

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

SECOND REGULAR SESSION-1998

Legislative Document

No. 2247

S.P. 843

In Senate, March 3, 1998

An Act Relating to Dam Abandonment.

(EMERGENCY)

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

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator TREAT of Kennebec. (GOVERNOR'S BILL).
Cosponsored by Representative COLWELL of Gardiner and
Senator NUTTING of Androscoggin, Representatives: SHIAH of Bowdoinham, WATSON of
Farmingdale.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, on April 10, 1996, the Maine Revised Statutes, Title 38, chapter 5, subchapter I, article 6 was enacted; and

Whereas, this law became effective July 4, 1996 and provides a time period of 180 days in which to produce an interlocal agreement among municipalities or other parties that intend to take ownership of an abandoned dam; and

Whereas, towns currently attempting in good faith to reach an interlocal agreement have discovered that the law does not provide for an extension of this time period and does not identify an objective party to facilitate the process; and

Whereas, the parties in the process of assuming ownership of a dam need adequate time in which to reach agreement; and

Whereas, an extension of the time period and additional coordination to facilitate the interlocal agreement process must be provided; and

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

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

Sec. 1. 38 MRSA §902, sub-§1-A is enacted to read:

1-A. Extension of consultation period. The consultation period must be extended for an additional 180 days upon timely application to the Department of Environmental Protection by one or more of the municipalities that are affected by the dam and impoundment and upon a demonstration by the municipality or municipalities that additional consultation time is needed to facilitate an agreement for municipal ownership of the dam.

Sec. 2. 38 MRSA §909 is enacted to read:

§909. Technical assistance

To the extent existing resources are available, and when 3 or more municipalities are seeking an interlocal agreement or regional arrangement for joint ownership of an abandoned dam, the State Planning Office may provide grants and technical assistance

2 to the participating municipalities and regional planning
3 organizations for the preparation of a joint agreement.

4 **Sec. 3. State Planning Office; review issues.** The State Planning
5 Office shall review issues relating to private dam ownership,
6 including provisions for dam abandonment, municipal involvement
7 in dam ownership and abandonment, and dam inspection and repair,
8 in consultation with the Department of Environmental Protection,
9 Maine Emergency Management Agency, representatives of affected
10 municipalities and organizations and other state agencies as
11 needed. The office shall report to the joint standing committee
12 of the Legislature having jurisdiction over natural resources
13 matters by February 1, 1999 with recommendations as necessary.
14 The committee is authorized to report out legislation to
15 implement these recommendations.

16 **Sec. 4. Application.** This Act applies to all petitions for
17 release from dam ownership pending at the Department of
18 Environmental Protection on or after January 1, 1998.

19 **Emergency clause.** In view of the emergency cited in the
20 preamble, this Act takes effect when approved.

24 SUMMARY

25 This bill provides the opportunity for municipalities
26 considering taking over abandoned dams to petition the Department
27 of Environmental Protection for a 180-day extension of time to
28 complete their review of and arrangements for a takeover. It
29 authorizes, to the extent existing resources may be available,
30 the State Planning Office to provide assistance when a takeover
31 involves 3 or more municipalities.