

SS SCS SB 1236 -- DAM AND RESERVOIR SAFETY

SPONSOR: Engler (Tilley)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on Energy and the Environment by a vote of 8 to 0.

This substitute changes the laws regarding dam and reservoir safety. In its main provisions, the substitute:

(1) Revises the definition of "dam" to include appurtenant works and dams that are 25 feet or more in height with a storage volume of at least 50 acre-feet of water;

(2) Defines "high hazard," "significant hazard," and "operating permit";

(3) Exempts any dam or reservoir that will be used for fireclay quarry reclamation from the provisions of the substitute;

(4) Adds one member to the Dam and Reservoir Safety Council who is an owner of a high hazard or significant hazard dam or reservoir and requires the council to establish fees to be reviewed every three years for permits required for renewal, design review, and inspection of high hazard and significant hazard dams;

(5) Limits the fees established for design review of high hazard and significant hazard dams to no more than 1% of the total estimated cost of the dam or reservoir;

(6) Establishes an interim joint committee whose responsibility will be to examine the fee structure imposed under the substitute and evaluate the costs of the dam safety program. The committee is required to submit a report to the Governor and General Assembly no later than January 1, 2008;

(7) Specifies that all high hazard and significant hazard dams be inspected periodically to determine if they constitute a threat to public safety. The Chief Engineer of the Department of Transportation and the head of the Dam and Reservoir Safety Program at the Department of Natural Resources must make recommendations concerning construction permits for high hazard and significant hazard dams and operating permits for these structures;

(8) Requires all owners of high hazard or significant hazard dams to first apply for a construction permit prior to beginning work on any structure. The application must include the signature of an experienced engineer registered in Missouri;

(9) Removes the language exempting dams constructed for soil and water conservation, irrigation, or wildlife conservation;

(10) Maintains the exemption for agricultural dams and reservoirs from regulation by the council;

(11) Allows any landowner who owns an agricultural dam or reservoir to be regulated by the council if he or she requests to be regulated in a certified letter to the council. After a request has been made and granted, any subsequent request to have an agricultural dam or reservoir removed from regulation can only be made by the department director. Nothing in the substitute will be construed to require any landowner who owns an agricultural dam or reservoir to choose regulation by the council as a condition of doing business;

(12) Allows the department to initiate an engineering study on any agricultural dam it believes satisfies the high hazard standard. Upon completion of the study, the department will submit their findings to the appropriate soil and water district board for its agreement. If the board agrees with the department's findings, the dam in question will be regulated under the provisions of the substitute. If the board does not agree, the substitute prohibits any new studies from being initiated within one year of the board's decision and the dam in question maintains the exemption. If the board does not render a decision within 60 days of the department's submission, the findings will be considered agreed to and the dam in question will be regulated;

(13) Requires all owners of high hazard or significant hazard dams to notify the council upon completion of any construction related to high hazard or significant hazard dams to apply for an operating permit;

(14) Requires that every dam constructed after the effective date of the substitute that is not registered must do so within six months of the effective date, and those owners of high hazard and significant hazard dams will apply for an operating permit no later than one year after the effective date of the substitute. Those owners licensed under the federal Power Act will apply for an operating permit no later than three months after the effective date of the substitute;

(15) Requires the owner to notify the council within three months of any change in downstream conditions which changes the hazard classification of any dam or reservoir;

(16) Requires the permit to be suspended if a high hazard or significant hazard dam is found to present a threat to public safety until the owner has completed all necessary alterations to ensure the protection of public safety;

(17) Allows the transfer of any operating permit to a successive owner of a dam or reservoir along with the notification of the

current hazard classification of the dam. Failure to notify the council of the transfer will result in the prior owner retaining responsibility for the dam and being subject to the provisions of the substitute; and

(18) Specifies that violations of the provisions of the substitute are punishable as a misdemeanor and subject to fines of up to \$10,000 or jail time of no more than one year.

FISCAL NOTE: No impact on General Revenue Fund in FY 2007, FY 2008, and FY 2009. Estimated Cost on Other State Funds of Unknown in FY 2007, FY 2008, and FY 2009.

PROPONENTS: Supporters say that the bill is necessary as a response to the Taum Sauk disaster and will allow for additional safety inspections of dams. Regulation and inspection will be based on the threat to public safety rather than the size of the dam.

Testifying for the bill were Senator Engler; Department of Natural Resources; and Bob Sfreddo, Missouri Flood Plain and Storm Water Managers Association.

OPPONENTS: There was no opposition voiced to the committee.

Jason Glahn, Legislative Analyst