

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

No. 1848

H.P. 1232

House of Representatives, April 30, 2025

An Act to Implement Recommendations for Improved Dam Safety

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script, reading "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative MILLIKEN of Blue Hill.
Cosponsored by Representatives: BELL of Yarmouth, BISHOP of Bucksport, Senators:
GROHOSKI of Hancock, HAGGAN of Penobscot.

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

2 **Sec. 1. 37-B MRSA §1113**, as enacted by PL 2001, c. 460, §3, is repealed and the
3 following enacted in its place:

4 **§1113. Duties of department**

5 In accordance with the provisions of this chapter and the rules adopted pursuant to this
6 chapter, the department shall inspect existing dams and reservoirs to determine their hazard
7 potential, review the design and construction of new and reconstructed dams, assist dam
8 owners in developing emergency action plans to minimize the effects of dam failure and
9 take all necessary actions in emergency situations of probable dam failure to protect life
10 and property.

11 **1. Authority of other persons.** Except for the Federal Government, a person may not
12 exercise any authority over the emergency regulation or supervision of any dams or
13 reservoirs in the State when that exercise would conflict with the powers and authority of
14 the department under this chapter.

15 **2. Coordination with Department of Environmental Protection.** In administering
16 and enforcing the provisions of this chapter, the department shall, as necessary, coordinate
17 and establish any written policies or agreements with the Department of Environmental
18 Protection with respect to the authority of the Department of Environmental Protection
19 under Title 38, chapter 5 to ensure the efficient administration and enforcement of this
20 chapter and of Title 38, chapter 5.

21 **3. Comprehensive database management system.** The department shall develop
22 and implement a comprehensive database management system for use in its administration
23 and enforcement of this chapter. The department shall ensure that all public records in its
24 possession relating to the administration and enforcement of this chapter are digitized and
25 integrated into and accessible from the database management system implemented under
26 this subsection.

27 **4. Written policies and procedures.** The department shall establish by rule
28 comprehensive written policies and procedures necessary for its administration and
29 enforcement of this chapter, including, but not limited to, policies and procedures for:

30 A. Compliance with and enforcement of this chapter that encourage voluntary
31 compliance over enforcement action;

32 B. Dam evaluations, dam inspections and dam inspection follow-ups for use by
33 department staff, dam owners and other persons; and

34 C. Dam security measures and dam-related public safety measures, including, but not
35 limited to, requirements for implementation by dam owners of surveillance and
36 monitoring measures at dam sites.

37 In developing the policies and procedures required by this subsection, the department shall
38 as necessary consult with relevant state agencies and other entities, including, but not
39 limited to, the Department of Environmental Protection. Rules adopted by the department
40 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,
41 subchapter 2-A.

1 **5. Staffing; training.** The department shall hire, employ or contract with persons
2 necessary for the administration and enforcement of this chapter, including, but not limited
3 to, one or more state dam inspectors pursuant to section 1117. The department shall
4 provide for the necessary training of department staff under this chapter, including, but not
5 limited to, ongoing staff training and professional development opportunities.

6 **6. Stakeholder engagement.** The department shall develop and implement a plan for
7 conducting outreach to and maintaining regular communication with persons with an
8 interest in the administration of this chapter, including, but not limited to, dam owners.

9 **7. Annual report.** On or before January 1, 2028, and annually thereafter, the
10 department shall submit a report to the joint standing committee of the Legislature having
11 jurisdiction over emergency management matters regarding the administration and
12 enforcement of this chapter. The report must include, but is not limited to, information
13 regarding any staffing and operational needs for the dam safety program under this chapter;
14 current and anticipated funding levels for the program; information regarding the
15 development and implementation of guidelines, policies and procedures under the program;
16 and information regarding dam inspections conducted and enforcement actions taken under
17 the program. After reviewing the report, the committee may report out related legislation.

18 **Sec. 2. 37-B MRSA §1117,** as enacted by PL 2001, c. 460, §3, is amended to read:
19 **§1117. Inspectors of dams**

20 The commissioner shall appoint or hire one or more state dam inspectors who are
21 licensed as professional engineers under Title 32, chapter 19 and who are experienced in
22 the inspection and design of dams. For the purposes of this chapter, a state dam inspector
23 appointed or hired by the commissioner pursuant to this section is the legal representative
24 of the commissioner.

