

STATE OF MARYLAND
MARYLAND DEPARTMENT OF THE ENVIRONMENT
Ben Grumbles, Secretary

BILL NO: House Bill 177

COMMITTEE: Environment and Transportation

POSITION: Support

TITLE: Environment – Water Infrastructure Assets – Authorization of Emergency Actions and Establishment of Emergency Reserve

BILL ANALYSIS: For the purpose of establishing a separate account in the Bay Restoration Fund designated as the Water Infrastructure Emergency Reserve; requiring the Comptroller to deposit a certain portion of Bay Restoration Fund revenues in the Water Infrastructure Emergency Reserve; authorizing the Department of the Environment to take emergency actions to protect life, property, or the environment against risks arising from dams, reservoirs, and similar waterway constructions that are in imminent danger of failure; and authorizing the Department of the Environment to use funds in the Water Infrastructure Emergency Reserve to pay the costs of taking such emergency actions.

POSITION AND RATIONALE:

In a changing climate with higher intensity and frequency of rain events, like those experienced by Ellicott City, dams pose a threat to downstream communities and infrastructure if they are not maintained properly or the structure deteriorates as a result of age and use. Maryland currently has over 600 active dams in the State. Of these, 92 are classified as high hazard and 148 are classified as significant hazard. Failure of a high hazard dam would likely result in loss of human life and extensive property damage to homes and infrastructure or cause flooding of major highways and State roads. Failure of a significant hazard dam could possibly result in loss of human life and cause significant flood risks to downstream buildings and roads.

The aging of Maryland’s dam infrastructure, especially with increasingly volatile weather, will likely result in more dams classified as “unsafe.” The majority of the dams in Maryland are over 50 years old, which is well beyond the useful life of their various components, such as spillway pipes, gates, and drains. In addition, uncontrolled development downstream and upstream of a dam can result in the dam classification changing to “unsafe” due to inadequate capacity. Ultimately, it is the dam owner's responsibility and obligation to act in a reasonable manner to inspect and maintain a dam and its appurtenances. Some dam owners, however, lack the financial resources to adequately maintain their dams or respond to dam-related emergencies. This is especially true in the case of dams owned by homeowners associations and condominium associations (there are currently 31 high- and significant-hazard dams in Maryland owned by these associations).

To prevent loss of human life, significant property damage, or serious environmental harm, it may be necessary for MDE to take emergency actions when a dam threatens to fail and the owner is unable or unwilling to respond to the crisis. Under current law, it is not clear that MDE has this authority. This bill would address this problem by clarifying MDE’s authority.

In addition, MDE does not have a source of funding to cover the cost of taking these emergency actions, which could be very expensive – possibly millions of dollars in the case of a large dam. This bill would address this problem by creating the WIER, a “rainy day” fund within the BRF, which could only be used for response costs related to dam emergencies.