

107TH CONGRESS
2D SESSION

H. R. 1370

IN THE SENATE OF THE UNITED STATES

MAY 15 (legislative day, MAY 9), 2002

Received; read twice and referred to the Committee on Environment and
Public Works

AN ACT

To amend the National Wildlife Refuge System Administration Act of 1966 to establish requirements for the award of concessions in the National Wildlife Refuge System, to provide for maintenance and repair of properties located in the System by concessionaires authorized to use such properties, 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. LEASES, PERMITS, AND CONTRACTS FOR**
4 **BUILDINGS, FACILITIES, AND PROPERTIES IN**
5 **THE NATIONAL WILDLIFE REFUGE SYSTEM.**

6 (a) IN GENERAL.—The National Wildlife Refuge
7 System Administration Act of 1966 (16 U.S.C. 668dd et
8 seq.) is amended by—

9 (1) striking section 6 (relating to amendments
10 to other laws, which have executed);

11 (2) redesignating section 5 (16 U.S.C. 668ee)
12 as section 6; and

13 (3) inserting after section 4 the following:

14 **“SEC. 5. CONCESSION CONTRACTS.**

15 “(a) CONTRACT REQUIREMENT.—(1) The Secretary
16 shall not award any concession that authorizes a person
17 to use any land or water in the System for any activity
18 described in subsection (b), except under a contract that
19 complies with the requirements established under sub-
20 section (c).

21 “(2) The Secretary may not award a contract re-
22 quired under this subsection except under a competitive
23 bidding process.

24 “(b) COVERED CONCESSION ACTIVITIES.—(1) The
25 activity referred to in subsection (a) is any activity con-

1 ducted to provide accommodations, facilities, or services
2 to members of the public who are visiting lands or waters
3 in the System, for the purpose of providing such visitors
4 recreational, educational, or interpretive enjoyment of
5 lands or waters in the System.

6 “(2) Such activity does not include—

7 “(A) any activity carried out under a procure-
8 ment contract, grant agreement, or cooperative
9 agreement required under chapter 63 of title 31,
10 United States Code;

11 “(B) the performance of volunteer services; and

12 “(C) any activity by a governmental entity.

13 “(c) STANDARDIZED CONTRACT.—(1) The Secretary,
14 acting through the Director, shall issue regulations that
15 establish a standardized contract for purposes of sub-
16 section (a).

17 “(2) Regulations under this subsection shall author-
18 ize a contract to use a provision other than those specified
19 by the regulations only if—

20 “(A) the provision addresses extenuating cir-
21 cumstances that are specific to a refuge or the con-
22 tract; and

23 “(B) the provision is approved by the Director
24 in writing.

1 “(3) Regulations under this subsection shall require
2 in each contract provisions that require that any activity
3 conducted in the System under the contract—

4 “(A) must be a compatible use; and

5 “(B) must be designed to—

6 “(i) conserve the natural and cultural re-
7 sources of the System;

8 “(ii) facilitate the enjoyment of the lands
9 and waters of the System by visitors to the Sys-
10 tem; and

11 “(iii) enhance the such visitors’ knowledge
12 of the natural resources of the System.

13 “(d) MAINTENANCE AND REPAIR.—(1) Notwith-
14 standing any other provision of law, the Secretary shall
15 include, in each contract that authorizes a person to use
16 any land or water in the System for any activity described
17 in subsection (b), provisions that—

18 “(A) authorize the person to maintain or repair
19 any improvement on or in such land or water that
20 the person is authorized to use for such activity; and

21 “(B) treat costs incurred by the person for such
22 maintenance or repair as consideration otherwise re-
23 quired to be paid to the United States for such use.

24 “(2) This subsection does not authorize any mainte-
25 nance or repair that is not directly related to an activity

1 described in subsection (b) that is authorized by the con-
2 tract.

3 “(3) The United States shall retain title to all prop-
4 erty that is maintained or repaired under this subsection.

5 “(e) NO COMPENSABLE INTEREST.—Nothing in this
6 Act shall be considered to convey to any person any right
7 to compensation for—

8 “(1) the value of any maintenance activities, re-
9 pairs, construction, or improvements on or in land
10 or water in the System; or

11 “(2) buildings, facilities, fixtures, and non-mov-
12 able equipment that the person is authorized to use
13 under this Act.

14 “(f) EXPENDITURE OF FEES AND OTHER PAY-
15 MENTS.—(1) Amounts received by the United States as
16 fees or other payments required under any agreement,
17 lease, permit, or contract for use of real property located
18 in an area in the System shall be available to the Secretary
19 for expenditure in accordance with this subsection, without
20 further appropriation.

