



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 2404

PRINTERS NO. 3204

PRIME SPONSOR: Owlett

COST / (SAVINGS)

FUND	FY 2021/22	FY 2022/23
General Fund	\$0	See Fiscal Impact

SUMMARY: House Bill 2404, Printer's Number 3204, amends the Dam Safety and Encroachments Act to create a continuous maintenance permit.

ANALYSIS: This bill amends the Dam Safety and Encroachments Act (Act 325 of 1978) by adding Section 9.1. addressing the issuance of and conditions for continuous maintenance permits. It states that the Department of Environmental Protection (DEP) shall develop a municipal continuous permit for which the Department of Transportation or a municipality may apply. The permit shall allow permittees to maintain, inspect and monitor watercourses, water obstructions, appurtenant works and encroachments as specified within the permit.

The department shall approve an application for a permit if the applicant is without a sustained history of significant permit violations under this act and the applicant takes an affirmative duty over the watercourses, water obstructions, appurtenant works and encroachments delineated in the permit application.

A permittee may amend the permit through the addition of watercourses, water obstructions, appurtenant works or encroachments for which a duty to maintain, inspect and monitor shall apply with the approval of DEP. The department shall approve a request to remove watercourses, water obstructions, appurtenant works or encroachments from the permit when a written order to do so is provided by the permittee.

The bill specifies that a permittee may not be required to seek preapproval or further authorization from the department for maintenance conducted under the permit. The permit shall provide for the maintenance, inspection and monitoring activities as prepared, signed and certified by a registered professional engineer and affixed with the seal of a registered professional engineer.

A permittee shall provide a report to DEP by January 15 of each year that compiles the maintenance projects undertaken between January 1 and December 31 of the previous year that were permitted. The report shall delineate the persons, equipment operators and contractors operating as agents of the permittee who maintained, inspected and monitored watercourses, water obstructions, appurtenant works and encroachments.

A permit granted under this section by DEP shall be effective for no less than 10 years. The department shall extend a permit to a permittee for 10 years following 10 years of operation under this section without a permit violation. A permit violation shall be found to have occurred when the permittee failed to address an alleged violation in the manner prescribed by the department within one year of receipt of the notice of an alleged permit violation.

A permit violation shall not be found to have occurred when a permittee removes or manipulates obstructions or debris within or along a watercourse in a manner that enables water obstructions, appurtenant works or encroachments specified within the permit to operate consistent with applicable plans, specifications, reports and designs previously prepared by a registered professional engineer.

The permittee shall accept an affirmative duty to maintain, inspect and monitor watercourses, water obstructions, appurtenant works and encroachments as specified within the permit.

This legislation would take effect in 60 days upon enactment.

FISCAL IMPACT: Enactment of this legislation will have no adverse impact on Commonwealth funds. It is projected that any administrative and operating costs would be covered under existing operations given DEP's related pilot program addressing stream maintenance and other stormwater and floodplain management programs.

PREPARED BY: Jeffrey Clukey
House Appropriations Committee (R)

DATE: June 13, 2022

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.