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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: l:\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**

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

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**VERSIONS OF THIS BILL**

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**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.

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

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: I:\council\bill\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**

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**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.

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

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

“Section 49-11-235. (A) In the interest of public health and safety, the owner of a dam which failed or fails or suffered or suffers a breach 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 a written notification to the State Department of 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.”

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

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