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Indicates New Matter

AMENDED

February 1, 2017

**H. 3218**

Introduced by Reps. Lucas, Hiott, V.S. Moss, West, Pitts and Crosby

S. Printed 2/1/17--H.

Read the first time January 10, 2017.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Amended by House Agriculture, Natural Resources, and Environmental Affairs on January 26, 2017**

**State Expenditure**

This bill as amended increases the number of dams that would be regulated by the Department of Health and Environmental Control pursuant to the Dams and Reservoirs Safety Act. Under existing law, dams under twenty-five feet in height with an impounding capacity of less than fifty-acre feet are exempt from regulation unless dam failure or improper reservoir operation might result in the loss of human life. The bill expands the definition of regulated dams and reservoirs to those for which the department determines that dam failure or improper reservoir operation might result in serious damage to homes, industrial and commercial facilities, public utilities, main and secondary highways, or railroads.

The amended bill eliminates the regulation exemption for dams whose failure might threaten roadways for which maintenance responsibility has been accepted by the Department of Transportation or county or municipal governments. Regulated dam owners are required to provide current contact information regarding the owner and an emergency action plan including updated contact information for emergency management officials no later than July first of each year.

As amended, the emergency action plan, or any other provision of law or regulation, shall not require the owner of a dam classified as a high or significant hazard to notify any downstream residents or business owners. The owner must notify emergency officials and the department of the failure or potential failure. Emergency management officials are required to inform or evacuate any downstream residents or business owners located in the inundation zone. As amended, the bill restricts the department from requiring any changes to a dam or its appurtenant works due to a reclassification unless the failure would likely cause loss of life, or repairs are identified by the department through inspection.

**Department of Health and Environmental Control.** The department indicates that this bill will require additional general fund expenditures of $182,940 during FY 2017-18 and $168,906 each year thereafter. Of these amounts, $148,155 would be recurring annual expenditures for salaries and employer contributions for an Environmental Health Manager III and an Administrative Assistant. The Environmental Health Manager would provide high-level technical assistance to department engineers, and the Administrative Assistant would coordinate a significantly increased amount of paperwork including entering and tracking dam owner contact information, report submissions, and compliance tracking. Additional recurring operating expenditures of $20,751 in FY 2017-18 include the cost of office supplies, travel, copier use, and computer replacement on a two to three year cycle. Non-recurring operating expenditures in FY 2017-18 include furniture, cubicles, and a computer for each of the two employees. **Introduced on January 10, 2017**

**State Expenditure**

This bill amends the Dams and Reservoirs Safety Act by increasing the number of dams that would be regulated by the Department of Health and Environmental Control, by requiring the department to provide a checklist to be completed annually by all regulated dam owners, by requiring regulated dam owners to provide specific contact information to the department by July first of each year, and by requiring owners of dams or reservoirs classified as a high or significant hazard to submit a current emergency action plan to include updated contact information for emergency management officials and for downstream residents and business owners in the inundation zone.

Under current law, dams under twenty-five feet in height with an impounding capacity of less than fifty-acre feet are exempt from regulation unless dam failure might result in the loss of human life. The bill expands the definition of regulated dams and reservoirs to include dams under twenty-five feet in height with an impounding capacity of less than fifty-acre feet if the department determines that dam failure might result in serious damage to homes, industrial and commercial facilities, public utilities, main and secondary highways and railroads, or may cause the failure of one or more downstream dams causing similar damage. The bill also eliminates the exemption from regulation for dams whose failure might threaten life and property on roadways whose maintenance responsibility has been accepted by the Department of Transportation or county or municipal government.

