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MARKUP OF H.R. 212, THE DRINKING WATER PROTECTION ACT

THURSDAY, FEBRUARY 5, 2015

House of Representatives,

Subcommittee on Environment and the Economy,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittee met, pursuant to call, at 12:38 p.m., in Room 2123, Rayburn House Office Building, Hon. John Shimkus, [chairman of the subcommittee] presiding.

Present: Representatives Shimkus, Latta, McKinley, Johnson, Hudson, Cramer, Tonko, Schrader, Capps, and Pallone.

Staff Present: Nick Abraham, Legislative Clerk; Gary Andres, Staff Director; Charlotte Baker, Deputy Communications Director; Sean Bonyun, Communications Director; Leighton Brown, Press Assistant; Karen Christian, General Counsel; Jerry Couri, Senior Environmental

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Policy Advisor; Brittany Havens, Legislative Clerk; Kirby Howard, Legislative Clerk; Peter Kielty, Deputy General Counsel; David McCarthy, Chief Counsel, Environment/Economy; Tim Pataki, Professional Staff Member; Chris Sarley, Policy Coordinator, Environment & Economy; Charlotte Savercool, Legislative Clerk; Adrianna Simonelli, Legislative Clerk; Jessica Wilkerson, Legislative Clerk; Joe Banez, Minority Policy Analyst; Jen Berenholz, Minority Chief Clerk; Jacqueline Cohen, Minority Senior Counsel; Rick Kessler, Minority Senior Advisor and Staff Director, Energy and Environment; and Ryan Schmit, Minority EPA Detailee.

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Mr. Shimkus. The subcommittee will come to order and the chair recognizes himself for an opening statement. I want to let folks know I support H.R. 212 and the amendment in the nature of a substitute. The amendment merely reflects terminology changes suggested by the EPA. I am glad that we are taking their suggestions to make the bill even better from a technical point of view, but the essence of H.R. 212 remains unchanged. We call on the Agency within 90 days of enactment to develop a strategic plan for managing this issue that makes it by law a front-burner issue.

We realize that EPA will not have all the answers within 90 days, but we will at least get a start down the path to finding them. I commend Mr. Latta for his leadership and initiative on this critical and important issue. I ask all my colleagues to vote yes on the amendment and a yes on the final passage.

And I yield back the balance of my time.

The chair now recognizes the ranking member of the subcommittee, Mr. Tonko, for his opening statement.

Mr. Tonko. Thank you, Mr. Chairman. I want to thank you for moving this legislation, which is a step forward on an important environmental issue. This is a bipartisan bill that grew out of the leadership of our colleague Representative Latta and our colleague Representative Marcy Kaptur.

The markup vehicle we will consider today reflects bipartisan

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negotiation. And I thank your staff and Mr. Latta's staff for working with the minority staff to improve the bill. This is the first markup of this subcommittee in the 114th Congress and I think we are stepping off on the right foot.

The issues within the subcommittee's jurisdiction are indeed serious, and they have significant impacts on communities in every Member's district, from drinking water systems to TSCA reform, there is a great deal of important work to be done. You have expressed your willingness to work with me and the other Democratic Members on drinking water issues. You have acknowledged there is similar interest amongst the majority Members as well.

I appreciate your commitment to continue our discussion on the important issues and challenges facing our communities in the area of drinking water. I hope we can continue to work together on legislation to maintain our Nation's commitment to safe drinking water and public health protection. This bill is a good step forward, and I look forward to seeing it move through Congress to the President's desk.

And with that, I yield back.

Mr. Shimkus. The gentleman yields back his time, and I thank you for that.

The chair now recognizes the ranking member of the full committee Mr. Pallone.

Mr. Pallone. Thank you, Mr. Chairman.

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I guess I am going to be the bad guy here because I was going to say I was going to throw some water on this. But I better not say that, that seems a little stupid.

Mr. Shimkus. Only if it is clean.

Mr. Pallone. Okay. But I have to say I am disappointed that Members did not have the opportunity to use the testimony this morning to prepare additional amendments and consider their positions on the bill that might have changed because of the testimony.

And I don't like the fact, obviously, that we are moving right to a markup right after the hearing. I hope that that doesn't happen again in this or other subcommittees.

I know that you have been working with the Democrats to strengthen the bill and certainly the amendment in the nature of a substitute broadens the bill and it aligns more closely with existing provisions of the Safe Drinking Water Act, and now it explicitly includes source water protection.

But not all the changes that we sought have been incorporated. We heard from both panels today that addressing cyanotoxins in drinking water is very expensive for States and water utilities. If funding is not made available at the Federal level, it will have to come out of already strained State budgets or out of consumers' pockets. And the cooperative agreements envisioned in the bill can address some of these costs but only if they are funded.

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A strategic plan will have no impact if there are no resources to carry it out. So I believe this bill should provide resources to carry out the plan and enter into cooperative agreements with affected States and utilities. I hope my colleagues on the Republican side will join with us to authorize appropriations to carry out the program.

Again, I do thank you for working with us and I do join in the comments that Mr. Tonko said about not only working with us today but in the future. Thank you. I am throwing water on the party. What is the word -- is that the expression? Throwing water on the parade or in the fire?

Mr. Shimkus. Your comments are well received, and I understand your concerns and look forward to working with you.

The chair now seeks any other Member who may want to offer an opening statement on the majority side first.

The gentleman is recognized for 1 minute.

Mr. Latta. Thank you, Mr. Chairman.

