

SB284 ENGROSSED



1 RBJGNY-2
2 By Senator Chambliss
3 RFD: State Governmental Affairs
4 First Read: 03-May-23
5 2023 Regular Session



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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 non-impounding by dewatering and filling the reservoir created by the dam with solid materials, by diverting the natural drainway around the site, or by removing a portion of a dam to allow drainage to occur the same, or nearly the same, as before the construction of the dam.

(2) ADVERSE CONSEQUENCES. Negative impacts that may occur upstream, downstream, or at locations remote from the dam. The primary concerns are loss of human life, disruption



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29 of public infrastructure, environmental impact, and economic
30 loss, including property damage.

31 (3) ALTERATIONS or REPAIRS. Alterations or repairs to
32 an existing dam and appurtenant structures that affect the
33 safety of the dam or reservoir.

34 (4) APPURTENANT WORKS. The structures or machinery
35 incident or annexed to a dam whose purpose is to operate,
36 assist, and maintain a dam. The term includes spillways,
37 either in the dam or separate therefrom, the reservoir and its
38 rim, low level outlet works, and water conduits, including
39 tunnels, pipelines, or penstocks, either through the dam or
40 its abutments.

41 (5) BREACH. Partial removal of a dam, creating a
42 channel through the dam to the original stream bottom
43 elevation.

44 (6) DAM.

45 a. An artificial barrier, including appurtenant works,
46 with the ability to impound water, wastewater, or liquid-borne
47 materials and to which either of the following apply:

48 1. Is 25 feet or more in height from the natural bed of
49 the stream or watercourse measured at the downstream toe of
50 the barrier, or from the lowest elevation of the outside limit
51 of the barrier, if it is not across a stream channel or
52 watercourse, to the maximum water storage elevation.

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

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



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57 c. This definition does not apply to any barrier not in
58 excess of six feet in height regardless of storage capacity or
59 which has a storage capacity at maximum water storage
60 elevation not greater than 15 acre feet regardless of height,
61 unless the barrier, due to its location or other physical
62 characteristics, is classified as a high hazard potential dam.

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

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

67 f. This term does not include privately owned dams,
68 regardless of the hazard designation, unless the owner has
69 voluntarily elected to participate in the program in
70 accordance with this act.

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

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

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

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

83 a. Is a licensed professional engineer.

84 b. Is competent in areas related to dam investigation,



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85 design, construction, and operation for the type of dam being
86 investigated, designed, constructed, or operated.

87 c. Has relevant experience in areas such as
88 investigation, design, construction, reconstruction,
89 enlargement, repair, alteration, maintenance, operation,
90 breach, removal, or abandonment of dams.

91 d. Understands adverse dam incidents, failures, and the
92 potential causes and consequences of failures.

93 e. Continues with necessary training and continuing
94 education to keep abreast of the state of the practice in dam
95 safety engineering.

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

99 (12) HAZARD POTENTIAL. The possible adverse incremental
100 consequences that result from the release of water or stored
101 contents due to failure of the dam or misoperation of the dam
102 or appurtenances. The hazard potential classification of a dam
103 does not reflect in any way on the current condition of the
104 dam and its appurtenant structures, including safety,
105 structural integrity, or flood routing capacity.

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

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

112 (15) LOW HAZARD POTENTIAL DAM. A dam assigned the low



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113 hazard potential classification where failure or misoperation
114 results in no probable loss of human life and low economic or
115 environmental losses with those economic losses that do occur
116 being principally limited to the owner's property.

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

120 a. Any municipal or quasi-municipal corporation.

121 b. Any county or quasi-county corporation.

122 c. Any public utility.

123 d. Any district as defined by Section 11-99A-2, Code of
124 Alabama 1975.

125 e. Any person.

126 f. The duly authorized agent, lessee, or trustee of any
127 of the foregoing.

128 g. Receivers or trustees appointed by any court for any
129 of the foregoing.

130 (17) PERSON. Any individual, bankruptcy trustee, firm,
131 association, organization, partnership, business trust,
132 corporation, limited liability corporation, limited liability
133 partnership, or company.

134 (18) PROBABLE. More likely than not to occur;
135 reasonably expected; realistic.

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

138 (20) REMOVAL. Complete elimination of the dam
139 embankment or structure to restore the approximate original
140 topographic contours of the valley.



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

147 (22) SIGNIFICANT HAZARD POTENTIAL DAM. A dam assigned
148 the significant hazard potential classification where failure
149 or misoperation results in no probable loss of human life but
150 can result in major economic loss, environmental damage,
151 disruption of lifeline facilities, or other issues impacting
152 public safety and welfare.

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

155 Section 3. (a) A participating owner shall ensure plans
156 and specifications for initial construction, reconstruction,
157 enlargement, alteration, repair, operation, breach,
158 abandonment, or removal of dams and reservoirs, and the
159 supervision of the construction of dams and reservoirs shall
160 be in the charge of an engineer and assisted by qualified
161 geologists and other specialists as necessary.

162 (b) A participating owner of any dam or reservoir shall
163 ensure the dam or reservoir is inspected a minimum of once
164 every two years by an engineer. The engineer shall certify to
165 the local emergency management agency that the inspection has
166 been completed and deliver a record of the inspection to the
167 owner.

168 (c) A participating owner shall notify the local



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169 emergency management agency in writing of the construction or
170 the enlargement of any dam or reservoir. Plans and
171 specifications shall be signed and sealed by the design
172 engineer.

173 (d) Upon the transfer of ownership of any dam or
174 reservoir, the current participating owner shall notify the
175 local emergency management agency. The subsequent owner may
176 elect to continue participating in the inspection program but
177 may also elect to cease participation with no penalty.

178 Section 4. (a) It shall be the duty of the inspecting
179 engineer to assign a hazard potential classification to dams
180 and reservoirs.

181 (b) In order to protect life and property,
182 participating owners of high and significant hazard potential
183 dams and reservoirs shall develop and file with the local
184 emergency management agency an emergency action plan prepared
185 by an engineer in consultation with the highest ranking
186 official of the local emergency management agency which shall
187 be implemented in the event of an emergency involving that
188 participating owner's dam or dams. The participating owners of
189 such dams shall periodically test and update the emergency
190 action plan. The plan shall include all of the following
191 elements:

192 (1) Emergency notification plan with flowchart.

193 (2) Statement of purpose.

194 (3) Project description.

195 (4) Emergency detection, evaluation, and
196 classification.



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197 (5) General responsibilities.

198 (6) Preparedness.

199 (7) Inundation maps or other acceptable description of
200 the inundated area.

201 (8) Appendices.

202 (c) If the participating owner of a dam or reservoir
203 makes the determination that an emergency involving a dam or
204 reservoir exists, the owner shall immediately implement the
205 emergency action plan, notify the local emergency management
206 agency, and take any additional actions necessary to safeguard
207 life, health, and property.

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

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

213 (c) Nothing in this act shall be construed to relieve a
214 participating owner or operator of a dam or reservoir of the
215 legal duties, obligations, or liabilities incident to the
216 ownership or operation of the dam or reservoir.

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

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223 Senate

224 Read for the first time and referred03-May-23
225 to the Senate committee on State
226 Governmental Affairs
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229 on the calendar:
230 0 amendments
231
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233 as amended
234 Yeas 34
235 Nays 0
236 Abstains 0

237
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239 Patrick Harris,
240 Secretary.
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