**Department of Health and Environmental Control**. The department indicates that this bill will require a general fund expenditure of $182,940 during FY 2017-18 and $168,906 each year thereafter. Of these amounts, $148,155 would be recurring annual expenditures for the salaries and employer contributions associated with two full-time equivalent positions: an Environmental Health Manager III and an Administrative Assistant. The Environmental Health Manager would provide high-level technical assistance to DHEC engineers, and the Administrative Assistant would be needed to process a significantly increased paperwork flow, including entering and tracking dam owner contact information for all dams, report submissions, and compliance tracking. Recurring operating expenditures are estimated at $20,751 and include the cost of office supplies, travel, copier use, and computer replacement on a two to three year cycle. Non-recurring operating costs in FY 2017-18 include furniture, cubicles, and one computer with a monitor for each of the two employees.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 49‑11‑120, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS UNDER THE DAMS AND RESERVOIRS SAFETY ACT, SO AS TO REVISE CERTAIN DEFINITIONS IN ORDER TO MAKE THE PROVISIONS OF THIS ACT FURTHER APPLICABLE TO CERTAIN DAMS; AND TO AMEND SECTION 49‑11‑150, RELATING TO DAM OR RESERVOIR OWNERS BEING RESPONSIBLE FOR THE SAFE MAINTENANCE OF THEIR DAMS OR RESERVOIRS, NOTICE TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL OF DAM OR RESERVOIR OWNERSHIP CHANGES, AND EMERGENCY ACTION PLAN REQUIREMENTS FOR SPECIFIED DAM OWNERS, SO AS TO REQUIRE ANNUAL REPORTING TO THE DEPARTMENT BY DAM OR RESERVOIR OWNERS OF CERTAIN OWNER CONTACT AND OTHER INFORMATION, TOGETHER WITH A COMPLETED OWNER CHECKLIST, AND TO REQUIRE THE OWNERS OF DAMS OR RESERVOIRS CLASSIFIED AS A HIGH OR SIGNIFICANT HAZARD ANNUALLY TO PROVIDE A CURRENT EMERGENCY ACTION PLAN INCLUDING CONTACT INFORMATION OF SPECIFIED OFFICIALS, DOWNSTREAM RESIDENTS, AND BUSINESS OWNERS.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 49‑11‑120(4) of the 1976 Code is amended to read:

“(4) ‘Dam’ means an artificial barrier with appurtenant works, including, but not limited to, dams, levees, dikes, or floodwalls for the impoundment or diversion of waters or other fluids where failure may cause danger to life or property. However, this does not include a dam:

(a) less than twenty‑five feet in height from the natural bed of the stream or watercourse measured at the downstream toe of the dam, or less than twenty‑five feet from the lowest elevation of the outside limit of the dam, if it is not across a stream channel or watercourse, to the maximum water storage elevation and has an impounding capacity at maximum water storage elevation of less than fifty‑acre feet unless a situation exists where the hazard potential as determined by the department is such that dam failure or improper reservoir operation may cause loss of human life or serious damage to homes, industrial and commercial facilities, public utilities, main and secondary highways, or railroads;

(b) owned or operated by a department or an agency of the federal government;

(c) owned or licensed by the Federal Energy Regulatory Commission, the South Carolina Public Service Authority, the Nuclear Regulatory Commission, the United States Corps of Engineers, or other responsible federal licensing agencies considered appropriate by the department;

~~(d)~~ ~~upon which the Department of Transportation or county or municipal governments have accepted maintenance responsibility for a road or highway where that road or highway is the only danger to life or property with respect to failure of the dam.~~”

SECTION 2. Section 49‑11‑150 of the 1976 Code is amended to read:

Section 49‑11‑150. (A) The owner of a dam or reservoir constructed in this State solely is responsible for maintaining the dam or reservoir in a safe condition throughout the life of the structure. The owner of a dam or reservoir shall inform the department in writing within thirty days after title to the dam or reservoir legally has been transferred from his ownership. The notice must include the name, ~~and address~~ home or business address, phone number, and email address, if any, of the new owner.

(B) In addition to the requirements of subsection (A), an owner of a dam or reservoir not exempt from the provisions of this article also must provide the department annually no later than July first of each year with current contact information regarding the owner, including name, home or business address, phone number, and email address, if any, together with a completed dam owner checklist on a form provided by the department.

(C) The owner of a dam or reservoir ~~whose failure likely would cause loss of life or substantial property damage, a dam or reservoir~~ classified as a high or significant hazard ~~under existing regulations,~~ annually no later than July first of each year shall provide the department a current emergency action plan in the format the department by regulation requires, including updated contact information for emergency management officials, such as police, fire, EMS, or utility departments or personnel, and for downstream residents and business owners located in the inundation zone for that dam or reservoir. However, nothing in the emergency action plan or any other provision of law or regulation shall require or impose a responsibility on the owner of a dam or reservoir classified as a high or significant hazard to notify any downstream residents or business owners located in the inundation zone for that dam or reservoir if the dam or reservoir owner has reason to believe that it is near failure or has failed. The owner must notify emergency officials and the department’s Dams and Reservoirs Safety program of the dam or reservoir’s failure or potential failure. It is the responsibility of the emergency management officials identified in the emergency action plan to inform any downstream residents or business owners located in the inundation zone of this fact and to cause them to be evacuated if it is considered necessary.”

SECTION 3. Section 49-11-170 of the 1976 Code is amended by adding an appropriately numbered subsection to read:

“( ) The department shall not require any changes to the dam or its appurtenant works due to reclassification of a dam unless failure would likely cause loss of life, or the department, through inspection, identifies repairs that must be made.”

SECTION 4. This act takes effect upon approval by the Governor.

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