

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 498

H.P. 373

House of Representatives, January 14, 1999

An Act Relating to Transfer of Ownership of Dams.

(EMERGENCY)

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

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative COLWELL of Gardiner.
Cosponsored by Senator TREAT of Kennebec and
Representatives: BROOKS of Winterport, CHIZMAR of Lisbon, JABAR of Waterville,
SANBORN of Alton, SHIAH of Bowdoinham, WATSON of Farmingdale, Senator:
NUTTING of Androscoggin.

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

4
6 **Whereas,** several dams in the State are presently in the
process of being transferred to private owners; and

8 **Whereas,** there are presently no systems in place to ensure
that the persons who take ownership of the dams have adequate
10 insurance to cover losses in the event of a dam failure or a
significant flood; and

12
14 **Whereas,** it is imperative that the State take immediate
steps to ensure that dam owners have adequate insurance and
proper safety plans with respect to these dams; and

16
18 **Whereas,** the safe operation of dams is essential to the
safety of a large number of communities below the dams; and

20 **Whereas,** the transfer of dams involving interlocal
agreements with municipalities depends upon funding assistance
22 through the state-municipal revenue sharing program; and

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

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

32 **Sec. 1. 38 MRSA §902, sub-§4-B** is enacted to read:

34 4-B. Compliance with Maine Emergency Management Agency
Standards; proof of insurance. The dam owner shall provide the
36 following information to the Maine Emergency Management Agency,
referred to in this subsection as the "agency," within the period
38 set forth in subsections 1 and 1-A:

40 A. A copy of the petition filed with the department;

42 B. The prospective owner's plan to maintain competent
operations to agency standards; and

44 C. Proof that the prospective owner is able to obtain
46 liability insurance in an amount to be determined by the
agency to cover any reasonably anticipated loss resulting
48 from the failure of the dam.

2 The agency shall review the information provided by the dam owner
4 and conduct an inspection of the dam within 30 days of receiving
6 the information from the dam owner. If the agency determines
8 that the information provided by the dam owner under this section
does not comply with agency standards, the agency shall notify
the dam owner of any standards that have not been met and allow
the dam owner a reasonable period of time to correct any
deficiencies.

10 The agency shall notify the department regarding the dam owner's
12 compliance with paragraphs B and C within 60 days of receiving
14 the information from the dam owners. The department shall reject
the petition if the agency has determined that the prospective
owner has not complied with paragraphs B and C.

16 **Sec. 2. 38 MRSA §909, as enacted by PL 1997, c. 789, §4 and**
18 **affected by §5, is amended to read:**

20 **§909. Technical assistance; municipal cost sharing**

22 To the extent existing resources are available, when one or
24 more municipalities seeks ownership of a dam, the State Planning
26 Office may provide grants and technical assistance to the
28 participating municipality or municipalities or to regional
30 planning organizations. If the ownership of a nonenergy
generating dam is assumed by a municipality, 75% of the
operational funding must be provided by the State through the
Local Government Fund under the state-municipal revenue sharing
program. The amount of the shared operational funding must be
determined prior to the allocation of the state-municipal revenue
sharing funds throughout the State.

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

36

38 **SUMMARY**

40 This bill requires prospective dam owners under the dam
42 abandonment statutes to provide a plan to the Maine Emergency
44 Management Agency that provides proof of sufficient liability
46 insurance and compliance with Maine Emergency Management Agency
regulations. This bill also provides that if the ownership of a
dam is assumed by a municipality, 75% of the operational funding
must be provided by the State through the Local Government Fund
under the state-municipal revenue sharing program.