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SENATE BILL NO. 884

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources
on January 17, 2013)

(Patron Prior to Substitute—Senator Deeds)

A BILL to amend and reenact § 10.1-606.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 10.1-609.3, relating to impoundment structures and notice of an increase in the flow of water; penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-606.2 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 10.1-609.3 as follows:

§ 10.1-606.2. Mapping of dam break inundation zones.

A. An owner of an impounding structure shall prepare a map of the dam break inundation zone for the impounding structure in accordance with criteria set out in the Virginia Impounding Structure Regulations (4VAC 50-20). Existing maps prepared by the locality in accordance with these regulations may be used for this purpose.

B. All maps prepared in accordance with subsection A shall be filed with the Department of Conservation and Recreation and with the offices with plat and plan approval authority or zoning responsibilities as designated by the locality for each locality in which the dam break inundation zone resides.

C. Owners of impounding structures may be eligible for matching grants of up to 50 percent from the Dam Safety, Flood Prevention and Protection Assistance Fund and other sources of funding available to the Director to assist in the development of dam break inundation zone maps and for conducting incremental damage assessments in accordance with the Virginia Impounding Structure Regulations.

D. All properties identified within the dam break inundation zone shall be incorporated by the owner into the dam safety emergency action plan of that impounding structure so as to ensure the proper notification of persons downstream and other affected persons or property owners in the event of an emergency condition at the impounding structure.

E. The dam safety emergency action plans and associated dam break inundation zone maps developed in accordance with the Impounding Structure Regulations (4VAC50-20) shall be submitted to the Department, the local organization for emergency management, and the Virginia Department of Emergency Management, and shall be available to the public, including interested owners of property within the dam break inundation zones, from these entities.

§ 10.1-609.3. Notice of increase in flow of water; penalty.

A. Notwithstanding subsection B, no owner of a high or significant hazard potential impounding structure shall increase the flow of water in a manner that increases water depths greater than two feet measured immediately below the dam until at least 24 hours and no more than two months have passed after notifying (i) all known owners of occupied or developed riparian property identified within the dam break inundation zone or, if no dam break inundation zone has been mapped, those owners of occupied or developed riparian property located within 10 miles downstream of the dam and (ii) the police, fire, and rescue services, or equivalent emergency services organizations, that serve the localities in which the landowners described in clause (i) are located.

B. This section does not apply to an emergency release to prevent imminent dam failure in accordance with § 10.1-608 or to a release from a dam with operable 24/7 automatic gate controls unless such gates are being manually controlled. This section does not apply to the owner of a dam or impounding structure connected to or associated with an electric power generation facility.

C. A dam owner that fails to provide sufficient notice in accordance with this section shall be subject to civil penalties pursuant to § 10.1-613.2. Civil penalties assessed under this section shall be paid into the Dam Safety Administrative Fund, established pursuant to § 10.1-613.5, and shall be used for the administration of the dam safety program.