



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

November 18, 2016

H.R. 3062 APPROVAL Act

As ordered reported by the House Committee on Natural Resources on June 15, 2016

SUMMARY

The Department of Energy (DOE) is authorized under current law to participate with nonfederal entities in the development of electric power transmission projects, subject to certain conditions. Under section 1222 of the Energy Policy Act of 2005, that participation may include owning, building, or operating transmission facilities that are located in any of the 19 states that have customers served by either the Southwestern or Western Area Power Administrations (SWPA or WAPA). As a federal agency, DOE may use eminent domain to acquire property and is exempt from other state, local, or tribal regulations.

H.R. 3062 would prohibit DOE from exercising the power of eminent domain for projects implemented under section 1222 unless certain state and tribal officials affected by such projects explicitly approve of them.

CBO estimates that enacting H.R. 3062 would reduce direct spending by about \$400 million over the 2017-2026 period by reducing the probability that the Department of Energy would participate as an owner, operator, or builder of such transmission projects. Because the bill would affect direct spending, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

CBO estimates that enacting H.R. 3062 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 3062 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effect of H.R. 3062 is shown in the following table. The costs of this legislation fall within budget function 270 (energy).

	By Fiscal Year, in Millions of Dollars										2017-	2017-
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2021	2026
DECREASES IN DIRECT SPENDING												
Estimated Budget Authority	0	-5	-50	-63	-75	-73	-70	-68	-65	-63	-193	-532
Estimated Outlays	0	0	-5	-23	-45	-63	-68	-68	-65	-63	-73	-400

BASIS OF ESTIMATE

DOE recently entered into an agreement under section 1222 to participate in a \$2.5 billion interstate transmission project in SWPA’s service area. That agreement suggests that projects successfully implemented under section 1222 will depend on the involvement of the federal government.¹ For example, the agreement provides for DOE’s ownership of all of the facilities in one of the states; asserts DOE’s authority to use the power of eminent domain; and affirms DOE’s exemption from state, local, and tribal laws regarding the siting of these facilities. In addition, DOE will be the co-chair of the project’s coordinating committee and will retain and spend some of the gross revenues from the project. Given the anticipated use of sovereign power and the extent of federal control, CBO considers such projects to be federal activities and includes their full cost in the baseline.

In CBO’s view, the financing provided by third parties (private parties borrowing on behalf of the federal government) for such projects is equivalent to the indefinite borrowing authority used by the federal government to finance transmission lines for the Tennessee Valley Authority and Bonneville Power Administration. Such indefinite borrowing authority is classified as direct spending because funding to cover the full cost of the project is not provided in advance in appropriation acts. The budget records direct spending for a project’s construction and operating costs as they occur. Such spending would subsequently be offset by income received from the sale of transmission services, however that income would not be realized until much later. (Amounts borrowed to pay for government spending are not recorded in the budget as receipts—rather they are considered a means of financing spending.) Using publicly available information about the SWPA-area and other potential transmission projects, CBO estimates that, under current law, net outlays for section 1222 activities will total \$800 million over the 2017-2026 period and that those costs will be offset in the decades after 2026 by proceeds from the transmission project operations.

1. See Department of Energy, *Summary of Findings, In re Application of Clean Line Energy Partners LLC, Pursuant to Section 1222 of the Energy Policy Act of 2005*, March 25, 2016.

CBO expects that implementing H.R. 3062 would eliminate much of the advantage or rationale for private entities to partner with DOE to develop electricity transmission under section 1222. It is uncertain whether DOE would continue to participate in such projects if H.R. 3062 were enacted. To account for that uncertainty CBO reduced the potential savings under the bill by half and thus estimates that federal spending would be reduced by \$400 million over the 2017-2026 period.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO Estimate of Pay-As-You-Go Effects for H.R. 3062, as ordered reported by the House Committee on Natural Resources on June 15, 2016

	By Fiscal Year, in Millions of Dollars										2017-	2017-
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2021	2026
NET DECREASE IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	0	0	-5	-23	-45	-63	-68	-68	-65	-63	-73	-400

INCREASE IN LONG-TERM DIRECT SPENDING AND DEFICITS

CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 3062 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

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