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SYNOPSIS:

This bill would provide for the inspection of certain dams and reservoirs by an engineer.

This bill would also require these certain dam owners to notify their local emergency management agency of any new dam construction or enlargement, as well as require these owners to develop and file emergency action plans with the agency.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to dam safety; to provide for the inspection of certain dams and reservoirs by an engineer; to require certain dam owners to develop emergency action plans; and to require these dam owners to notify their local emergency management agency of any new dam construction or enlargement.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall apply only to dams and reservoirs whose owner or owners have elected to be subject to this act.

Section 2. For the purposes of this act, the following terms have the following meanings:

(1) ABANDON or ABANDONMENT. To render a dam





58 the stream or watercourse measured at the downstream toe of  
59 the barrier, or from the lowest elevation of the outside limit  
60 of the barrier, if it is not across a stream channel or  
61 watercourse, to the maximum water storage elevation.

62 2. Has an impounding capacity at maximum water storage  
63 elevation of 50 acre feet or more.

64 b. The term includes a fill or structure for highway or  
65 railroad use or for any other purpose which impounds water.

66 c. This definition does not apply to any barrier not in  
67 excess of six feet in height regardless of storage capacity or  
68 which has a storage capacity at maximum water storage  
69 elevation not greater than 15 acre feet regardless of height,  
70 unless the barrier, due to its location or other physical  
71 characteristics, is classified as a high hazard potential dam.

72 d. This definition does not apply to any dam subject to  
73 the jurisdiction of any other state or federal agency.

74 e. The term does not include any obstruction in a canal  
75 used to raise or lower water.

76 f. This term does not include privately owned dams,  
77 regardless of the hazard designation, unless the owner has  
78 voluntarily elected to participate in the program in  
79 accordance with this act.

80 (7) DAYS. In establishing deadlines, means all calendar  
81 days, including Sundays and holidays.

82 (8) EMERGENCY. Includes all conditions leading to or  
83 causing a breach, overtopping, or any other condition of a dam  
84 and its appurtenant structures that may be construed as unsafe  
85 or threatening to life or property.



86 (9) EMERGENCY ACTION PLAN. A plan that identifies the  
87 area that would likely be inundated by the failure of a dam  
88 and the actions that should be taken in the event of a failure  
89 or threatening condition at the dam.

90 (10) ENGINEER. An engineer who has a background in  
91 civil engineering and:

92 a. Is a licensed professional engineer.

93 b. Is competent in areas related to dam investigation,  
94 design, construction, and operation for the type of dam being  
95 investigated, designed, constructed, or operated.

96 c. Has relevant experience in areas such as  
97 investigation, design, construction, reconstruction,  
98 enlargement, repair, alteration, maintenance, operation,  
99 breach, removal, or abandonment of dams.

100 d. Understands adverse dam incidents, failures, and the  
101 potential causes and consequences of failures.

102 e. Continues with necessary training and continuing  
103 education to keep abreast of the state of the practice in dam  
104 safety engineering.

105 (11) ENLARGEMENT. Any change in or addition to an  
106 existing dam or reservoir that raises or may raise the water  
107 storage elevation of the water impounded by the dam.

108 (12) HAZARD POTENTIAL. The possible adverse incremental  
109 consequences that result from the release of water or stored  
110 contents due to failure of the dam or misoperation of the dam  
111 or appurtenances. The hazard potential classification of a dam  
112 does not reflect in any way on the current condition of the  
113 dam and its appurtenant structures, including safety,



114 structural integrity, or flood routing capacity.

115 (13) HIGH HAZARD POTENTIAL DAM. A dam assigned the high  
116 hazard potential classification where the dam's failure or  
117 misoperation will likely cause loss of human life.

118 (14) LOCAL EMERGENCY MANAGEMENT AGENCY. The local  
119 emergency management organization that has jurisdiction over  
120 the area in which a dam or reservoir is located.

121 (15) LOW HAZARD POTENTIAL DAM. A dam assigned the low  
122 hazard potential classification where failure or misoperation  
123 results in no probable loss of human life and low economic or  
124 environmental losses with those economic losses that do occur  
125 being principally limited to the owner's property.

126 (16) PARTICIPATING OWNER. Any of the following that  
127 elect to be included in this definition by written affidavit  
128 delivered to the local emergency management agency:

- 129 a. Any municipal or quasi-municipal corporation.
- 130 b. Any county or quasi-county corporation.
- 131 c. Any public utility.
- 132 d. Any district as defined by Section 11-99A-2, Code of  
133 Alabama 1975.
- 134 e. Any person.
- 135 f. The duly authorized agent, lessee, or trustee of any  
136 of the foregoing.
- 137 g. Receivers or trustees appointed by any court for any  
138 of the foregoing.

