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**SENATE BILL NO. 594**

Offered January 9, 2008

Prefiled January 9, 2008

*A BILL to amend and reenact § 10.1-609 of the Code of Virginia, relating to dams.*

Patrons—Norment and McDougle; Delegates: Barlow, Hamilton and Pogge

Referred to Committee on Agriculture, Conservation and Natural Resources

**Be it enacted by the General Assembly of Virginia:****1. That § 10.1-609 of the Code of Virginia is amended and reenacted as follows:**

§ 10.1-609. Unsafe dams presenting nonimminent danger.

A. Within a reasonable time after completion of a safety inspection of an impounding structure authorized by § 10.1-607, the Board shall issue a report to the owner of the impounding structure containing its findings and recommendations for correction of any deficiencies which could threaten life or property if not corrected. Owners who have been issued a report containing recommendations for correction of deficiencies shall undertake to implement the recommendations contained in the report according to the schedule of implementation contained in the report. If an owner fails or refuses to commence or diligently implement the recommendations for correction of deficiencies according to the schedule contained in an issued report, the Director shall have the authority to issue an administrative order directing the owner to commence implementation and completion of such recommendations according to the schedule contained in the report with modifications as appropriate. Within thirty days after being served by personal service or by mail with a copy of an order issued pursuant to this section, any owner shall have the right to petition the Board for a hearing. A timely filed petition shall stay the effect of the administrative order.

The hearing shall be conducted before the Board or a designated member thereof pursuant to § 2.2-4019. The Board shall have the authority to affirm, modify, amend or cancel the administrative order. Any owner aggrieved by a decision of the Board after a hearing shall have the right to judicial review of the final Board decision pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

B. The provisions of subsection A of this section notwithstanding, if the Director determines, after the report is issued, that changed circumstances justify reclassifying the deficiencies of an impounding structure as an imminent danger to life or property, the Director may proceed directly under § 10.1-613 for enforcement of his order, and the owner shall have the opportunity to contest the fact based upon which the administrative order was issued.

C. The Director, upon a determination that there is an unsafe condition at an impounding structure, is authorized to cause the lowering or complete draining of such impoundment until the unsafe condition has been corrected at the owner's expense and prior to any authorization to refill.

An owner who fails to comply with the provisions contained in an administrative order of the Department shall be subject to procedures set out in § 10.1-613 and the penalties authorized under §§ 10.1-613.1 and 10.1-613.2.

D. No persons, other than those authorized to maintain an impounding structure, shall interfere with the operation of an impounding structure.

E. *The provisions of this section shall not apply to dams that (i) are included in the National Register of Historic Places, designated as National Historic Landmarks, or appear on the Virginia Landmarks Register and (ii) do not present an imminent danger.*

INTRODUCED

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