

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
106TH LEGISLATURE

COMMITTEE AMENDMENT " " to S. P. 205, L. D. 550, Bill, "AN ACT Providing for State Supervision of the Construction and Safety of Dams and Reservoirs."

Amend said Bill by striking out all of subsection 3 of that part designated "§252." of section 1 and inserting in place thereof the following:

'3. Dam. "Dam" means any man-made structure, publicly or privately owned, whether it be made of earth, concrete or other material or combinations of materials, which causes an increase in water level upstream of it of at least 6 feet in height from the natural bed of the stream measured at the downstream toe and which has a water storage capacity of at least 15 acre-feet at maximum water storage elevation upstream of it.'

Further amend said Bill in subsection 6 of that part designated "§253." of section 1 by inserting at the end, before the period, the following ^f, except as provided in subsection 5

Further amend said Bill by striking out all of the first underlined sentence of subsection 8 of that part designated "§253." of section 1 and inserting in place thereof the following:

'Upon completion of construction of a dam or reservoir, the owner shall record the permit issued by the agency pursuant to section 255, subsection 8, in the registry of deeds for the county in which the dam or reservoir is located.'

Further amend said Bill in ^{sub}section 10 of that part designated

(Filing No. § 137)

"§253." of section 1 by inserting after the underlined words "licensed by" in the 2nd line (same in L. D.) the following 'or subject to the jurisdiction of'

Further amend said Bill in subsection 10 of that part designated "255." of section 1 by striking out all of the 2nd underlined sentence and inserting in place thereof the following:

'The agency may refuse to authorize an inspection, unless the complainant shall deposit with the agency a sum estimated by it to be sufficient to cover costs of the inspection.'

Further amend said Bill by inserting at the end of section 1 the following:

'§256. Owner to maintain or deemed to have abandoned

1. Definition. As used in this section, "owner" shall mean the actual owner of a dam.

2. Duty of owner. It shall be the duty of the owner of every dam to maintain it in accordance with agency regulations promulgated pursuant to this chapter.

3. Abandonment to State. If the agency determines that any dam is not being maintained in accordance with regulations promulgated by it pursuant to this chapter, it shall notify the owner of such dam, in writing, of such violation and shall schedule a public hearing thereon within 30 days of such notice. If the owner is unknown to the agency, the agency shall give notice of such alleged violation and public hearing by publication at least 5 times in a newspaper of general circulation within the county in which the dam is located and at least once in the state paper.

(Filing No. 137)

Within 30 days of the close of any hearing held hereunder, the agency shall issue a detailed finding of violation and an order, in writing, requiring the owner to take such steps as are necessary to insure that the dam is maintained in such a manner as to comply with agency regulations or if appropriate and in accord with agency regulations, to wholly or partially remove the dam. If the owner is unknown to the agency, it shall give notice of such a finding of violation and order by publication at least 5 times in a newspaper of general circulation within the county in which the dam is located and at least once in the state paper.

If, within 90 days of the date specified in such order, the owner fails to comply with the provisions of the order issued hereunder, the agency may file an affidavit setting forth the findings, orders and various dates of notice or publication in the registry of deeds in the county in which the dam is located and the dam shall be deemed abandoned by such owner and legal title to such dam shall vest in the State of Maine.

4. Determination of state interest. Within 90 days of the filing of the affidavit provided for in subsection 3,
← the agency shall determine, after public hearing and notice thereof published at least 5 times in a newspaper of general circulation in the county in which the dam is located and at least once in the state paper, whether or not retention

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and maintenance or removal of the dam is of such State significance as to warrant retention and maintenance, or removal of the dam by the agency. In determining State significance, the agency shall consider regional and State-wide needs for and the effect of the dam upon recreation, plant and animal life and habitat, public health requirements and aesthetics.

5. Transfer of interest to a political subdivision of the State. If the agency determines that the retention and maintenance or removal of a dam is not of State significance, or that maintenance or removal can be equally satisfactorily accomplished by a political subdivision of the State, including but not limited to any other State agency, quasi-State agency, municipality, a quasi-municipal entity, county, soil and water conservation district, regional planning commission or local conservation commission, the agency shall, within 90 days of such determination, schedule a public hearing for the purpose of entertaining proposals from any such political subdivision to take title to such dam and maintain or remove it. Notice of such hearing shall be published at least 5 times in a newspaper of general circulation in the county in which the dam is located and at least once in the State paper.

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Within 30 days of the close of such hearing, the agency shall determine whether or not any proposal made to it is acceptable based upon technical, administrative and financial ability of those parties making such offers. If the agency determines that any such proposal is acceptable, it shall convey all of the right, title and interest of the State in and to such dam to the political subdivision making the proposal, by quitclaim deed, subject, however, to any reasonable terms and conditions, including the posting of a bond, found necessary to insure compliance with agency regulations.

6. Transfer of interest to private party. If the agency determines that the retention and maintenance or removal of a dam is not of state significance and it has received no acceptable proposal pursuant to subsection 5, and it finds that maintenance or removal can be equally satisfactorily accomplished by a private party, including but not limited to an individual, association or corporation, the agency shall within 90 days of such determination schedule a public hearing for the purpose of entertaining proposals from any such private party to take title to such dam and maintain or remove it. Notice of such hearing shall be published at least 5 times in a newspaper of general circulation in the county in which the dam is located and at least once in the State paper.

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Within 30 days of the close of such hearing, the agency shall determine whether or not any proposal made to it is acceptable based upon the technical, administrative and financial ability of those parties making such offers. If the agency determines that any such proposal is acceptable, it shall convey all of the right, title and interest of the State in and to such dam to the party making the proposal, by quitclaim deed, subject, however, to any reasonable terms and conditions, including the posting of a bond, found necessary to insure compliance with agency regulations.

7. Removal of dam; charge to owner. If the agency determines that the retention and maintenance or removal of a dam is not of state significance, and it has received no acceptable proposal pursuant to subsections 5 and 6, the agency shall remove the dam and collect the costs of such removal from the original owner, if known.'

Statement of Fact

The purpose of this amendment, in addition to setting forth some clarifying language changes, would authorize the State, other governmental bodies or private parties, after hearing, to take title to dams which the owners refuse to keep in safe condition.

Reported by the Majority of the Committee on Natural Resources.

Reproduced and distributed pursuant to Senate Rule 11 A.

May 17, 1973. (Filing No. S-137).