

# MAINE STATE LEGISLATURE

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# 132nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2025

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Legislative Document

No. 430

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H.P. 284

House of Representatives, February 4, 2025

**An Act to Impose Moratoria on Hydropower Dam Removal and on  
Water Release from Nonhydropower Dams and to Make Other  
Changes to the Laws Regulating Such Dams**

(EMERGENCY)

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Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative CAMPBELL of Orrington.  
Cosponsored by Representatives: RUDNICKI of Fairfield, SOBOLESKI of Phillips, STROUT of Harrington.

1           **Emergency preamble.** Whereas, acts and resolves of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3           **Whereas,** hydropower dams on Maine rivers generate significant quantities of  
4 renewable energy, contribute critical tax revenue and other economic benefits to  
5 surrounding communities and support local employment, both directly and indirectly; and

6           **Whereas,** historical water levels and water flows supported by hydropower and  
7 nonhydropower dams on Maine rivers are relied upon by certain mills and other river-  
8 adjacent businesses for their operations, as well as by upstream and downstream property  
9 owners and others for water-dependent public and private recreational uses; and

10           **Whereas,** the removal of hydropower dams will result in a loss of renewable energy  
11 generation capacity and local tax revenue, economic benefits and employment, and the  
12 removal of both hydropower and nonhydropower dams will result in a significant reduction  
13 in water levels in previously dammed rivers and lakes that may impair or prevent the  
14 continued operation of mills and businesses that are dependent on water access and use,  
15 may reduce surrounding property values and may threaten water-dependent public and  
16 private recreational uses; and

17           **Whereas,** given recent developments regarding the future of certain hydropower and  
18 nonhydropower dams in the State, the moratoria on dam removal and water release  
19 provided in this legislation must take effect immediately to ensure full consideration of the  
20 associated implications of removal of, or water release from, any dam; and

21           **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
22 the meaning of the Constitution of Maine and require the following legislation as  
23 immediately necessary for the preservation of the public peace, health and safety; now,  
24 therefore,

25           **Be it enacted by the People of the State of Maine as follows:**

26           **Sec. 1. 38 MRSA §634, sub-§5** is enacted to read:

27           **5. Dam removal; moratorium.** Notwithstanding subsection 4 or any other provision  
28 of this subarticle to the contrary, the department may not approve an application for a  
29 permit to remove a dam that is part of a hydropower project.

30           This subsection is repealed January 1, 2027.

31           **Sec. 2. 38 MRSA §902, sub-§1,** as enacted by PL 1995, c. 630, §3, is amended to  
32 read:

33           **1. Consultation required.** Within ~~180~~ 210 days of filing a petition pursuant to section  
34 901, a dam owner shall consult with the persons and entities listed in subsection 3 to  
35 determine whether any of them wish to assume ownership of the dam. During consultation  
36 with each person or group of persons, the owner shall explain the process set forth in this  
37 article and shall inform the person or group that the department may issue an order  
38 requiring release of the water impounded by the dam if a new owner is not located. A dam  
39 owner may meet the obligation to consult with property owners by holding a public meeting  
40 and consulting with the persons who appear at that meeting, as long as notice has been sent  
41 to each property owner as required in section 901.

1           **Sec. 3. 38 MRSA §902, sub-§1-A**, as corrected by RR 2013, c. 2, §48, is amended  
2 to read:

3           **1-A. Extension of consultation period.** The consultation period under subsection 1  
4 must be extended for an additional ~~180~~ 210 days if:

- 5           A. A municipality in which the dam or impoundment is located applies to the  
6 department for an extension and demonstrates that the municipality needs additional  
7 consultation time to facilitate an agreement for municipal ownership of the dam; or  
8           B. The dam owner applies to the department for an extension.

9           The consultation period under subsection 1 may not be extended for more than ~~180~~ 210  
10 days regardless of the number of applications for extension under this subsection.

