

116TH CONGRESS
1ST SESSION

S. 3082

To establish a program to establish permanent features for flood control in areas in which temporary features have been constructed, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 18, 2019

Mrs. GILLIBRAND (for herself, Ms. ERNST, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To establish a program to establish permanent features for flood control in areas in which temporary features have been constructed, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Local Expertise is
5 Vital for Effective Embankments Act” or the “LEVEE
6 Act”.

7 **SEC. 2. ESTABLISHING PERMANENT FEATURES FROM**
8 **EMERGENCY RESPONSE MEASURES.**

9 (a) DEFINITIONS.—In this section:

1 (1) IMPACTED COMMUNITY.—The term “im-
 2 pacted community” means an entity that has re-
 3 ceived emergency flood fighting assistance under sec-
 4 tion 5 of the Act of August 18, 1941 (commonly
 5 known as the “Flood Control Act of 1941”) (55
 6 Stat. 650, chapter 377; 33 U.S.C. 701n), that in-
 7 volved the construction of a temporary structure.

8 (2) PERMANENT FEATURE.—The term “perma-
 9 nent feature” means a structural or nonstructural
 10 measure typical in a flood control project.

11 (3) SECRETARY.—The term “Secretary” means
 12 the Secretary of the Army.

13 (4) SMALL OR DISADVANTAGED COMMUNITY.—
 14 The term “small or disadvantaged community”
 15 means a community—

16 (A) with a population of less than 10,000;

17 or

18 (B) that is—

19 (i) financially disadvantaged; and

20 (ii) at risk from repeat flooding
 21 events.

22 (b) EVALUATION OF TEMPORARY STRUCTURES.—
 23 Notwithstanding any other provision of law, on request of
 24 an impacted community, the Secretary shall evaluate
 25 whether the temporary structure warrants consideration

1 for a permanent feature, in accordance with subsection
2 (c).

3 (c) CONSIDERATIONS.—In evaluating a temporary
4 structure under subsection (b), the Secretary shall con-
5 sider—

6 (1) the likelihood that a similar structure will
7 need to be constructed in the area in the future if
8 the temporary structure, or a similar structure, is
9 not made permanent;

10 (2) the extent to which similar structures have
11 been constructed in the area previously and re-
12 moved;

13 (3) the economic, safety, and environmental
14 benefits and impacts of establishing a permanent
15 feature in the watershed of the impacted community;

16 (4) the extent of the modifications necessary to
17 make the temporary structure a permanent feature;
18 and

19 (5) the costs of the modifications described in
20 paragraph (4).

21 (d) CONVERSION OF TEMPORARY STRUCTURES.—

22 (1) IN GENERAL.—After the Secretary com-
23 pletes an evaluation under subsection (b), if the Sec-
24 retary determines that the temporary structure
25 should become a permanent feature, or that a per-

1 manent feature would prevent damage similar to
2 damage prevented by the temporary structure, and
3 subject to paragraph (2), the Secretary shall begin
4 the planning and design of the permanent feature in
5 accordance with all applicable design and construc-
6 tion standards and legal requirements of the Sec-
7 retary, including all applicable environmental laws.

8 (2) PROJECT COST.—

9 (A) IN GENERAL.—The Secretary may
10 carry out the planning, design, and construction
11 of a project described in paragraph (1) if the
12 total construction cost of the project is not ex-
13 pected to exceed \$25,000,000.

14 (B) LARGE PROJECTS.—If the total con-
15 struction cost of a project described in para-
16 graph (1) is expected to be greater than
17 \$25,000,000, the Secretary—

18 (i) shall submit to Congress a request
19 to carry out the project in a manner simi-
20 lar to a Chief's Report; and

21 (ii) may not carry out the project
22 until Congress authorizes the construction
23 of the project.

24 (C) DEMOLITION.—Demolition of a tem-
25 porary structure under this section shall be sub-

1 ject to the cost-share requirement under para-
2 graph (3), but the costs of that demolition shall
3 not be included in the total construction cost of
4 the project under subparagraphs (A) and (B).
5 (3) COST-SHARE.—

6 (A) IN GENERAL.—The non-Federal share
7 of the cost of carrying out a project under this
8 section shall be not more than 35 percent.

9 (B) SMALL OR DISADVANTAGED COMMU-
10 NITIES.—In the case of a project carried out
11 under this section in an impacted community
12 that is a small or disadvantaged community,
13 the Federal share of the cost of a project may
14 be up to 100 percent, based on the ability of
15 the community to pay.

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