

Vermont Legislative Joint Fiscal Office

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FISCAL NOTE

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H.92 An Act Relating to the Registration of Dams

Summary:

This bill would establish a definition in statute for the word “dam;” codify into law definitions for “low,” “significant,” and “high” hazard dams; it would expand the registration requirements for dams to include all dams in the Vermont Dam Inventory; it would require the Department of Environmental Conservation (DEC) to adopt rules to implement the provisions of this bill; and it would shift rules regarding the inspection and oversight of hydroelectric dams from the Public Service Board to DEC. DEC would be required to assess the hazard level of dams not currently under its jurisdiction that would be added per this bill. DEC would be required to submit a dam registration program report to the Legislature on or before January 1, 2019. This summary is an attempt to point out areas of the bill that may or would result in a fiscal impact to the State and should not be read as a summary of the entire bill.

Costs¹:

DEC has issued a cost estimate for the implementation of H.92. This breakdown lists the costs by activity.

| Activity | Timeframe | Cost |
|--|---------------------|------------------|
| Rulemaking | 0.5 FTE/ 1-2 years | \$47,500 |
| New Dam Registrations | 0.25 FTE/ ongoing | \$24,000 |
| Reconciliation of Low Hazard dams with new hazard level of “negligible hazard” | 0.25 FTE/ 1-2 years | \$24,000 |
| Ongoing Identification of un-registered dams | 0.5 FTE/ ongoing | \$47,500 |
| Public Outreach and Education | 0.25 FTE/ 1-2 years | \$24,000 |
| Newly Registered Dams - Hazard Class Assessment and Assignment | 0.1 FTE/ ongoing | \$9,500 |
| Hydroelectric Safety Oversight | 0.5 FTE/ ongoing | \$47,500 |
| Unsafe Dam Proceedings | 0.1 FTE/ ongoing | \$9,500 |
| | | |
| FY18-19 costs (special fund or general fund) | annual | \$233,500 |
| FY20 and forward costs | annual | \$138,000 |

Revenues:

Currently, the dam registration fee provisions only apply to dams capable of impounding 500,000 cubic feet or more of water (3.7 million gallons). There are three tiers to the annual registration fees: \$200 for low hazard, \$350 for significant hazard, and \$1,000 for high hazard. Of the dams currently in the Vermont Dam Inventory, approximately 500 are above the impounding capacity threshold and of the 500 DEC already has oversight over 415. The remaining 85 belong either within the jurisdiction of the Public Service Board (82, of this number some are federal, see below) and the Natural Resource Conservation Districts (3). The

¹ Cost estimates taken from a DEC memo dated March 21, 2017 regarding potential H.92 Dam Safety Program Workload.

Public Service Board has jurisdiction over dams that produce hydroelectric power, but the ultimate safety oversight for 50-60 of these dams falls to the Federal Energy Regulatory Commission (FERC). DEC would not subsequently be able to levy registration fees on those dams under FERC oversight. This limits the pool of dams that would revert from PSB to DEC jurisdiction and subject to some level of fee to approximately 20-30. Additionally, DEC estimates that there are approximately 26 dams that fall within its jurisdiction and have an unknown status. Some of the 26 dams could be over the impound capacity needed to trigger the fee, but DEC is unaware of any at this time.

Below is a table that summarizes the current jurisdiction and status of dams in the State.²

| Jurisdiction | Additional Detail/Status | Number |
|---------------------|---------------------------------------|-----------------------------|
| DEC | >500,000 CF capacity | 415 (40 HH, 111 SH, 264 LH) |
| DEC | < or = 500,000 CF capacity | 241 (1 HH, 8 SH, 232 LH) |
| PSB | >500,000 CF | 82 (approx. 50 FERC) |
| NRC | >500,000 CF | 3 |
| Federal | Army Corps., USFS, NPS, USFWS | 15 |
| | | |
| DEC | Status unknown | 26 |
| Federal | Status unknown | 5 |
| | Breached, Removed, Deleted | 435 |
| | | |
| | Total on Vermont Dam Inventory | 1,222 |

To summarize, the possibilities for new revenue to DEC are limited to the approximately 20-30 dams currently under PSB jurisdiction that would fall to DEC for safety oversight and are over the 500,000 cubic feet impound capacity. There is also very limited potential for some of the 26 “unknown” dams to be over the fee threshold. **Depending on the ultimate hazard level of these dams, new revenues to the Environmental Permit Fund in future years could be anywhere from \$5,000 to \$30,000 annually.**

DEC would be granted some bill back authority in 10 VSA §1089 per the bill language, but this appears to apply only to new dam design and construction projects. If the bill back authority was expanded, DEC estimates that it still would not collect much net revenue from this provision based on the cost and effort needed to collect the bill back.

² This information was taken from the VT Dam Safety Program Vermont Dam Inventory dated 10/25/2016 and provided by the Department of Environment Conservation.