

2022 Regular Session

SENATE BILL NO. 280

BY SENATOR BERNARD

TRANSPORTATION/DEV DEPT. Provides relative to the Dam Safety Program. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 38:21, 22, 23, 26(C), 27, and 28(B), and to enact R.S. 38:28(C)  
3 and (D), relative to DOTD and the inspection, regulation, and supervision of all  
4 present or future dams within the state; to provide for additional requirements for the  
5 engineer; to provide for certain penalties; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 38:21, 22, 23, 26(C), 27, and 28(B) are hereby amended and  
8 reenacted and R.S. 38:28(C) and (D) are hereby enacted to read as follows:

9 §21. Intent

10 It is the responsibility of the state to provide a means for the inspection,  
11 regulation, and supervision of all present or future dams within the state and the  
12 operation and maintenance of those as specified in this Chapter, both federal and  
13 nonfederal but excluding the Toledo Bend Dam, **and the locks and dams on the**  
14 **Red River, Ouachita River, Black River, Mississippi River, and tributaries**  
15 **under the jurisdiction of the United States Army Corps of Engineers,** in order  
16 to prevent and correct potential hazards to downstream life and property in the event  
17 of failure of any dam.

## 1 §22. Definitions

2 For the purposes of this When used in this Chapter, the following words,  
3 terms and phrases, shall have the following meaning:

4 (1) ~~a dam~~ "Dam" is any artificial barrier, including appurtenant works, which  
5 does or will impound or divert water or any other liquid substance and which ~~(1)~~ is  
6 or will be **have a dam height of** twenty-five feet or more ~~in height from the bed of~~  
7 ~~the watercourse measured at the downstream toe of the barrier or from the lowest~~  
8 ~~elevation of the outside limit of the barrier, if it is not across a stream channel or~~  
9 ~~watercourse, to the maximum water storage elevation or (2) has or will have an~~  
10 ~~impounding capacity at a~~ maximum water **liquid** storage **elevation capacity** of fifty  
11 acre-feet or more. This definition does not include any dam or barrier that is not or  
12 will not be in excess of six feet in height, regardless of storage capacity or which has  
13 or will have a storage capacity of maximum water storage **elevation capacity** not in  
14 excess of fifteen acre-feet, regardless of height.

15 (2) **"Dam height" means the difference in elevation of the bed of the**  
16 **watercourse measured at the downstream toe of the barrier or from the lowest**  
17 **elevation of the outside limit of the barrier, if it is not across a stream channel**  
18 **or watercourse, to the lowest point on the crest of the dam excluding any**  
19 **spillways or controlled openings.**

20 (3) **"Modification" means enlargements or changes that may affect the**  
21 **safety of the dam, including but not limited to adding significant amounts of**  
22 **material to, or removing material from the cross-section of a dam; changing the**  
23 **dimensions or elevations of spillways; correcting damages associated with**  
24 **significant seepage through or under the dam; building a roadway or placing**  
25 **utilities on or in any part of the dam or altering the operational features of a**  
26 **dam excluding activities associated with routine maintenance.**

## 27 §23. Permit or consent required

28 **A.** All dams, as ~~herein above~~ described **in R.S. 38:22**, both federal and  
29 nonfederal but excluding the Toledo Bend Dam, **and the locks and dams on the**

1 Red River, Ouachita River, Black River, Mississippi River and tributaries  
 2 under the jurisdiction of the United States Army Corp of Engineers, shall be  
 3 under the jurisdiction of the state acting through the chief engineer of the Department  
 4 of Transportation and Development, office of engineering. The chief engineer, or his  
 5 authorized representative, shall have supervision and overview of the construction,  
 6 modification, operation, and maintenance of the dams to the extent required to  
 7 protect life and property and to provide for the safety and welfare of the public. No  
 8 person, partnership, association, corporation, agency, or political subdivision shall  
 9 construct any such dam or make, construct, or permit to be made or constructed any  
 10 ~~change in~~ modification of the dam without first obtaining the written consent or  
 11 permit of the chief engineer. No permit is required for routine maintenance.

12 B. All designs for new dams or for modifications or removal of existing  
 13 dams under the jurisdiction of the state shall be designed by a professional  
 14 engineer registered in Louisiana and shall be in compliance with all rules and  
 15 regulations promulgated under the provisions of the Administrative Procedure  
 16 Act. The engineer providing professional services shall notify the owner in  
 17 writing of the owner's obligation to obtain a permit or written consent of the  
 18 chief engineer before the start of construction of a new dam or modification or  
 19 removal of an existing dam.

