

SB378 ENROLLED



1 SB378
2 6Y8YTZZ-2
3 By Senator Chambliss
4 RFD: Finance and Taxation General Fund
5 First Read: 31-Mar-26



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1 Enrolled, An Act,

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4 Relating to dam safety, to amend Sections 33-7-71,

5 33-7-72, 33-7-73, and 33-7-74, Code of Alabama 1975, to

6 require the Alabama Emergency Management Agency to administer

7 the Alabama Dam Safety Program; to require participating dam

8 and reservoir owners to receive approval from the agency

9 before constructing, modifying, or removing dams and

10 reservoirs; to authorize the agency to adopt rules and fees to

11 administer the program; and to require the agency to submit a

12 program implementation plan and operational and financial

13 needs of the program to the Governor and Legislature.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 33-7-71, 33-7-72, 33-7-73, and

16 33-7-74, Code of Alabama 1975, are amended to read as follows:

17 "§33-7-71

18 For the purposes of this article, the following terms

19 have the following meanings:

20 (1) ABANDON or ABANDONMENT. To render a dam

21 non-impounding by dewatering and filling the reservoir created

22 by the dam with solid materials, by diverting the natural

23 drainway around the site, or by removing a portion of the dam

24 to allow drainage to occur the same, or nearly the same, as

25 before the construction of the dam.

26 (2) ADVERSE CONSEQUENCES. Negative impacts that may

27 occur upstream, downstream, or at locations remote from the

28 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) AGENCY. The Emergency Management Agency.

32 ~~(3)~~ (4) ALTERATIONS or REPAIRS. Alterations or repairs
33 to an existing dam and appurtenant works that affect the
34 safety of the dam or reservoir.

35 ~~(4)~~ (5) APPURTENANT WORKS. The structures or machinery
36 incident or annexed to a dam whose purpose is to operate,
37 assist, and maintain the dam. The term includes spillways,
38 either in the dam or separate therefrom, the reservoir and its
39 rim, low level outlet works, and water conduits, including
40 tunnels, pipelines, or penstocks, either through the dam or
41 its abutments.

42 ~~(5)~~ (6) BREACH. Partial removal of a dam, creating a
43 channel through the dam to the original stream bottom
44 elevation.

45 ~~(6)~~ (7) DAM.

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

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

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

56 b. The term includes a fill or structure for highway or



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57 railroad use or for any other purpose which impounds water.

58 ~~c. This definition~~ The term does not ~~apply to any~~
59 include any of the following:

60 1. Any barrier not in excess of six feet in height
61 regardless of storage capacity or which has a storage capacity
62 at maximum water storage elevation not greater than 15 acre
63 feet regardless of height, unless the barrier, due to its
64 location or other physical characteristics, is classified as a
65 high hazard potential dam.

66 ~~2.d. This definition does not apply to any~~ Any dam
67 subject to the jurisdiction of any other state or federal
68 agency.

69 ~~3.e. The term does not include any~~ Any obstruction in a
70 canal used to raise or lower water.

71 ~~4.f. This term does not include privately~~ Privately
72 owned dams, regardless of the hazard designation, unless the
73 owner has voluntarily elected to participate in the program in
74 accordance with this article.

75 ~~(7)~~ (8) DAYS. In establishing deadlines, means all
76 calendar days, including ~~Sundays~~ Saturday, Sunday, and
77 holidays.

78 ~~(8)~~ (9) EMERGENCY. All conditions leading to or causing
79 a breach, overtopping, or any other condition of a dam and its
80 appurtenant works that may be construed as unsafe or
81 threatening to life or property.

82 ~~(9)~~ (10) EMERGENCY ACTION PLAN. A plan that identifies
83 the area that would likely be inundated by the failure of a
84 dam and the actions that should be taken in the event of a



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85 failure or threatening condition at the dam.

86 ~~(10)~~(11) ENGINEER. An engineer who has a background in
87 civil engineering and who satisfies all of the following:

88 a. Is a licensed professional engineer.

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

92 c. Has relevant experience in areas such as
93 investigation, design, construction, reconstruction,
94 enlargement, repair, alteration, maintenance, operation,
95 breach, removal, or abandonment of dams.

96 d. Understands adverse dam incidents, failures, and the
97 potential causes and consequences of failures.

98 e. Continues with necessary training and continuing
99 education to keep abreast of the state of the practice in dam
100 safety engineering.

101 ~~(11)~~(12) ENLARGEMENT. Any change in or addition to an
102 existing dam or reservoir that raises or may raise the water
103 storage elevation of the water impounded by the dam.

104 ~~(12)~~(13) HAZARD POTENTIAL. The possible incremental
105 adverse consequences that result from the release of water or
106 stored contents due to failure of the dam or misoperation of
107 the dam or appurtenant works. The hazard potential
108 classification of a dam does not reflect in any way on the
109 current condition of the dam and its appurtenant works,
110 including safety, structural integrity, or flood routing
111 capacity.