21 “(2) Amounts available for expenditure under this
22 subsection may only be used—

23 “(A) at the refuge or refuge complex with re-
24 spect to which the amounts were received as fees or
25 other payments;

1 “(B) to increase the quality of the visitor expe-
2 rience; and

3 “(C) for purposes of—

4 “(i) backlogged repair and maintenance
5 projects (including projects relating to health
6 and safety);

7 “(ii) interpretation, signage, habitat, or fa-
8 cility enhancement;

9 “(iii) resource protection and preservation;
10 or

11 “(iv) administration of agreements, leases,
12 permits, and contracts from which such
13 amounts are derived.

14 “(3) Paragraph (1) shall not affect the application
15 of the Act of June 15, 1935 (chapter 261; 16 U.S.C.
16 715s), commonly referred to as the Refuge Revenue Shar-
17 ing Act, to amounts referred to in paragraph (1) that are
18 not expended by the Secretary under paragraph (1).”.

19 (b) APPLICATION.—Section 5(a) of the National
20 Wildlife Refuge System Administration Act of 1966, as
21 amended by this section, shall apply only with respect to
22 a concession that is—

23 (1) first awarded after the date of the publica-
24 tion of regulations under section 5(c) of the National

1 Wildlife Refuge System Administration Act of 1966,
2 as amended by this section; or

3 (2) renewed after the end of the 3-year period
4 beginning on the date of the enactment of this Act.

5 (c) DEADLINE FOR REGULATIONS ESTABLISHING
6 STANDARDIZED CONTRACT REQUIREMENTS.—The Sec-
7 retary of the Interior shall issue regulations under section
8 5(c) of the National Wildlife Refuge System Administra-
9 tion Act of 1966, as amended by this section, by not later
10 than 18 months after the date of the enactment of this
11 Act.

12 (d) COMPREHENSIVE CONSERVATION PLAN RE-
13 QUIREMENT.—Section 4(e) of the National Wildlife Ref-
14 uge System Administration Act of 1966 (16 U.S.C.
15 668dd) is amended by adding at the end the following:

16 “(5) The Secretary shall include, in the comprehen-
17 sive conservation plan for each refuge under this sub-
18 section, a description of the activities that may be con-
19 ducted in the refuge, and the lands, waters, and facilities
20 of the refuge that may be used, under concession contracts
21 awarded under section 5(a).”.

22 (e) PRIOR AMENDMENTS NOT AFFECTED.—Nothing
23 in this section shall be construed to affect any amendment
24 made by section 6 of the National Wildlife Refuge System
25 Administration Act of 1966, as in effect before the enact-

1 ment of this Act, or any provision of law amended by such
2 section.

3 **SEC. 2. ANNUAL REPORT ON NATIONAL WILDLIFE REFUGE**
4 **CONCESSIONS.**

5 (a) REPORTING REQUIREMENT.—The National Wild-
6 life Refuge System Administration Act of 1966 (16 U.S.C.
7 668dd et seq.) is further amended by adding at the end
8 the following:

9 **“SEC. 7. ANNUAL REPORT ON CONCESSION ACTIVITIES IN**
10 **THE SYSTEM.**

11 “(a) IN GENERAL.—The Secretary shall submit by
12 December 31 each year, to the Committee on Resources
13 of the House of Representatives and the Committee on
14 Environment and Public Works of the Senate, a report
15 on concessions activities conducted in the System.

16 “(b) CONTENTS.—Each report under this section
17 shall describe the following with respect to the period cov-
18 ered by the report:

19 “(1) The number of refuge units in which con-
20 cessions activities were conducted.

21 “(2) The names and descriptions of services of-
22 fered in the System by each concessionaire.

23 “(3) A listing of the different types of legal ar-
24 rangements under which concessionaires operated in
25 the System, including contracts, memoranda of un-

1 derstanding, permits, letters of agreement, and other
2 arrangements.

3 “(4) Amounts of fees or other payments re-
4 ceived by the United States with respect to such ac-
5 tivities from each concessionaire, and the portion of
6 such funds expended for purposes under this Act.

7 “(5) An accounting of the amount of monies
8 deposited into the fund established by section 401 of
9 the Act of June 15, 1935 (chapter 261; 16 U.S.C.
10 715s), popularly known as the refuge revenue shar-
11 ing fund, and of the balance remaining in the fund
12 at the end of the reporting period.

13 “(6) A listing of all concession contracts and
14 other arrangements that were terminated or not re-
15 newed within the reporting period.

16 “(7) A summary of all improvements in visitor
17 services in the System that were completed by con-
18 cessionaires and volunteers during the reporting pe-
19 riod.

20 “(8) A summary of all backlogged repair and
21 maintenance, facility enhancement, and resource
22 preservation projects completed by concessionaires
23 and volunteers during the reporting period.”.

24 (b) DEADLINE FOR FIRST REPORT.—The Secretary
25 of the Interior shall submit the first report under the

- 1 amendment made by subsection (a) by not later than 1
- 2 year after the date of the enactment of this Act.

Passed the House of Representatives May 14, 2002.

Attest:

JEFF TRANDAHL,
Clerk.