20 \* \* \*

21 §26. Violations; orders of chief engineer; remedial measures; emergency situations;  
 22 designated operation and maintenance

23 \* \* \*

24 C. \* \* \*

- 25 (1) Bundick Creek in Beauregard Parish
- 26 (2) Kepler Creek Dam in Bienville Parish
- 27 (3) Ivan Lake Dam in Bossier Parish
- 28 (4) Lake Bistineau **Dam** in Bossier Parish
- 29 (5) Black Lake Dam in Caddo Parish

- 1 (6) Lake Claiborne Dam in Claiborne Parish
- 2 (7) Smithport Dam in DeSoto Parish
- 3 (8) Chicot Lake Dam in Evangeline Parish
- 4 (9) Turkey Creek Dam in Franklin Parish
- 5 (10) Iatt Lake Dam in Grant Parish
- 6 (11) Nantachie Lake Dam in Grant Parish
- 7 (12) Caney Lake **Dam** in Jackson Parish
- 8 (13) ~~Allen~~-Chivery **Dam** in Natchitoches Parish
- 9 (14) Saline Lake Dam in Natchitoches Parish
- 10 (15) Bayou Cocodrie in Rapides Parish
- 11 (16) John K. Kelly Grand Bayou in Red River Parish
- 12 (17) Bayou Darbonne Dam and Reservoir in Union Parish
- 13 (18) Lower Anacoco **Dam** in Vernon Parish
- 14 (19) Vernon Lake Dam in Vernon Parish
- 15 **(20) Black Lake Bayou Reservoir in Natchitoches Parish**
- 16 **(21) Nantachie Lake Dam No. 2 in Grant Parish**

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§27. Damage claims

No action may be brought against the state of Louisiana, its agencies, or its agents and employees for the recovery of damages caused by the partial or total failure of any dam or through the operation of any dam on the basis that such defendant or defendants is liable to the claimant because of the approval of the dam, or the approval of plans for flood handling during the period of construction, **modification, removal,** or the issuance or enforcement of orders relative to maintenance, **repair, modification, removal,** or operation of the dam, or the control and regulation of the dam, or the measures taken to protect against failure of the dam during an emergency.

§28. Penalties

A. \* \* \*

1           B. ~~Whoever violates any of the provisions of this Section shall be guilty of~~  
 2           ~~a misdemeanor and shall be fined not more than five hundred dollars or be~~  
 3           ~~imprisoned for not more than six months, or both.~~ **Any engineer providing**  
 4           **professional services who designs a new dam or a modification or removal of an**  
 5           **existing dam without notifying the owner in writing of the owner's obligation**  
 6           **to obtain a permit or written consent of the chief engineer prior to the start of**  
 7           **construction shall be reported to the Louisiana Professional Engineering and**  
 8           **Land Surveying Board (LAPELS).**

9           **C. Upon request of the Department of Transportation and Development,**  
 10           **the state police may issue a citation to any person who is in violation of**  
 11           **Subsection A of this Section. Every person who is convicted of a violation of**  
 12           **Subsection A of this Section shall be guilty of a misdemeanor and shall be fined**  
 13           **not more than five hundred dollars or be imprisoned for not more than six**  
 14           **months, or both.**

15           **D. Every fine imposed pursuant to the provisions of this Section shall be**  
 16           **collected by the court and forwarded to the state treasurer for deposit in the**  
 17           **Transportation Trust Fund to defray the costs of the Louisiana Dam Safety**  
 18           **Program.**

19           Section 2. This Act shall become effective upon signature by the governor or, if not  
 20           signed by the governor, upon expiration of the time for bills to become law without signature  
 21           by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 22           vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 23           effective on the day following such approval.

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The original instrument was prepared by Archana Cadge. The following  
 digest, which does not constitute a part of the legislative instrument, was  
 prepared by Thomas L. Tyler.

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Present law provides it is the responsibility of the state to provide a means for inspection, regulation, and supervision of all present and future dams within the state excluding the Toledo Bend Dam.

Present law further provides all dams excluding the Toledo Bend shall be under the jurisdiction of the Department of Transportation office of engineering.

Proposed law retains present law and additionally excludes the state from being responsible or over the jurisdiction for locks and dams on the following:

- (1) Red River
- (2) Ouachita River
- (3) Black River
- (4) Mississippi River
- (5) tributaries under the jurisdiction of the US Army Corp of Engineers.

Present law provides for the definition of dam.

Proposed law retains present law and provides for definitions for "dam height" and "modification".

Proposed law further provides all designs for new dams and modification or removal of existing dams under state jurisdiction shall be designed by a professional engineer registered in the state of Louisiana.

Proposed law provides that an engineer who does not comply with the notice requirements of proposed law shall be reported to LAPELS.

Present law provides for the requirements in which legal action may be brought against the state for damages caused by partial or total failure of any dam.

Proposed law provides for technical additions to the requirements for which a legal action may be brought against the state.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 38:21, 22, 23, 26(C), 27, and 28(B); adds R.S. 38:28(C) and (D))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Transportation, Highways, and Public Works to the original bill

1. Changes the definition of "modification".
2. Changes the entity that an engineer can be reported to from DOTD to LAPELS.
3. Makes technical changes.

##### Senate Floor Amendments to engrossed bill

1. Technical amendments only.