

**SB284 ENROLLED**



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



## SB284 Enrolled

1 Enrolled, An Act,

2

3

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

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

15 (1) ABANDON or ABANDONMENT. To render a dam  
16 non-impounding by dewatering and filling the reservoir created  
17 by the dam with solid materials, by diverting the natural  
18 drainway around the site, or by removing a portion of a dam to  
19 allow drainage to occur the same, or nearly the same, as  
20 before the construction of the dam.

21 (2) ADVERSE CONSEQUENCES. Negative impacts that may  
22 occur upstream, downstream, or at locations remote from the  
23 dam. The primary concerns are loss of human life, disruption  
24 of public infrastructure, environmental impact, and economic  
25 loss, including property damage.

26 (3) ALTERATIONS or REPAIRS. Alterations or repairs to  
27 an existing dam and appurtenant structures that affect the  
28 safety of the dam or reservoir.



## SB284 Enrolled

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

36           (5) BREACH. Partial removal of a dam, creating a  
37 channel through the dam to the original stream bottom  
38 elevation.

39           (6) DAM.

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

43           1. Is 25 feet or more in height from the natural bed of  
44 the stream or watercourse measured at the downstream toe of  
45 the barrier, or from the lowest elevation of the outside limit  
46 of the barrier, if it is not across a stream channel or  
47 watercourse, to the maximum water storage elevation.

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

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

52           c. This definition does not apply to any barrier not in  
53 excess of six feet in height regardless of storage capacity or  
54 which has a storage capacity at maximum water storage  
55 elevation not greater than 15 acre feet regardless of height,  
56 unless the barrier, due to its location or other physical



## SB284 Enrolled

57 characteristics, is classified as a high hazard potential dam.

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

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

62 f. This term does not include privately owned dams,  
63 regardless of the hazard designation, unless the owner has  
64 voluntarily elected to participate in the program in  
65 accordance with this act.

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

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

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

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

78 a. Is a licensed professional engineer.

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

82 c. Has relevant experience in areas such as  
83 investigation, design, construction, reconstruction,  
84 enlargement, repair, alteration, maintenance, operation,



## SB284 Enrolled

85 breach, removal, or abandonment of dams.

86 d. Understands adverse dam incidents, failures, and the  
87 potential causes and consequences of failures.

88 e. Continues with necessary training and continuing  
89 education to keep abreast of the state of the practice in dam  
90 safety engineering.

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

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

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

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

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

112 (16) PARTICIPATING OWNER. Any of the following that



## SB284 Enrolled

113 elect to be included in this definition by written affidavit  
114 delivered to the local emergency management agency:

115 a. Any municipal or quasi-municipal corporation.

116 b. Any county or quasi-county corporation.

117 c. Any public utility.

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

120 e. Any person.

121 f. The duly authorized agent, lessee, or trustee of any  
122 of the foregoing.

123 g. Receivers or trustees appointed by any court for any  
124 of the foregoing.

125 (17) PERSON. Any individual, bankruptcy trustee, firm,  
126 association, organization, partnership, business trust,  
127 corporation, limited liability corporation, limited liability  
128 partnership, or company.

129 (18) PROBABLE. More likely than not to occur;  
130 reasonably expected; realistic.

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

133 (20) REMOVAL. Complete elimination of the dam  
134 embankment or structure to restore the approximate original  
135 topographic contours of the valley.

136 (21) RESERVOIR. Any area that contains or will contain  
137 impounded water, wastewater, or liquid-borne materials by  
138 virtue of its having been impounded by a dam. This term does  
139 not include privately owned reservoirs, regardless of the  
140 hazard designation, unless the owner has elected to



## SB284 Enrolled

141 participate in the program in accordance with this act.

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

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

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

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

163 (c) A participating owner shall notify the local  
164 emergency management agency in writing of the construction or  
165 the enlargement of any dam or reservoir. Plans and  
166 specifications shall be signed and sealed by the design  
167 engineer.

168 (d) Upon the transfer of ownership of any dam or



## SB284 Enrolled

169 reservoir, the current participating owner shall notify the  
170 local emergency management agency. The subsequent owner may  
171 elect to continue participating in the inspection program but  
172 may also elect to cease participation with no penalty.

173 Section 4. (a) It shall be the duty of the inspecting  
174 engineer to assign a hazard potential classification to dams  
175 and reservoirs.

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

187 (1) Emergency notification plan with flowchart.

188 (2) Statement of purpose.

189 (3) Project description.

190 (4) Emergency detection, evaluation, and  
191 classification.

192 (5) General responsibilities.

193 (6) Preparedness.

194 (7) Inundation maps or other acceptable description of  
195 the inundated area.

196 (8) Appendices.





## SB284 Enrolled

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

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

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

208           (c) Nothing in this act shall be construed to relieve a  
209 participating owner or operator of a dam or reservoir of the  
210 legal duties, obligations, or liabilities incident to the  
211 ownership or operation of the dam or reservoir.

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

215



**SB284 Enrolled**

216  
217  
218  
219  
220  
221  
222  
223  
224  
225  
226  
227  
228  
229  
230  
231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241  
242  
243  
244

---

President and Presiding Officer of the Senate

---

Speaker of the House of Representatives

SB284  
Senate 24-May-23  
I hereby certify that the within Act originated in and passed  
the Senate, as amended.

Patrick Harris,  
Secretary.

---

House of Representatives  
Passed: 01-Jun-23

---

By: Senator Chambliss