112 ~~(13)~~(14) HIGH HAZARD POTENTIAL DAM. A dam assigned the



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113 high hazard potential classification where the dam's failure
114 or misoperation will likely cause loss of human life.

115 ~~(14)~~ (15) LOCAL EMERGENCY MANAGEMENT AGENCY. The local
116 emergency management organization that has jurisdiction over
117 the area in which a dam or reservoir is located.

118 ~~(15)~~ (16) LOW HAZARD POTENTIAL DAM. A dam assigned the
119 low hazard potential classification where failure or
120 misoperation results in no probable loss of human life and low
121 economic or environmental losses with those economic losses
122 that do occur being principally limited to the owner's
123 property.

124 ~~(16)~~ (17) PARTICIPATING OWNER. Any of the following that
125 elect to be included in this definition by written affidavit
126 delivered to the ~~local emergency management~~ agency:

- 127 a. Any municipal or quasi-municipal corporation.
- 128 b. Any county or quasi-county corporation.
- 129 c. Any public utility.
- 130 d. Any district as defined by Section 11-99A-2.
- 131 e. Any person.
- 132 f. The duly authorized agent, lessee, or trustee of any
133 entity described in paragraphs a. through e.
- 134 g. Receivers or trustees appointed by any court for any
135 entity described in paragraphs a. through e.
- 136 h. This state and any department, board, commission,
137 institution, or agency thereof that voluntarily elects to be
138 subject to this article.

139 ~~(17)~~ (18) PERSON. Any individual, bankruptcy trustee,
140 firm, association, organization, partnership, business trust,



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141 corporation, limited liability corporation, limited liability
142 partnership, or company.

143 ~~(18)~~ (19) PROBABLE. More likely than not to occur;
144 reasonably expected; realistic.

145 (20) PROGRAM. The Alabama Dam Safety Program.

146 ~~(19)~~ (21) RECONSTRUCTION. Removal and replacement of an
147 existing dam or a portion thereof.

148 ~~(20)~~ (22) REMOVAL. Complete elimination of the dam
149 embankment or structure to restore the approximate original
150 topographic contours of the valley.

151 ~~(21)~~ (23) RESERVOIR. Any area that contains or will
152 contain impounded water, wastewater, or liquid-borne materials
153 by virtue of its having been impounded by a dam. This term
154 does not include ~~privately-owned~~ privately-owned reservoirs,
155 regardless of the hazard designation, unless the owner has
156 elected to participate in the program in accordance with this
157 article.

158 ~~(22)~~ (24) SIGNIFICANT HAZARD POTENTIAL DAM. A dam
159 assigned the significant hazard potential classification where
160 failure or misoperation results in no probable loss of human
161 life but can result in major economic loss, environmental
162 damage, disruption of lifeline facilities, or other issues
163 impacting public safety and welfare.

164 ~~(23)~~ (25) STATE-OWNED DAM OR RESERVOIR. Any dam or
165 reservoir that is owned by this state or a department, board,
166 commission, institution, or agency thereof.

167 ~~(24)~~ (26) WATER STORAGE ELEVATION. The maximum elevation
168 of water surface ~~which can~~ that may be obtained by the dam or



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169 reservoir."

170 "§33-7-72

171 (a) The Alabama Emergency Management Agency shall
172 administer the Alabama Dam Safety Program in accordance with
173 this article.

174 ~~(a)~~ (b) A participating owner shall ~~ensure~~ cause all
175 plans and specifications for initial construction,
176 reconstruction, enlargement, alteration, repair, operation,
177 breach, abandonment, or removal of dams and reservoirs, and
178 the supervision of the construction of dams and reservoirs,
179 ~~shall~~ to be in the charge of an engineer and assisted by
180 qualified geologists and other specialists as necessary.

181 ~~(b)~~ (c) A participating owner of any dam or reservoir
182 shall ~~ensure~~ cause the dam or reservoir ~~is~~ to be inspected a
183 minimum of once every four years by an engineer. The engineer
184 shall certify to the ~~local emergency management~~ agency that
185 the inspection has been completed and deliver a record of the
186 inspection to the owner.

187 ~~(c)~~ (d) A participating owner shall ~~notify the local~~
188 ~~emergency management agency in writing of the construction or~~
189 ~~the enlargement~~ cause all plans and specifications for initial
190 construction, reconstruction, enlargement, alteration, repair,
191 operation, breach, abandonment, or removal of any dam or
192 reservoir to be submitted to the agency for approval. Plans
193 and specifications shall be signed and sealed by the design
194 engineer.

