider use. While the sponsor preferred the older version, a Point of Order by the Committee of Appropriations necessitated the change.

H.R. 665 increases government transparency through agency reporting requirements and the creation of an online, public database. This is important, because under the status quo, the Office of Management and Budget maintains a "high value asset" list which includes the most expensive and profitable excess federal buildings. Congress, the public, and CBO do not have access to this list – which would change with enactment of HR 665 – and would likely alter CBO's cost projection.

Administration Position: No statement has been released.

Does the Bill Expand the Size and Scope of the Federal Government?: No. The legislation will lead to major reductions in federal ownership of property thus decreasing the size of the federal government.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No. CBO's [report](#) found that there are no additional mandates.

Cost to Taxpayers: \$2 million over the 2012-2017 period for additional administrative and reporting costs related to property disposal. Enacting the bill would affect direct

spending by increasing both receipts from property sales and spending of those receipts; therefore, pay-as-you-go procedures apply. CBO estimates, however, that any net change in direct spending would not be significant in any year. Enacting the legislation would not affect revenues. See the CBO report [here](#).

Important considerations:

- The CBO estimate does not give credit for operating and maintenance savings. In FY2009 alone, O/M costs totaled approximately [\\$1.66](#) billion for excess federal buildings.
- CBO's baseline is conservative, empowering agencies to more quickly sell 10,000+ excess and 45,000 underutilized properties will reduce the federal footprint and raise revenue.

Constitutional Authority: According to its sponsor:

“This bill is enacted pursuant to the powers granted to Congress under: ‘Article 1, Section 8, Clause 2.’”

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