CONFIDENTIAL

LEGISLATIVE BILL REVIEW FORM: 2014

Bill Number: H.590 **Name of Bill:** An act relating to the safety and regulation of dams

Agency/Dept.: Natural Resources/Environmental Conservation **Author of Bill Review:** Stephen Bushman

Date of Bill Review: 1/15/2014 **Status of Bill (check one):**

☒ **Upon Introduction** ☐ **As passed by 1st body** ☐ **As passed by both bodies** ☐ **Fiscal**

Recommended Position:

☐ **Support** ☐ **Oppose** ☐ **Remain Neutral** ☒ **Support with modifications identified in #8 below**

Analysis of Bill

1. **Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.*
The bill would require the owners of dams in the State annually to register their dam with the Department and pay an annual fee; establish a process for the Department to designate a dam as abandoned and attach a lien on the property on which the dam is located; require the seller of property on which a dam is located to notify the buyer of the presence and condition of the dam as well as notify the Department of the buyer's name and contact information. The Bill would make owners and buyers more aware of responsibilities of dam ownership and provide additional means and mechanisms for the Department to administer 10 V.S.A. 43.

2. **Is there a need for this bill?** *Please explain why or why not.* Yes. There is currently no state registration or requirement for dam owners to notify buyers of responsibilities. Frequently new owners are aware they own a pond but not a dam or the condition the dam is in. The abandoned dam section would provide a mechanism for assuming ownership in order to inspect a dam and take actions to make a dam safe via repairs or removal.

3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?**
The impacts would be positive overall. While there would be registration fees for dam ownership, the fees would support an additional engineer for the inspection of dams and other Program duties. Any excess fees could be used to fund administrative assistance and/or be directed to the unsafe dam revolving loan fund. This is consistent with the Department Strategic Plan, securing funding for an additional engineer to increase dam inspections.

4. **What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?** There would be fiscal impacts from registration fees and programmatic impacts from the recognization of responsibilities of dam ownership. There would most likely be opposition to the bill, however it will create the opportunity for discussion and review of dam condition, operation and the potential for removal. The Agency of Agriculture may object to the proposal to place agricultural dams under DEC jurisdiction. We support leaving jurisdicition with natural resources conservation districts.

5. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** *(for example: public, municipalities, organizations, business, regulated entities, etc.)*

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For dam owners there would be a fiscal impacts from registration fees and programmatic impacts from recognization of responsibilities of dam ownership. There would most likely be opposition to the bill, however it will create the opportunity for discussion and review of dam condition, operation and the potential for removal. Others would support the Bill because of the increase in awarenss and financial responsibility of dam ownership.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why? Environmental advocacy and other groups interested in increasing owner awareness of dam ownership.

6.2 Who else is likely to oppose the proposal and why? Dam owners due to implementation of a registration fee and added responsibility of dam ownership including sale of property.

7. Rationale for recommendation: *Justify recommendation stated above.* The fees would fund another dam safety engineer allowing for additional dam inspections to be completed, part of the Department Strategic Plan. Any excess fees could be directed to the unsafe dam revolving loan fund, which financially assists in removal or repair of unsafe dams. Retain Section 1083a Agricultural Dams to avoid potential Department jurisdiction over manure and farm ponds.

8. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would changerecommended position.*
We recommend that definitions for dam and dam hazard class be written w/greater flexibility than proposed so that the definitions are consistent with national standards that can change periodically; do not change section 1082; retain section 1083a Agricultural Dams to avoid potential Department jurisdiction over manure and farm ponds. Section 1104(i): strike this section since non-registration is covered under 1104a(a).

Commissioner has reviewed this document: _____ ***Date:*** 1/27/14

Secretary has reviewed this document: _____ ***Date:*** 1/29/2014

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