11           **Sec. 4. 38 MRSA §902, sub-§4**, as amended by PL 1997, c. 789, §2 and affected  
12 by §5, is further amended to read:

13           **4. Report on notice compliance.** The dam owner shall file a report with the  
14 department within ~~180~~ 210 days of filing a petition that includes:

- 15           A. Evidence that the owner complied with the notice requirements set forth in section  
16 901; and  
17           B. Names and addresses of persons notified under section 901.

18           **Sec. 5. 38 MRSA §902, sub-§4-A**, as corrected by RR 1997, c. 2, §64, is amended  
19 to read:

20           **4-A. Report on consultation process.** The dam owner shall file a report with the  
21 department within ~~180~~ 210 days of filing a petition or before the conclusion of an extension  
22 to the consultation period granted pursuant to subsection 1-A that includes:

- 23           A. Names and addresses of parties consulted in accordance with this section; and  
24           B. The results of the consultations and whether a new owner has been located.

25           **Sec. 6. 38 MRSA §903, sub-§2**, as enacted by PL 1995, c. 630, §3 and amended  
26 by PL 2011, c. 657, Pt. W, §5, is further amended to read:

27           **2. Evaluation of fisheries and wildlife value.** Within ~~60~~ 90 days of receiving notice  
28 under subsection 1, the Department of Inland Fisheries and Wildlife shall review the  
29 following factors and determine whether the best interest of the public requires that  
30 department to assume ownership of the dam:

- 31           A. The cost of maintaining the dam;  
32           B. The value to fisheries and wildlife of maintaining the dam; and  
33           C. The value to fisheries and wildlife of releasing water from the dam.

34           The Department of Inland Fisheries and Wildlife shall notify the department of its  
35 determination. If the Department of Inland Fisheries and Wildlife determines, after  
36 considering these factors, that the best interest of the public requires it to assume ownership  
37 of the dam, the department shall issue an order directing the dam owner to transfer the dam  
38 to the Department of Inland Fisheries and Wildlife within a reasonable period of time. If  
39 the Department of Inland Fisheries and Wildlife determines that it will not assume

1 ownership, the department shall notify the Department of Agriculture, Conservation and  
2 Forestry.

3 **Sec. 7. 38 MRSA §903, sub-§3**, as enacted by PL 1995, c. 630, §3 and amended  
4 by PL 2011, c. 657, Pt. W, §5, is further amended to read:

5 **3. Evaluation of public recreational value.** Within ~~60~~ 90 days of receiving notice  
6 under subsection 2, the Department of Agriculture, Conservation and Forestry shall review  
7 the following factors and determine whether the best interest of the public requires that  
8 department to assume ownership of the dam:

- 9 A. The cost of maintaining the dam;
- 10 B. The value to public recreation, conservation and public use of maintaining the dam;
- 11 and
- 12 C. The value to public recreation, conservation and public use of releasing water from
- 13 the dam.

14 The Department of Agriculture, Conservation and Forestry shall notify the department of  
15 its determination. If the Department of Agriculture, Conservation and Forestry determines,  
16 after considering these factors, that the best interest of the public requires it to assume  
17 ownership of the dam, the department shall issue an order directing the dam owner to  
18 transfer the property to the Department of Agriculture, Conservation and Forestry within a  
19 reasonable period of time. If the Department of Agriculture, Conservation and Forestry  
20 determines that it will not assume ownership of the dam, the department shall notify the  
21 Maine Emergency Management Agency.

22 **Sec. 8. 38 MRSA §903, sub-§4**, as enacted by PL 1995, c. 630, §3, is amended to  
23 read:

24 **4. Evaluation of public safety value.** Within ~~60~~ 90 days of receipt of notice under  
25 subsection 3, the Maine Emergency Management Agency shall review the following  
26 factors and determine whether the best interest of the public requires that agency to assume  
27 ownership of the dam:

- 28 A. The cost of maintaining the dam;
- 29 B. The value to public safety, particularly flood protection, of maintaining the dam;
- 30 and
- 31 C. The value to public safety, particularly flood protection, of releasing water from the
- 32 dam.