195 ~~(d)~~ (e) Upon the transfer of ownership of any dam or
196 reservoir, the current participating owner shall notify the



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197 ~~local emergency management~~ agency. The subsequent owner may
198 elect to continue participating in the inspection program ~~but~~
199 or ~~may also~~ elect to cease participation with no penalty.

200 ~~(e)~~ (f) A participating owner of a state-owned dam or
201 reservoir shall submit a written affidavit to the ~~local~~
202 ~~emergency management~~ agency for each state-owned dam or
203 reservoir elected to be subject to this article.

204 ~~(f)~~ (g) Notwithstanding any other provision of this
205 article, a state-owned dam or reservoir that is subject to
206 this article shall be inspected a minimum of once every four
207 years by an engineer, so long as sufficient funds have been
208 appropriated by the Legislature to, or sufficient relevant
209 grant funds have been obtained by, the participating owner of
210 the state-owned dam or reservoir. The engineer shall certify
211 to the ~~local emergency management~~ agency that the inspection
212 has been completed and deliver a record of the inspection to
213 the owner."

214 "§33-7-73

215 (a) ~~It shall be the duty of the inspecting~~ An engineer
216 ~~to inspecting a dam or reservoir pursuant to Section 33-7-72~~
217 shall assign a hazard potential classification to the ~~dams and~~
218 ~~reservoirs~~ dam or reservoir.

219 (b) In order to protect life and property,
220 participating owners of high and significant hazard potential
221 dams and reservoirs shall develop and file with the ~~local~~
222 ~~emergency management~~ agency an emergency action plan prepared
223 by an engineer in consultation with the ~~highest ranking~~
224 ~~official of the local emergency management agency~~ Director of



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225 Emergency Management, or his or her designee, which shall be
226 implemented in the event of an emergency involving that
227 participating owner's dam or ~~dams~~ reservoir. The participating
228 owners of such dams and reservoirs shall periodically test and
229 update the emergency action plan. The plan shall include all
230 of the following elements:

- 231 (1) Emergency notification plan with flowchart.
- 232 (2) Statement of purpose.
- 233 (3) Project description.
- 234 (4) Emergency detection, evaluation, and
235 classification.
- 236 (5) General responsibilities.
- 237 (6) Preparedness.
- 238 (7) Inundation maps or other acceptable description of
239 the inundated area.

240 (8) Appendices.

241 (c) If the participating owner of a dam or reservoir
242 makes the determination that an emergency involving a dam or
243 reservoir exists, the owner shall immediately implement the
244 emergency action plan, notify the ~~local emergency management~~
245 agency, and take any additional actions necessary to safeguard
246 life, health, and property."

247 "§33-7-74

248 (a) ~~The local emergency management agency has neither~~
249 ~~inspection nor regulatory duty or responsibility.~~ The agency
250 shall adopt rules to implement this article, including:

- 251 (1) Approval procedures to implement Section
252 33-7-72(d); and



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253 (2) Fees as necessary to offset the agency's costs in
254 implementing this article.

255 (b) Records pertaining to dams and reservoirs kept by
256 and in the possession of the agency or a local emergency
257 management agency pursuant to this article shall not be public
258 documents.

259 (c) Nothing in this article shall be construed to
260 relieve a participating owner or operator of a dam or
261 reservoir of the legal duties, obligations, or liabilities, or
262 to waive any immunity, incident to the ownership or operation
263 of the dam or reservoir.

264 (d) Any records or other information relating to a dam
265 or reservoir pursuant to this article possessed by a local
266 emergency management agency shall be transferred to the agency
267 before January 1, 2027. A local emergency management agency
268 may retain a copy of any such information to enable
269 appropriate action in the event of an emergency.

270 (e) Before the fifteenth legislative day of the 2027
271 Regular Session, the agency shall prepare and submit to the
272 Governor and the Legislature, including the Chair of the House
273 Ways and Means General Fund Committee and the Chair of the
274 Senate Finance and Taxation General Fund Committee, both of
275 the following:

276 (1) An Alabama Dam Safety Program Implementation Plan
277 designed to comply with the National Dam Safety Program
278 established pursuant to 33 U.S.C. § 467f.

279 (2) A statement of any operational or financial needs,
280 including legislative action, appropriation, or other



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281 resources necessary for the agency to implement this article.

282 (f) The agency may receive and shall seek federal,
283 state, and private funds, including grants from the Federal
284 Emergency Management Agency.

285 (g) The agency shall coordinate with the United States
286 Army Corps of Engineers to ensure all relevant dams in Alabama
287 are included in the National Inventory of Dams and Low-Head
288 Dams."

289 Section 2. This act shall become effective on October
290 1, 2026.



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB378

Senate 02-Apr-26

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris,
Secretary.

House of Representatives

Passed: 09-Apr-26

By: Senator Chambliss