Just briefly, again, for my opening statement when the witnesses were here, I want to thank you again and the committee staff -- Republican, Democrat, majority, minority -- for working on this and moving the bill forward because I know the people, not only of northwest of Ohio but across the country, look forward to this bill's passage.

And I just want to thank you very much.

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Mr. Shimkus. I thank you.

The gentleman yields back his time.

The chair recognizes the gentlelady from California, Ms. Capps, for 1 minute.

Mrs. Capps. I thought it was 5. I apologize.

First of all, it is a good to have a bipartisan hearing and a bipartisan markup. And I echo my ranking member's statement about that we really need to have -- get into how we are going to do the pay-fors. We need to really be talking about how communities are going to be able to face the cost of mitigation and adaptation as these State revolving funds are diminished and not able to handle it. So I think we are going halfway there with this opening -- these hearings, and we should build upon the hearings, which were very dynamic, and also shoulder our responsibility to consider where the burden is going to be borne for making these changes. And the sooner we do that, the better. Algal blooms in these costal areas that I represent can be so devastating to shellfish growers, to fishermen, to local businesses. NOAA has estimated that coastal algal blooms -- I will just bring out of this piece of it -- result in at least \$82 million in economic impacts every year. Freshwater, of course, are even worse, estimated at \$2.2 billion. So really it is a cost savings for to us do the mitigation in the long run.

I yield back.

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[12:45 p.m.]

Mr. Shimkus. The gentlelady yields back her time.

Anyone else seeking recognition?

Seeing none, the chair calls up H.R. 212 and asks the clerk to report.

The Clerk. H.R. 212, to amend the Safe Drinking Water Act to provide for the assessment and management of the risk of cyanotoxins in drinking water and for other purposes.

Mr. Shimkus. Without objection, the first reading of the bill is dispensed with and the bill will be open for amendment at any point. So ordered.

[The information follows:]

***** INSERT 2-1 *****

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Mr. Shimkus. The chair recognizes himself for the purpose of offering an amendment in the nature of a substitute.

And the clerk will reported the amendment.

The Clerk. Amendment in the nature of a substitute to H.R. 212, offered by Mr. Shimkus of Illinois.

Mr. Shimkus. Without objection, the reading of the amendment is dispensed with.

[The amendment of Mr. Shimkus follows:]

***** COMMITTEE INSERT *****

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Mr. Shimkus. And we, you know, we just want to say we worked with the EPA and the minority to try to refine the language. We want to thank my colleagues on, you know, both sides for working through the process and getting to a point where we can get to the point of a manager's amendment. We still have an amendment or two to address, but my colleagues have my thanks. I look forward to working with them.

And I yield back the balance of my time.

Anyone else seeking time to speak on the amendment?

Are there any bipartisan amendments to the amendment?

Seeing none, are there any other amendments?

Mr. Tonko. Mr. Chair, I have an amendment at the desk.

Mr. Shimkus. The clerk will report the amendment.

The Clerk. The amendment to the amendment in the nature of a substitute to H.R. 212, offered by Mr. Tonko of New York.

Mr. Shimkus. Without objection, the reading of the amendment is dispensed with.

[The amendment of Mr. Tonko follows:]

***** INSERT 2-2 *****

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Mr. Shimkus. And the gentleman from New York is recognized for 5 minutes in support of the amendment.

Mr. Tonko. Thank you, Mr. Chair.

This is a very simple amendment that adds a modest authorization for funding to the bill. One of the lessons we all learn early in life is that you don't get something for nothing. If we want to see results, we need to provide guidance to the appropriators about the need for resources, and about the level of funding that is required to achieve the tasks that we have mandated. I do not intend to call for a recorded vote.

But given the substantial costs of these blooms to water utilities, business, and individuals across our country, and the need to make progress on this very important issue, I believe we need to be serious about providing funds to get results.

And, with that, I will yield back, Mr. Chair.

Mr. Shimkus. The gentleman yields back his time.

We thank you for the amendment. I think we have had a good discussion on the issue of authorization and appropriations. And I think, as we move forward, we just think at this time, based upon the testimony, this might put the cart before the horse as far as what is really needed. But the concerns have been well registered, and we look forward to working with you.

And, with that, I yield back my time.

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Is there anyone else wishing to speak on the amendment?

Does the gentleman wish to -- any other discussion on the amendment? I think the gentleman stated he wasn't going to call --

Mr. Tonko. We are not calling for a vote.

Mr. Shimkus. Was the gentleman prepared to withdraw the amendment? Oh, I thought there was not going to be any vote. Okay, he is going to call for a recorded vote. So a recorded vote has been called? Okay, we can do a voice vote.

If there is no further discussion, a voice vote will be held.

All those in favor of the amendment, say aye.

All those opposed, no.

In the opinion of the chair, the noes have it. The noes have it. The amendment is not agreed to.

Are there any other amendments going to be offered on this bill? There is just too much paper here. That is the problem.

If there are no more amendments, a vote occurs on the amendment in the nature of a substitute, as amended.

All those in favor shall signify by saying aye.

Those opposed, no.

The ayes have it, and the amendment is agreed to.

The question now occurs on forwarding H.R. 212 to the full committee, as amended.

All those in favor, say aye.

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Those opposed, no.

The ayes appear to have it. The ayes have it, and the bill is agreed to.

Without objection, the staff is authorized to make technical and conforming changes to the legislation approved by the subcommittee today. So ordered.

Without objection, the subcommittee stands adjourned. I thank my colleagues for their attendance. I look forward to working with them more in the future.

[Whereupon, at 12:50 p.m., the subcommittee was adjourned.]