33 The Maine Emergency Management Agency shall notify the department of its  
34 determination. If that agency determines, after considering these factors, that the best  
35 interest of the public requires it to assume ownership of the dam, the department shall issue  
36 an order directing the dam owner to transfer ownership of the dam to the Maine Emergency  
37 Management Agency within a reasonable period of time.

38 **Sec. 9. 38 MRSA §905, sub-§3** is enacted to read:

39 **3. Water release order; moratorium.** Notwithstanding subsection 1 or any other  
40 provision of this article to the contrary, the department may not issue an order to a dam  
41 owner to release water from the dam pursuant to subsection 1 and may not, at the request

1 of the dam owner, otherwise authorize or approve the removal of a dam governed by this  
2 article.

3 This subsection is repealed January 1, 2027.

4 **Sec. 10. Department of Environmental Protection; report.** The Department  
5 of Environmental Protection shall evaluate options for implementation of processes,  
6 programs or initiatives to address negative outcomes that may be experienced by  
7 municipalities, businesses and property owners upon the removal of, or significant change  
8 in, water flows from a hydropower or nonhydropower dam, including, but not limited to,  
9 interruptions in or loss of water supply for adjacent municipalities and businesses and  
10 damage to or impairment of public and private property and infrastructure resulting from  
11 dam removal or change in water flows. In conducting the evaluation under this section, the  
12 department may, as necessary, consult with relevant agencies and other stakeholders,  
13 including, but not limited to, the Department of Agriculture, Conservation and Forestry,  
14 the Department of Inland Fisheries and Wildlife and the Department of Defense, Veterans  
15 and Emergency Management, Maine Emergency Management Agency. On or before  
16 January 1, 2026, the department shall submit to the Joint Standing Committee on  
17 Environment and Natural Resources a report outlining the department's evaluation under  
18 this section and including its recommendations along with draft legislation as necessary.  
19 After reviewing the report, the committee may report out legislation relating to the report  
20 to the Second Regular Session of the 132nd Legislature.

21 **Emergency clause.** In view of the emergency cited in the preamble, this legislation  
22 takes effect when approved.

### 23 SUMMARY

24 This bill amends the laws governing hydropower and nonhydropower dams as follows.

25 1. It amends the laws governing hydropower projects to prohibit the Department of  
26 Environmental Protection from approving an application for a permit to remove a dam that  
27 is part of a hydropower project. This prohibition is repealed January 1, 2027.

28 2. It amends the laws governing release from ownership and water level maintenance  
29 for nonhydropower dams to prohibit the department from issuing an order to a dam owner  
30 to release water from the dam or, at the request of the dam owner, otherwise authorize or  
31 approve the removal of a nonhydropower dam. This prohibition is repealed January 1,  
32 2027.

33 3. It also amends the laws governing release from ownership and water level  
34 maintenance for nonhydropower dams to extend by 30 days certain statutory deadlines  
35 under those laws relating to the required consultation process to determine whether a  
36 change in dam ownership is available and relating to the assessment of certain public values  
37 associated with the dam by certain state agencies.

38 The bill also directs the department to evaluate options for implementation of  
39 processes, programs or initiatives to address negative outcomes that may be experienced  
40 by municipalities, businesses and property owners upon the removal of, or significant  
41 change in, water flows from a hydropower or nonhydropower dam, including, but not  
42 limited to, interruptions in or loss of water supply for adjacent municipalities and  
43 businesses and damage to or impairment of public and private property and infrastructure

1 resulting from dam removal or change in water flows. On or before January 1, 2026, the  
2 department is required to submit to the Joint Standing Committee on Environment and  
3 Natural Resources a report outlining its evaluation and including its recommendations  
4 along with draft legislation as necessary. After reviewing the report, the committee may  
5 report out related legislation.