

2022 -- S 2181

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LC003247
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

RELATING TO WATERS AND NAVIGATION -- DAMAGES FROM MILLDAMS -- THE
JOHNSON'S POND PROTECTION ACT

Introduced By: Senators Raptakis, Anderson, Rogers, Calkin, Archambault, Sosnowski,
and Lombardo

Date Introduced: February 08, 2022

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 46-18-1 of the General Laws in Chapter 46-18 entitled "Damages
2 from Milldams" is hereby amended to read as follows:

3 **46-18-1. Right of owner to continue and improve dam and pond.**

4 (a) Whenever any person, either upon his or her own land or upon the land of another with
5 his or her consent, shall have set up any water mill or dam for the purpose of forming a pond to
6 supply water to any mill or mills upon the stream whereon the dam is located, the owner of the mill
7 or dam may continue and improve the pond and keep up the dam thereof on his or her own land for
8 his or her advantage without molestations, except as provided in subsection (b) of this section.

9 (b) The provisions of this section shall be governed by the provisions of §§ 2-1-18 through
10 2-1-28, specifically with respect to a certain parcel of land located within the town of Coventry,
11 commonly known as "Johnson's Pond".

12 SECTION 2. Section 2-1-23 of the General Laws in Chapter 2-1 entitled "Agricultural
13 Functions of Department of Environmental Management" is hereby amended to read as follows:

14 **2-1-23. Violations.**

15 (a) In the event of a violation of § 2-1-21, the director of environmental management has
16 the power to order complete restoration of the freshwater wetland, buffer, floodplain, or other
17 jurisdictional area involved by the person or agent responsible for the violation. If the responsible
18 person or agent does not complete the restoration within a reasonable time following the order of

1 the director of the department of environmental management, the director has the authority to order
2 the work done by an agent of the director's choosing and the person or agent responsible for the
3 original violation is liable for the cost of the restoration. The violator is liable for a fine not
4 exceeding five thousand dollars (\$5,000) for each violation, except that if the violator knowingly
5 or recklessly alters a freshwater wetland, buffer, floodplain or other jurisdictional area without a
6 permit or approval from the director; knowingly or recklessly alters a freshwater wetland, buffer,
7 floodplain or other jurisdictional area in violation of the rules or regulations promulgated by the
8 director; or alters a freshwater wetland, buffer, floodplain or other jurisdictional area in violation
9 of a permit issued by the director, then the violator is liable for a fine not exceeding ten thousand
10 dollars (\$10,000) for each violation, except if the violation occurs on the land commonly known as
11 "Johnson's Pond," the fine shall be sixty thousand dollars (\$60,000) per day.

12 (b) In addition, with respect to a certain parcel of land located within the town of Coventry,
13 commonly known as "Johnson's Pond," the director of the department of environmental
14 management may enter upon the freshwater wetland, buffer, floodplain, or other jurisdictional area,
15 to restore the water levels and flow rates of the pond to match historical norms and take into
16 consideration the effects of climate change.

17 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO WATERS AND NAVIGATION -- DAMAGES FROM MILLDAMS -- THE
JOHNSON'S POND PROTECTION ACT

1 This act would make the Milldam Act subject to the provisions of the Freshwater Wetlands
2 Act as it relates to Johnson's Pond in the town of Coventry. It would also grant authority to the
3 director of the DEM to enter upon the freshwater wetland at Johnson's Pond, to restore the water
4 levels of the pond to match historic norms. This act would also increase the fines for diverting water
5 flow out of Johnson's Pond without the approval of the director of DEM to sixty thousand dollars
6 (\$60,000) per day.

7 This act would take effect upon passage.

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