25 **Sec. 3. 37-B MRSA §1118, sub-§1-A** is enacted to read:

26 **1-A. Evaluation of downstream hazard.** The commissioner shall evaluate the
27 downstream hazard potential of each dam to determine the potential risk to public safety
28 and property downstream from the dam that may result from the failure or operation of the
29 dam. For each dam assigned a high hazard potential or significant hazard potential, the
30 evaluation under this subsection must be completed at least once every 5 years.

31 **Sec. 4. 37-B MRSA §1118, sub-§4** is enacted to read:

32 **4. Potential failure mode analysis.** The department shall adopt by rule policies and
33 guidelines for owners of dams assigned a high hazard potential pursuant to this section to
34 conduct potential failure mode analyses of dams, based on the potential failure mode
35 process developed by the Federal Energy Regulatory Commission. Rules adopted by the
36 department pursuant to this subsection are routine technical rules as defined in Title 5,
37 chapter 375, subchapter 2-A.

38 **Sec. 5. 37-B MRSA §1119, sub-§1,** as amended by PL 2013, c. 146, §20, is further
39 amended to read:

40 **1. Inspections.** A state dam inspector shall conduct an inspection of all high and
41 significant hazard potential dams to determine whether the integrity, structural stability,
42 function or operation of those dams constitutes a threat to public safety, in accordance with
43 the following schedule:

- 1 A. All significant hazard potential dams, at least once every 6 5 years;
2 B. All high hazard potential dams, at least once every 6 5 years;
3 C. Any dam, within 60 days of a request for an inspection from the dam owner or the
4 municipality in which the dam is located or as soon as is practicable as weather and
5 other conditions allow; and
6 D. At any time any dam that may, in the judgment of the commissioner, constitute a
7 potential risk to public safety.

8 Notwithstanding the schedule outlined in this subsection, a state dam inspector shall
9 conduct an inspection of a significant or high hazard potential dam within 30 days of receipt
10 by the commissioner of a notice of transfer of ownership of the dam as required under
11 section 1128 unless the dam has been inspected under this subsection within 4 years
12 preceding the notice of transfer of ownership.

13 **Sec. 6. 37-B MRSA §1119, sub-§4**, as enacted by PL 2001, c. 460, §3, is amended
14 by enacting at the end a new blocked paragraph to read:

15 The commissioner may adopt rules establishing a schedule for the required payment of
16 monetary penalties by a dam owner, lessee or other person in control of a dam that fails to
17 implement remedial measures directed in a dam safety order issued by the commissioner
18 pursuant to this subsection. Rules adopted by the commissioner pursuant to this subsection
19 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

20 **Sec. 7. 37-B MRSA §1119-A** is enacted to read:

21 **§1119-A. Comprehensive dam review and inspection**

22 The department shall establish by rule requirements and procedures for periodic
23 comprehensive review and inspection of dams assigned a high hazard potential pursuant to
24 section 1118 to be conducted by and at the expense of the owner of the dam at least once
25 every 12 years.

26 Rules adopted by the department pursuant to this section are routine technical rules as
27 defined in Title 5, chapter 375, subchapter 2-A.

28 **Sec. 8. 37-B MRSA §1126**, as enacted by PL 2001, c. 460, §3, is amended by
29 amending the section headnote to read:

30 **§1126. Access and notification; engineering reports**

31 **Sec. 9. 37-B MRSA §1126, sub-§3** is enacted to read:

32 **3. Engineering reports.** An owner, lessee or person in control of a dam shall provide
33 to the department a copy of any engineering study, inspection, comprehensive review or
34 report regarding the dam that was commissioned or otherwise facilitated by the owner,
35 lessee or person.

36 **Sec. 10. 37-B MRSA §1127**, as enacted by PL 2001, c. 460, §3, is repealed and the
37 following enacted in its place:

38 **§1127. Emergency action plans**

39 This section governs the preparation and review of emergency action plans.

1 **1. Requirement for plan.** The owner of a dam under the department's jurisdiction
2 shall prepare an emergency action plan for that dam, using a model emergency action plan
3 made available by the department, as follows:

4 A. Within 6 months of the classification of a dam as a high hazard potential dam or
5 significant hazard potential dam, the owner shall prepare an emergency action plan for
6 the dam and submit the plan to the department for review; and

7 B. Prior to the construction or reconstruction of any dam, the owner shall prepare an
8 emergency action plan for the dam and submit the plan to the department for review.

9 **2. Submission of plan; availability.** At the time the dam owner submits an emergency
10 action plan required by subsection 1, paragraph A, or an update to that plan, to the
11 department, the owner shall submit the plan to the appropriate local or county government
12 office where the dam is located. The department shall ensure that emergency action plans
13 submitted to the department pursuant to this section are made publicly available.

