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TO: ALL AGRICULTURE, NATURAL RESOURCES & ENVIRONMENTAL AFFAIRS COMMITTEE MEMBERS

FROM: THE HONORABLE DAVID HIOTT, CHAIRMAN

DATE: January 12, 2016

There will be a meeting of the Agriculture Committee Thursday, January 19, 2017 at 8:30 a.m. in Room 410 of the Blatt Building. The following matters are on the agenda:

I. Adopt Committee Rules

II. Forestry Committee Update - Gene Kodama, State Forester

TENTATIVE

H. 3218 -- Reps. Lucas, Hiott, V.S. Moss, Pitts and West: 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.

AGRICULTURE SUBCOMMITTEE: PENDING

H. 3340 -- Reps. Ott and Cobb-Hunter: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 49-11-235 SO AS TO PROVIDE THAT THE OWNER OF A DAM WHICH FAILS OR FAILED ON OR AFTER OCTOBER 1, 2015, WHICH HAS A PUBLIC ROAD OR HIGHWAY IN THE STATE HIGHWAY SYSTEM RUNNING ACROSS THE TOP OF IT, MUST PROVIDE WRITTEN NOTIFICATION TO THE STATE DEPARTMENT OF TRANSPORTATION AND THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL INDICATING WHETHER OR NOT THE OWNER INTENDS TO REPAIR THE DAM AND THE DATE BY WHICH THE REPAIRS ARE ANTICIPATED TO BE COMPLETED, TO PROVIDE THE TIMELINES IN WHICH THIS NOTIFICATION MUST BE PROVIDED, AND TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO PROCEED UNDER CERTAIN CONDITIONS AND IN A SPECIFIED MANNER WITH THE PROCESS OF REPAIRING THE PUBLIC ROAD OR HIGHWAY, IF THE DAM OWNER INDICATES THE OWNER DOES NOT INTEND TO REPAIR THE DAM.

AGRICULTURE SUBCOMMITTEE: PENDING

South Carolina General Assembly
122nd Session, 2017-2018

H. 3218

STATUS INFORMATION

General Bill

Sponsors: Reps. Lucas, Hiott, V.S. Moss, Pitts and West

Document Path: 1:\council\bills\nl\13621sd17.docx

Introduced in the House on January 10, 2017

Currently residing in the House Committee on **Agriculture, Natural Resources and Environmental Affairs**

Summary: Dams and Reservoirs Safety Act

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
12/15/2016	House	Prefiled
12/15/2016	House	Referred to Committee on Agriculture, Natural Resources and Environmental Affairs
1/10/2017	House	Introduced and read first time
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VERSIONS OF THIS BILL

[12/15/2016](#)

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9 **A BILL**

10

11 TO AMEND SECTION 49-11-120, CODE OF LAWS OF SOUTH
12 CAROLINA, 1976, RELATING TO DEFINITIONS UNDER THE
13 DAMS AND RESERVOIRS SAFETY ACT, SO AS TO REVISE
14 CERTAIN DEFINITIONS IN ORDER TO MAKE THE
15 PROVISIONS OF THIS ACT FURTHER APPLICABLE TO
16 CERTAIN DAMS; AND TO AMEND SECTION 49-11-150,
17 RELATING TO DAM OR RESERVOIR OWNERS BEING
18 RESPONSIBLE FOR THE SAFE MAINTENANCE OF THEIR
19 DAMS OR RESERVOIRS, NOTICE TO THE DEPARTMENT OF
20 HEALTH AND ENVIRONMENTAL CONTROL OF DAM OR
21 RESERVOIR OWNERSHIP CHANGES, AND EMERGENCY
22 ACTION PLAN REQUIREMENTS FOR SPECIFIED DAM
23 OWNERS, SO AS TO REQUIRE ANNUAL REPORTING TO
24 THE DEPARTMENT BY DAM OR RESERVOIR OWNERS OF
25 CERTAIN OWNER CONTACT AND OTHER INFORMATION,
26 TOGETHER WITH A COMPLETED OWNER CHECKLIST,
27 AND TO REQUIRE THE OWNERS OF DAMS OR
28 RESERVOIRS CLASSIFIED AS A HIGH OR SIGNIFICANT
29 HAZARD ANNUALLY TO PROVIDE A CURRENT
30 EMERGENCY ACTION PLAN INCLUDING CONTACT
31 INFORMATION OF SPECIFIED OFFICIALS, DOWNSTREAM
32 RESIDENTS, AND BUSINESS OWNERS.

33

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

36

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

39

40 “(4) ‘Dam’ means an artificial barrier with appurtenant works,
41 including, but not limited to, dams, levees, dikes, or floodwalls for
42 the impoundment or diversion of waters or other fluids where failure

1 may cause danger to life or property. However, this does not include
2 a dam:

3 (a) less than twenty-five feet in height from the natural bed
4 of the stream or watercourse measured at the downstream toe of the
5 dam, or less than twenty-five feet from the lowest elevation of the
6 outside limit of the dam, if it is not across a stream channel or
7 watercourse, to the maximum water storage elevation and has an
8 impounding capacity at maximum water storage elevation of less
9 than fifty-acre feet unless a situation exists where the hazard
10 potential as determined by the department is such that dam failure
11 or improper reservoir operation may cause loss of human life or
12 serious damage to homes, industrial and commercial facilities,
13 public utilities, main and secondary highways or railroads, or may
14 cause the failure of one or more downstream dams which could
15 cause any of the above-listed consequences;

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

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

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

27

28

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

31

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

40 (B) In addition to the requirements of subsection (A), an owner
41 of a dam or reservoir not exempt from the provisions of this article
42 also must provide the department annually no later than July first of
43 each year with current contact information regarding the owner,

1 including name, home or business address, phone number, and
2 email address, if any, together with a completed dam owner
3 checklist on a form provided by the department.

