



# SENATE BILL 107: Streamline Dam Removal.

2017-2018 General Assembly

<b>Committee:</b>	Senate Rules and Operations of the Senate	<b>Date:</b>	May 9, 2017
<b>Introduced by:</b>	Sens. Wells, Gunn, B. Jackson	<b>Prepared by:</b>	Nicholas Giddings Committee Counsel
<b>Analysis of:</b>	Second Edition		

**OVERVIEW:** *Senate Bill 107 would amend State law on dam removal to expedite the removal process under certain circumstances.*

### CURRENT LAW:

Under current State law, removal of a dam generally requires the approval of the Department of Environmental Quality (DEQ). An application to DEQ for dam removal must state the name and address of the applicant, describe the proposed removal process, and include maps, plans, specifications, and other such information as required by DEQ.

Under current State law, 15A NCAC 02K .0223, the height of a dam is measured from the highest point on the crest of the dam to the lowest point on the downstream toe. Dams that are less than 25 feet in height are exempt from the State's Dam Safety Law unless DEQ determines that failure of the dam could result in loss of human life or significant damage to property below the dam.

### BILL ANALYSIS:

Section 1 would exempt professionally supervised dam removals from the requirement that a dam removal be approved by DEQ. A professionally supervised dam removal would be the removal of a low or intermediate hazard dam that is not operated primarily for flood control or hydroelectric power generation purposes, is designed and supervised by an engineer licensed under North Carolina law, and complies with all of the following:

- The engineer determines that the removal of the dam can be accomplished safely and certifies that the dam is a low or intermediate hazard dam.
- The person proposing the removal of the dam notifies the director of the Division of Energy, Mineral, and Land Resources in DEQ no less than 60 days prior to removal.
- The person proposing the removal of the dam notifies the North Carolina Floodplain Mapping Program of the Department of Public Safety (DPS), the North Carolina Department of Transportation, adjacent property owners of the dam and reservoir, and all impacted local governments of the dam removal no less than 60 days prior to removal.

Section 1 would establish a fee for a professionally supervised dam removal of \$500.00 and make other conforming changes.

Section 2 would provide that, except as required by federal law, DEQ will not require mitigation for impacts associated with the removal of a dam that is done in compliance with State law. Section 2 would also direct DEQ to develop a water quality certification that would allow short term sediment releases

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associated with a professionally supervised dam removal if the sediment to be released has a similar or lower levels of contamination than the sediment downstream of the dam.

Section 3 would provide that for purposes of implementing professionally supervised dam removals the height of a dam is measured from the lowest point on the crest of the dam to the lowest point on the downstream toe.

Section 4 would direct DEQ and DPS to jointly study the dam removal process in North Carolina and recommend further changes in statutes or rules to reduce the regulatory barriers to the removal of obsolete and unwanted dams and consolidate duplicative permit processes. The Departments would jointly report the results of the study to the Environmental Review Commission no later than March 1, 2020.

**EFFECTIVE DATE:** The study provision in Section 4 would become effective when the bill becomes law. The remainder of the bill would become effective July 1, 2017.

*Jeff Hudson, counsel to Senate Agriculture/Environment/Natural Resources, substantially contributed to this summary.*