14 **3. Update to plan.** A dam owner that submits an emergency action plan required by
15 subsection 1, paragraph A shall update the plan as necessary and in accordance with
16 guidelines established by the department and submit the updated plan to the department for
17 review. The department shall establish guidelines for the updating of emergency action
18 plans under this subsection, which must require such updating at least every 2 years after
19 initial submission.

20 **4. Testing.** The department shall establish guidelines and procedures for the testing
21 of emergency action plans required by subsection 1, paragraph A.

22 **Sec. 11. 38 MRSA §480-D, sub-§12** is enacted to read:

23 **12. Construction or reconstruction of nonhydropower dam.** If the proposed
24 activity involves the construction or reconstruction of a nonhydropower dam, prior to
25 granting a permit, the department shall notify the director of the Maine Emergency
26 Management Agency within the Department of Defense, Veterans and Emergency
27 Management regarding the application. The director of the Maine Emergency
28 Management Agency shall provide the department with an assessment of the design and
29 construction or reconstruction of the proposed dam and any recommendations regarding
30 terms or conditions necessary to minimize the risk of dam failure and to protect public
31 safety and property downstream from the dam that may result from the failure or operation
32 of the dam.

33 As used in this subsection, "nonhydropower dam" has the same meaning as in section
34 480-Q, subsection 2-E.

35 **Sec. 12. 38 MRSA §480-Q, sub-§2-E, ¶A,** as enacted by PL 2019, c. 124, §3, is
36 amended to read:

37 A. A long-term maintenance and repair plan for the dam has been submitted to the
38 department and to the Department of Defense, Veterans and Emergency Management,
39 Maine Emergency Management Agency prior to the commencement of any
40 maintenance or repair activities;

41 **Sec. 13. Department of Defense, Veterans and Emergency Management;**
42 **state dam inspector.** Pursuant to the authority under the Maine Revised Statutes, Title
43 37-B, section 1117, the Department of Defense, Veterans and Emergency Management

1 shall take all necessary steps to ensure that, within 6 months of the effective date of this
2 Act, it has appointed or hired in a permanent capacity one or more state dam inspectors
3 meeting the requirements of section 1117. Notwithstanding any provision of law to the
4 contrary, to attract qualified candidates for the state dam inspector position, the department
5 is authorized to offer a salary package for that position that is competitive and aligns with
6 pay standards for professional engineers in the State.

7 **Sec. 14. Department of Defense, Veterans and Emergency Management;**
8 **dam safety compliance.** Consistent with the provisions of the Maine Revised Statutes,
9 Title 37-B, chapter 24, the Department of Defense, Veterans and Emergency Management
10 shall as soon as practicable identify all dams in the State that are under its jurisdiction and
11 are not in compliance with applicable dam safety standards and, in accordance with the
12 compliance and enforcement policies and procedures adopted pursuant to Title 37-B,
13 section 1120, take all actions necessary to ensure that those dams achieve compliance,
14 prioritizing its actions based on the hazard potential of each identified dam as assigned
15 pursuant to Title 37-B, section 1118.

16 **Sec. 15. Department of Defense, Veterans and Emergency Management;**
17 **assessment of staffing and operational needs for dam safety program.** The
18 Department of Defense, Veterans and Emergency Management shall assess staffing and
19 operational needs for the administration and enforcement of the dam safety program under
20 the Maine Revised Statutes, Title 37-B, chapter 24.

21 By January 1, 2026, the department shall submit to the Joint Standing Committee on
22 Criminal Justice and Public Safety a report identifying the funding amounts necessary to
23 ensure the effective administration and enforcement of the dam safety program, which
24 must, at a minimum, identify the funding amounts necessary to support the hiring of one
25 additional state dam inspector position under the Maine Revised Statutes, Title 37-B,
26 section 1117. After reviewing the report, the committee may report out related legislation
27 to the Second Regular Session of the 132nd Legislature.

28 SUMMARY

29 This bill is designed to implement the following recommendations for the improvement
30 of dam safety in the State as identified in the report required pursuant to Resolve 2021,
31 chapter 176 and submitted to the 131st Legislature in February 2024.

32 1. It amends the Natural Resources Protection Act to require that, if a proposed activity
33 subject to that Act involves the construction or reconstruction of a nonhydropower dam,
34 prior to granting a permit, the Department of Environmental Protection shall notify the
35 director of the Maine Emergency Management Agency within the Department of Defense,
36 Veterans and Emergency Management regarding the application. The director of the Maine
37 Emergency Management Agency is required to provide the department with an assessment
38 of the design and construction or reconstruction of the proposed dam and any
39 recommendations regarding terms or conditions necessary to minimize the risk of dam
40 failure and to protect public safety and property downstream from the dam that may result
41 from the failure or operation of the dam.