139 (17) PERSON. Any individual, bankruptcy trustee, firm,  
140 association, organization, partnership, business trust,  
141 corporation, limited liability corporation, limited liability



142 partnership, or company.

143 (18) PROBABLE. More likely than not to occur;  
144 reasonably expected; realistic.

145 (19) RECONSTRUCTION. Removal and replacement of an  
146 existing dam or a portion thereof.

147 (20) REMOVAL. Complete elimination of the dam  
148 embankment or structure to restore the approximate original  
149 topographic contours of the valley.

150 (21) RESERVOIR. Any area that contains or will contain  
151 impounded water, wastewater, or liquid-borne materials by  
152 virtue of its having been impounded by a dam. This term does  
153 not include privately owned reservoirs, regardless of the  
154 hazard designation, unless the owner has elected to  
155 participate in the program in accordance with this act.

156 (22) SIGNIFICANT HAZARD POTENTIAL DAM. A dam assigned  
157 the significant hazard potential classification where failure  
158 or misoperation results in no probable loss of human life but  
159 can result in major economic loss, environmental damage,  
160 disruption of lifeline facilities, or other issues impacting  
161 public safety and welfare.

162 (23) WATER STORAGE ELEVATION. The maximum elevation of  
163 water surface which can be obtained by the dam or reservoir.

164 Section 3. (a) A participating owner shall ensure plans  
165 and specifications for initial construction, reconstruction,  
166 enlargement, alteration, repair, operation, breach,  
167 abandonment, or removal of dams and reservoirs, and the  
168 supervision of the construction of dams and reservoirs shall  
169 be in the charge of an engineer and assisted by qualified



170 geologists and other specialists as necessary.

171 (b) A participating owner of any dam or reservoir shall  
172 ensure the dam or reservoir is inspected a minimum of once  
173 every two years by an engineer. The engineer shall certify to  
174 the local emergency management agency that the inspection has  
175 been completed and deliver a record of the inspection to the  
176 owner.

177 (c) A participating owner shall notify the local  
178 emergency management agency in writing of the construction or  
179 the enlargement of any dam or reservoir. Plans and  
180 specifications shall be signed and sealed by the design  
181 engineer.

182 (d) Upon the transfer of ownership of any dam or  
183 reservoir, the current participating owner shall notify the  
184 local emergency management agency. The subsequent owner may  
185 elect to continue participating in the inspection program but  
186 may also elect to cease participation with no penalty.

187 Section 4. (a) It shall be the duty of the inspecting  
188 engineer to assign a hazard potential classification to dams  
189 and reservoirs.

190 (b) In order to protect life and property,  
191 participating owners of high and significant hazard potential  
192 dams and reservoirs shall develop and file with the local  
193 emergency management agency an emergency action plan prepared  
194 by an engineer in consultation with the highest ranking  
195 official of the local emergency management agency which shall  
196 be implemented in the event of an emergency involving that  
197 participating owner's dam or dams. The participating owners of



198 such dams shall periodically test and update the emergency  
199 action plan. The plan shall include all of the following  
200 elements:

- 201 (1) Emergency notification plan with flowchart.
  - 202 (2) Statement of purpose.
  - 203 (3) Project description.
  - 204 (4) Emergency detection, evaluation, and  
205 classification.
  - 206 (5) General responsibilities.
  - 207 (6) Preparedness.
  - 208 (7) Inundation maps or other acceptable description of  
209 the inundated area.
  - 210 (8) Appendices.
- 211 (c) If the participating owner of a dam or reservoir  
212 makes the determination that an emergency involving a dam or  
213 reservoir exists, the owner shall immediately implement the  
214 emergency action plan, notify the local emergency management  
215 agency, and take any additional actions necessary to safeguard  
216 life, health, and property.

217 Section 5. (a) The local emergency management agency  
218 has neither inspection nor regulatory duty or responsibility.

219 (b) Records pertaining to dams and reservoirs kept by  
220 and in the possession of the local emergency management agency  
221 shall not be public documents.

222 (c) Nothing in this act shall be construed to relieve a  
223 participating owner or operator of a dam or reservoir of the  
224 legal duties, obligations, or liabilities incident to the  
225 ownership or operation of the dam or reservoir.





226           Section 6. This act shall become effective on the first  
227 day of the third month following its passage and approval by  
228 the Governor, or its otherwise becoming law.

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