

HB 2085 B STAFF MEASURE SUMMARY**Carrier:** Sen. Bentz**Senate Committee On Environment and Natural Resources****Action Date:** 05/21/19**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)**Vote:** 4-0-1-0**Yeas:** 4 - Bentz, Dembrow, Prozanski, Roblan**Exc:** 1 - Olsen**Fiscal:** Fiscal impact issued**Revenue:** No revenue impact**Prepared By:** Beth Patrino, LPRO Analyst**Meeting Dates:** 5/16, 5/21**WHAT THE MEASURE DOES:**

Defines key terms. Exempts federally regulated dams, and dams less than 10 feet in height or impounding less than 3 million gallons of water or wastewater, from this Act. Establishes that a person may not construct a dam or use a dam to impound water until the Water Resources Department (WRD) has inspected the site and approved final documentation. Authorizes WRD to waive requirements to address actual or potential dam failure that pose imminent risk. Authorizes WRD to charge a fee for dam inspection. Requires owner of significant or high hazard dam to notify WRD of removal plans, and WRD to evaluate and provide plan modifications to dam removal plan. Authorizes WRD to inspect dam and site plans, and to provide dam owner with an inspection document stating condition of the dam. Requires annual inspections of high hazard dams unless WRD determines alternative schedule is appropriate. Establishes that if WRD, through inspection of a high or significant hazard dam, concludes that action is needed to address an unsafe or potentially unsafe condition, WRD will notify dam owner and cooperate with owner to develop a plan and time frame for corrective action. Authorizes WRD Director (Director) to issue a proposed final order to dam owner if the dam owner does not agree to, or fails to comply with a plan for corrective action to dam. Specifies information to be included in proposed final order, and opportunity for dam owner to have a hearing or complete corrective or maintenance action, or if WRD concludes dam is unsafe. Authorizes Director to issue final order to dam owner not in compliance with corrective or maintenance action. Directs Office of Administrative Hearings to expedite the date of the contested case hearings to the extent practicable for proposed final order, and allows WRD to apply to circuit court for temporary or permanent injunction. Authorizes WRD to request that Attorney General or district attorney bring action to have dam declared a public nuisance if dam owner fails to comply with final order. Requires dam owner to provide WRD with contact information, keep dam in good repair, and address any detected conditions that may pose risk of dam failure. Requires high hazard dam owner create an emergency action plan. Specifies plan components and requires owner to file plan with WRD, Office of Emergency Management (OEM), and local emergency services organization. Requires WRD, in conjunction with OEM and local agency, to determine appropriate frequency for conducting emergency response exercises at high hazard dam. Identifies responsibilities in case of actual or potential dam failure that creates imminent risk to life, property, or public infrastructure. Authorizes WRD to enter property of significant or high hazard dam presenting imminent risk of dam failure. Establishes that Act does not relieve dam owner of duty, obligation, or liability regarding dam. Authorizes Director to impose civil penalty of not more than \$2,000 per occurrence of violation of construction, removal, or emergency plan regulations. Authorizes Director to impose civil penalty of not more than \$500 for violation of maintenance action regulations. Specifies that repeal of existing dam safety statutes does not excuse any violation of those statutes prior to operative date of Act. Establishes operative date of specified section of Act and repeals on July 1, 2020. Effective on 91st day following adjournment sine die.

HB 2085 B STAFF MEASURE SUMMARY

ISSUES DISCUSSED:

- Current dam safety statutes are outdated
- Importance of dam safety due to consequences of dam failure
- Number of significant and high hazard dams in Oregon
- Federal dams exempt from this regulation

EFFECT OF AMENDMENT:

Modifies definition of "dam failure." Clarifies Water Resources Department (WRD) may charge an examination fee for information regarding construction to modify dam height. Removes authority for WRD to conduct or order an inspection upon written request of person residing near a dam. Removes requirement that owner seeking to remove dam must follow Water Resources Commission standards for safe dam removal. Lowers civil penalty cap from \$5,000 to \$500 for failure to conduct needed maintenance. Restores and modifies language stating department actions do not relieve owners of hydraulic structures from legal liabilities and responsibilities.

BACKGROUND:

The Oregon Water Resources Department (WRD) is the state agency charged with overseeing the safety of more than 960 dams across the state. These dams store water for agriculture, cities, industry, recreation, fisheries, and other purposes. Many of Oregon's dam safety statutes have not been updated since 1929. According to WRD, dam owner responsibilities; the WRD's role during emergencies; and the process for approval of constructing, removing, and maintaining dams are currently unclear.

House Bill 2085B would regulate construction, modification, and removal of dams; provide for WRD inspection of dams; require dam owners to supply information to WRD and to prepare an emergency plan; require WRD to notify dam owner if dam has a significant or high hazard rating and is in need of maintenance action; establish dam enforcement authority for Water Resources Commission (Commission) and WRD; and authorize the Commission to impose civil penalties for certain violations.