42 For maintenance and repair activities on an existing dam for which a permit is not
43 required under that Act, the bill provides that a long-term maintenance and repair plan for
44 the dam, which is required to be submitted to the Department of Environmental Protection

1 prior to the commencement of any maintenance or repair activities, must also be submitted
2 to the Maine Emergency Management Agency.

3 2. It modifies the duties of the Department of Defense, Veterans and Emergency
4 Management under the State's dam safety program under the Maine Revised Statutes, Title
5 37-B, chapter 24, by providing for coordination with the Department of Environmental
6 Protection in its administration of the program, clarifying the policies and procedures to be
7 adopted for the administration and enforcement of the program, requiring the development
8 and implementation of a comprehensive database management system, specifying staffing
9 responsibilities, providing for stakeholder engagement and imposing an annual legislative
10 reporting requirement.

11 3. It clarifies that, for the purposes of the dam safety program under Title 37-B, chapter
12 24, a state dam inspector appointed or hired by the Commissioner of Defense, Veterans and
13 Emergency Management is the legal representative of the commissioner.

14 4. It requires the Commissioner of Defense, Veterans and Emergency Management to
15 evaluate the downstream hazard potential of each dam to determine the potential risk to
16 public safety and property downstream from the dam that may result from the failure or
17 operation of the dam.

18 5. It requires the Department of Defense, Veterans and Emergency Management to
19 adopt by rule policies and guidelines for owners of dams assigned a high hazard potential
20 to conduct potential failure mode analyses of dams, based on the potential failure mode
21 process developed by the Federal Energy Regulatory Commission.

22 6. It requires inspection by a state dam inspector of all significant hazard potential
23 dams and all high hazard potential dams at least once every 5 years.

24 7. It authorizes the Commissioner of Defense, Veterans and Emergency Management
25 to adopt major substantive rules establishing a schedule for the required payment of
26 monetary penalties by a dam owner, lessee or other person in control of a dam that fails to
27 implement remedial measures directed in a dam safety order issued by the commissioner.

28 8. It requires the Department of Defense, Veterans and Emergency Management to
29 establish by rule requirements and procedures for periodic comprehensive review and
30 inspection of all high hazard potential dams at least once every 12 years, to be conducted
31 by and at the expense of the owner of the dam.

32 9. It requires an owner, lessee or person in control of a dam to provide to the
33 Department of Defense, Veterans and Emergency Management a copy of any engineering
34 study, inspection, comprehensive review or report regarding the dam that was
35 commissioned or otherwise facilitated by the owner, lessee or person.

36 10. It repeals and replaces the law regarding dam emergency action plans to provide
37 that, prior to the construction or reconstruction of any dam, the owner must prepare an
38 emergency action plan for the dam and submit the plan to the Department of Defense,
39 Veterans and Emergency Management for review. The department is also required to
40 establish guidelines and procedures for the testing of emergency action plans for high
41 hazard potential and significant hazard potential dams.

42 11. It directs the Department of Defense, Veterans and Emergency Management to
43 take all necessary steps to ensure that, within 6 months of the effective date of this
44 legislation, it has appointed or hired in a permanent capacity one or more state dam

1 inspectors. To attract qualified candidates for the state dam inspector position, the
2 department is authorized to offer a salary package for that position that is competitive and
3 aligns with pay standards for professional engineers in the State.

4 12. It directs the Department of Defense, Veterans and Emergency Management, as
5 soon as practicable, to identify all dams in the State that are under its jurisdiction and are
6 not in compliance with applicable dam safety standards and, in accordance with the
7 compliance and enforcement policies and procedures adopted under the dam safety
8 program, take all actions necessary to ensure that those dams achieve compliance,
9 prioritizing its actions based on the hazard potential of each identified dam as assigned
10 pursuant to law.

11 13. It requires the Department of Defense, Veterans and Emergency Management to
12 assess staffing and operational needs for the administration and enforcement of the dam
13 safety program. By January 1, 2026, the department must submit to the Joint Standing
14 Committee on Criminal Justice and Public Safety a report identifying the funding amounts
15 necessary to ensure the effective administration and enforcement of the dam safety
16 program. After reviewing the report, the committee may report out related legislation.