

# MAINE STATE LEGISLATURE

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NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 373, L.D. 498, Bill, "An Act Relating to Transfer of Ownership of Dams"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting in its place the following:

Sec. 1. 37-B MRSA §1065, as amended by PL 1997, c. 517, §1 and affected by §4, is further amended to read:

§1065. Inspection of dams

1. Inspection. By June 1, 1995, the The director shall, at a minimum, inspect:

A. All dams which that are listed in the 1981 United States Army Corps of Engineers' Inventory of Dams in the United States as "high" and "significant hazard" dams in the State;

B. Any other new or existing dam that may, in the judgment of the director, constitute a potential threat to public safety; and

C. Any dams identified by the director under section 1070, subsection 2.

The purpose of the inspections shall be is to reevaluate and ascertain the downstream hazard classification of each dam.

2. Hazard classification. Each dam inspected under this section shall must be classified pursuant to the hazard potential of the dam. The principal criterion used to determine the hazard classification of the dam shall must be the potential risk to public safety and property downstream of the dam which that may

COMMITTEE AMENDMENT

## COMMITTEE AMENDMENT "A" to H.P. 373, L.D. 498

2 be affected directly or indirectly by the failure of the dam.  
3 The standards of classification of dams shall ~~shall~~ must be the same as  
4 those adopted by the United States Army Corps of Engineers, as  
5 set forth in 33 Code of Federal Regulations, Chapter II, and all  
6 subsequent amendments thereto.

7  
8 **3. Report.** A state dam inspector shall write and issue a  
9 report making a recommendation regarding the classification of  
10 each dam to the director. A copy of the report shall ~~shall~~ must be  
11 provided to the dam owner of record and forwarded by certified  
12 mail. The dam owner shall notify the agency within 30 days of  
13 receipt of the report if the owner disagrees with the conclusions  
14 of the State's classification recommendation. If the owner of  
15 the dam does not agree with the results and recommendations of  
16 the dam inspector, the owner may at the owner's expense have a  
17 registered professional engineer conduct an independent  
18 investigation to determine the hazard classification of the dam.  
19 The dam owner shall provide the results of this independent  
20 investigation to the director within 6 months of receipt of the  
21 original report. The owner may apply for and be granted an  
22 extension of this deadline by the director for good cause. A  
23 state dam inspector shall review and consider the information  
24 provided by the owner's report pertaining to the classification  
25 of the dam and may issue a new classification recommendation.  
26 After reviewing all available data, the director shall then  
27 determine the classification of the dam.

28 The director shall reevaluate the hazard classification of a dam  
29 ~~at least once every 6 years~~ on the following schedule and, if  
30 necessary, reclassify the dam to account for the possibility that  
31 conditions downstream of the dam may have changed:

32 A. At least once every 6 years; and

33 B. Within 30 days of receiving a notice of transfer of  
34 ownership of a high or significant hazard dam pursuant to  
35 section 1071, unless the hazard classification has been  
36 evaluated within 4 years preceding the proposed transfer.

37  
38  
39 **4. Ascertain conditions of dam.** A state dam inspector  
40 shall also conduct on-site inspections of the dams inspected  
41 under subsection 1 to determine if the integrity, structural  
42 stability and function of the dams constitute a threat to public  
43 safety downstream of the dams. A state dam inspector shall issue  
44 a report on the material condition of each dam ~~which shall~~ that  
45 must describe in detail any material condition ~~which~~ that  
46 constitutes a threat to public safety. The engineering process,  
47 mathematical calculations and complete documentation justifying  
48 the assessment of the current material condition shall ~~shall~~ must be  
49 provided to the director. The director shall conduct on-site  
50

COMMITTEE AMENDMENT "A" to H.P. 373, L.D. 498

2 structural stability inspections of all dams in the State  
3 classified as high or significant hazard dams on the following  
4 schedule:

- 5 A. At least once every 6 years; and
- 6
- 7 B. Within 30 days of receiving a notice of transfer of
- 8 ownership of a high or significant hazard dam pursuant to
- 9 section 1071, unless the hazard classification has been
- 10 evaluated within 4 years preceding the proposed transfer.

11 **5. Correction of unsafe conditions.** After receiving a  
12 report on a dam from a state dam inspector, if the director  
13 determines that a dam is an imminent threat to the safety of the  
14 public, the director may order the owners, lessees or persons in  
15 control of the dam to make alterations to the dam or its  
16 operations, including, but not limited to:

- 17 A. Breach or removal of the dam;
- 18
- 19 B. Repair or maintenance of the dam;
- 20
- 21 C. Operation of the dam in a specified manner;
- 22
- 23 D. Preparation of and adherence to an emergency operations
- 24 plan satisfactory to the agency; or
- 25
- 26 E. Maintenance of appropriate records relating to water
- 27 levels, dam operation and dam maintenance.
- 28
- 29
- 30

31 When the director issues an order under this subsection, the  
32 director shall ensure that a state dam inspector is available to  
33 provide technical assistance to the owners, lessees or persons in  
34 control of the dam and to the municipality in which the dam is  
35 located.

36 6. Inspection costs of transferred dam. If the inspection  
37 of a dam is conducted as a result of a transfer of ownership of a  
38 high or significant hazard dam and the agency is required to  
39 incur additional inspection costs in order to meet the inspection  
40 deadlines pursuant to this section, the owners, lessees or  
41 persons in control of the dam are responsible for any additional  
42 inspection costs incurred by the agency in conducting the  
43 inspection of the dam or reevaluating the hazard classification  
44 of the dam.

45 **Sec. 2. 37-B MRS §1071 is enacted to read:**

2 **§1071. Notice of transfer of ownership**

4 Forty-five days prior to any change of ownership of a dam,  
6 whether by sale, lease or gift, the owner or owners of a dam  
8 classified as a high or significant hazard dam shall provide the  
10 name and address of the prospective new owner or owners to the  
12 director along with any plan that the prospective new owner has  
14 with regard to maintaining competent operations and correcting  
16 any unsafe conditions. For purposes of this section, "competent  
18 operations" means properly and safely maintaining the dam and  
20 ensuring compliance with all safety, environmental and water  
22 level rules or orders.

24 **Sec. 3. Notice of revised inspection requirements.** The Maine  
26 Emergency Management Agency shall provide notice of revised  
28 inspection requirements to all owners of dams classified as high  
30 or significant hazard dams within 30 days of the effective date  
32 of this Act.'

34 Further amend the bill by inserting at the end before the  
36 summary the following:

38 **FISCAL NOTE**

40 The Department of Defense, Veterans and Emergency Management  
42 will incur some minor additional costs to administer certain dam  
44 inspection requirements. These costs can be absorbed within the  
46 department's existing budgeted resources.'

48 **SUMMARY**

50 This amendment replaces the original bill and requires new  
owners of a dam classified as a high or significant hazard dam to  
provide the Director of the Maine Emergency Management Agency  
with the name and address of the new owner or owners 45 days  
prior to any change of ownership of the dam, along with a copy of  
the new owner's plan to operate the dam. This amendment also  
requires the director to conduct a hazard examination and an  
on-site structural stability inspection of a high or significant  
hazard dam in the State within 30 days of receiving notice of the  
change of ownership of the dam, unless the dam has been inspected  
within 4 years preceding the date of transfer. Finally, the  
amendment makes dam owners responsible for any inspection fees  
incurred by the Maine Emergency Management Agency in connection  
with an inspection relating to a transfer of ownership.

This amendment also adds a fiscal note to the bill.