

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
108TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 2007, L.D. 2084, Bill, "AN  
the  
ACT Relating to/Inspection of Dams."

Amend the bill by striking out all of section 1 and inserting  
in its place the following:

'Sec. 1. 38 MRSA §811, as amended by PL 1975, c. 771, §422,  
is repealed and the following enacted in its place:

§811. Appointment of engineer; duties

The Commissioner of Agriculture shall annually appoint a  
competent and professional engineer licensed to practice in this  
State, pursuant to Title 32, chapter 19, / <sup>who is</sup> a citizen of the State  
as inspector of dams. The inspector of dams shall hold office  
until his successor is appointed and qualified. Upon the petition  
of 10 resident taxpayers of any town or several towns, the select-  
men or assessors of any town or the county commissioners of any  
county, the inspector of dams shall inspect any dam or reservoir,  
except dams licensed and inspected by any agency of the United  
States government, located in the town or county and erected for  
the purpose of saving water for manufacturing or other uses.  
Following personal examination of the dam or reservoir and after  
hearing the testimony of witnesses summoned for the purpose,

the inspector of dams shall forthwith report to the Commissioner of Agriculture his findings and his opinion of the safety and sufficiency of the dam or reservoir. In the case of finding a dam to be unsafe or insufficient, the Commissioner of Agriculture shall notify all interested parties, including owners with riparian rights, municipalities in which the dams are located and any other persons or organizations that the Commissioner of Agriculture deems necessary. The inspection of dams, as provided in this section, shall be under the sole jurisdiction of the Department of Agriculture.'

Further amend the bill by striking out all of section 2 and inserting in its place the following:

'Sec. 2. 38 M RSA §813 is repealed and the following enacted in its place:

§813. Compensation of engineer

The engineer shall receive, as full compensation for his services, \$75 a day while actually employed in this service, together with his actual traveling expenses to be audited, allowed and paid from the State Treasury. In cases where the dam or reservoir is judged by the inspector of dams to be unsafe or insufficient, the Commissioner of Agriculture shall collect from the owner of the dam the total expenses incurred by the State for the inspection. In the event that the owner of a dam, which is judged

to be unsafe or insufficient, fails to pay the total cost of inspection as required in this section, the Commissioner of Agriculture shall / <sup>forthwith</sup> commence a civil action in the name of the State for the recovery of the cost of the inspection.'

Statement of Fact

The intent of this amendment is to require the inspector of dams to be a licensed, professional engineer in this State. This amendment also clarifies the jurisdiction of agencies with respect to dam inspection. Dams licensed and inspected by the Federal Government do not come under the jurisdiction of the Department of Agriculture or the inspector of dams. All other dams are placed under the jurisdiction of the State Department of Agriculture.

In addition to the provisions discussed above, this amendment removes the requirement that the inspector of dams take civil action against owners of dams which have been judged unsafe in order to collect his inspection fee. This amendment provides that the inspector of dams be paid from the State Treasury, and the Commissioner of Agriculture can take action in court in the name of the State against owners of dams required to pay inspection fees and who fail to pay the fees.