4 (C) The owner of a dam or reservoir whose failure likely would
5 cause loss of life or substantial property damage, a dam or reservoir
6 classified as a high or significant hazard under existing regulations,
7 annually no later than July first of each year shall provide the
8 department a current emergency action plan in the format the
9 department by regulation requires, including updated contact
10 information for emergency management officials and for
11 downstream residents and business owners located in the inundation
12 zone for that dam or reservoir.”

13

14 SECTION 3. This act takes effect upon approval by the Governor.

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South Carolina General Assembly
122nd Session, 2017-2018

H. 3340

STATUS INFORMATION

General Bill

Sponsors: Reps. Ott and Cobb-Hunter

Document Path: 1:\council\bills\nl\13633sd17.docx

Introduced in the House on January 10, 2017

Currently residing in the House Committee on **Agriculture, Natural Resources and Environmental Affairs**

Summary: Dams

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
12/15/2016	House	Prefiled
12/15/2016	House	Referred to Committee on Agriculture, Natural Resources and Environmental Affairs
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9 **A BILL**
10

11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
12 1976, BY ADDING SECTION 49-11-235 SO AS TO PROVIDE
13 THAT THE OWNER OF A DAM WHICH FAILS OR FAILED
14 ON OR AFTER OCTOBER 1, 2015, WHICH HAS A PUBLIC
15 ROAD OR HIGHWAY IN THE STATE HIGHWAY SYSTEM
16 RUNNING ACROSS THE TOP OF IT, MUST PROVIDE
17 WRITTEN NOTIFICATION TO THE STATE DEPARTMENT
18 OF TRANSPORTATION AND THE DEPARTMENT OF
19 HEALTH AND ENVIRONMENTAL CONTROL INDICATING
20 WHETHER OR NOT THE OWNER INTENDS TO REPAIR THE
21 DAM AND THE DATE BY WHICH THE REPAIRS ARE
22 ANTICIPATED TO BE COMPLETED, TO PROVIDE THE
23 TIMELINES IN WHICH THIS NOTIFICATION MUST BE
24 PROVIDED, AND TO AUTHORIZE THE DEPARTMENT OF
25 TRANSPORTATION TO PROCEED UNDER CERTAIN
26 CONDITIONS AND IN A SPECIFIED MANNER WITH THE
27 PROCESS OF REPAIRING THE PUBLIC ROAD OR
28 HIGHWAY, IF THE DAM OWNER INDICATES THE OWNER
29 DOES NOT INTEND TO REPAIR THE DAM.

30
31 Be it enacted by the General Assembly of the State of South
32 Carolina:

33
34 SECTION 1. Article 3, Chapter 11, Title 49 of the 1976 Code is
35 amended by adding:

36
37 “Section 49-11-235. (A) In the interest of public health and
38 safety, the owner of a dam which failed or fails or suffered or suffers
39 a breach on or after October 1, 2015, which has a public road or
40 highway in the state highway system running across the top of it,
41 must provide a written notification to the State Department of
42 Transportation and the Department of Health and Environmental

1 Control within one year after the failure or breach, if the failure or
2 breach occurs after the effective date of this section, indicating
3 whether or not the owner intends to repair the dam to appropriate
4 standards and the date by which the repairs are anticipated to be
5 completed. However, the owner of the dam which failed or suffered
6 a breach between October 1, 2015, and the effective date of this
7 section must provide the notification within sixty days after the
8 effective date of this section. The anticipated completion date in the
9 notice must be a date certain with no contingencies which cannot
10 extend more than two years from the date the notification was
11 provided.

12 (B) With the assistance of the Department of Health and
13 Environmental Control, if necessary, the Department of
14 Transportation shall attempt to inform in writing all such dam
15 owners affected by the provisions of this section of the provisions
16 and requirements of this section requiring action on the owner's
17 part. Failure to receive such a written communication from the
18 department is not a defense against failure to provide the required
19 notification.

20 (C) If the dam owner in the notice indicates the owner does not
21 intend to repair the dam to appropriate standards, the Department of
22 Transportation shall proceed with the process of repairing the public
23 road or highway if suitable rights of way or easements afford the
24 state or the Department of Transportation the right to do so without
25 the necessity of saving or repairing the dam.

26 (D) If the dam owner in the notice indicates that the owner
27 intends to repair the dam and fails to do so by the anticipated date
28 stated in the notice, this shall constitute and be construed as a
29 negative intention on the part of the dam owner to fix or repair the
30 dam, in which case the Department of Transportation shall proceed
31 as though a negative response was contained in the notice. If
32 suitable rights of way or easements do not exist over which the
33 public road or highway shall be constructed, the Department of
34 Transportation shall begin the process of acquiring them by all
35 available lawful means so that the public road or highway can be put
36 back into service for the use of the general public as soon as
37 possible."

38

39 SECTION 2. This act takes effect upon approval by the Governor.

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