

SENATE BILL NO. 280

BY SENATOR BERNARD

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.

18 §22. Definitions

19 For the purposes of this **When used in this** Chapter, **the following words,**
20 **terms and phrases, shall have the following meaning:**

21 **(1) a dam** "Dam" is any artificial barrier, including appurtenant works, which
22 does or will impound or divert water or any other liquid substance and which ~~(1) is~~
23 **has** or will ~~be~~ **have a dam height of** twenty-five feet or more ~~in height from the bed~~
24 ~~of the watercourse measured at the downstream toe of the barrier or from the lowest~~
25 ~~elevation of the outside limit of the barrier, if it is not across a stream channel or~~
26 ~~watercourse, to the maximum water storage elevation or (2) has or will have an~~
27 ~~impounding capacity at a~~ maximum **water liquid** storage **elevation capacity** of fifty

1 acre-feet or more. This definition does not include any dam or barrier that is not or
2 will not be in excess of six feet in height, regardless of storage capacity or which has
3 or will have a storage capacity of maximum water storage ~~elevation~~ **capacity** not in
4 excess of fifteen acre-feet, regardless of height.

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

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

17 §23. Permit or consent required

18 **A.** All dams, as ~~herein above~~ described **in R.S. 38:22**, both federal and
19 nonfederal but excluding the Toledo Bend Dam, **and the locks and dams on the**
20 **Red River, Ouachita River, Black River, Mississippi River and tributaries**
21 **under the jurisdiction of the United States Army Corp of Engineers**, shall be
22 under the jurisdiction of the state acting through the chief engineer of the Department
23 of Transportation and Development, office of engineering. The chief engineer, or his
24 authorized representative, shall have supervision and overview of the construction,
25 modification, operation, and maintenance of the dams to the extent required to
26 protect life and property and to provide for the safety and welfare of the public. No
27 person, partnership, association, corporation, agency, or political subdivision shall
28 construct any such dam or make, construct, or permit to be made or constructed any
29 ~~change in~~ **modification of** the dam without first obtaining the written consent or
30 permit of the chief engineer. No permit is required for routine maintenance.

1 B. All designs for new dams or for modifications or removal of existing
2 dams under the jurisdiction of the state shall be designed by a professional
3 engineer registered in Louisiana and shall be in compliance with all rules and
4 regulations promulgated under the provisions of the Administrative Procedure
5 Act. The engineer providing professional services shall notify the owner in
6 writing of the owner's obligation to obtain a permit or written consent of the
7 chief engineer before the start of construction of a new dam or modification or
8 removal of an existing dam.

9 * * *

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

12 * * *

13 C. The commission or political subdivision under whose authority the
14 following dams are established, is hereby authorized to transfer the maintenance and
15 operation thereof to the Department of Transportation and Development, office of
16 engineering, and the Department of Transportation and Development, office of
17 engineering, is hereby authorized and directed to operate and maintain the dam,
18 water-control structures, gates, spillway, and related appurtenances to the extent that
19 it deems necessary to ensure that the manmade impoundment structure and the
20 attendant water-control devices are functioning to design capabilities.

- 21 (1) Bundick Creek in Beauregard Parish
- 22 (2) Kepler Creek Dam in Bienville Parish
- 23 (3) Ivan Lake Dam in Bossier Parish
- 24 (4) Lake Bistineau **Dam** in Bossier Parish
- 25 (5) Black Lake Dam in Caddo Parish
- 26 (6) Lake Claiborne Dam in Claiborne Parish
- 27 (7) Smithport Dam in DeSoto Parish
- 28 (8) Chicot Lake Dam in Evangeline Parish
- 29 (9) Turkey Creek Dam in Franklin Parish
- 30 (10) Iatt Lake Dam in Grant Parish

- 1 (11) Nantachie Lake Dam in Grant Parish
- 2 (12) Caney Lake **Dam** in Jackson Parish
- 3 (13) ~~Allen~~-Chivery **Dam** in Natchitoches Parish
- 4 (14) Saline Lake Dam in Natchitoches Parish
- 5 (15) Bayou Cocodrie in Rapides Parish
- 6 (16) John K. Kelly Grand Bayou in Red River Parish
- 7 (17) Bayou Darbonne Dam and Reservoir in Union Parish
- 8 (18) Lower Anacoco **Dam** in Vernon Parish
- 9 (19) Vernon Lake Dam in Vernon Parish
- 10 **(20) Black Lake Bayou Reservoir in Natchitoches Parish**
- 11 **(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. * * *

B. ~~Whoever violates any of the provisions of this Section shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both.~~ **Any engineer providing professional services who designs a new dam or a modification or removal of an existing dam without notifying the owner in writing of the owner's obligation to obtain a permit or written consent of the chief engineer prior to the start of**

1 construction shall be reported to the Louisiana Professional Engineering and
2 Land Surveying Board (LAPELS).

3 C. Upon request of the Department of Transportation and Development,
4 the state police may issue a citation to any person who is in violation of
5 Subsection A of this Section. Every person who is convicted of a violation of
6 Subsection A of this Section shall be guilty of a misdemeanor and shall be fined
7 not more than five hundred dollars or be imprisoned for not more than six
8 months, or both.

9 D. Every fine imposed pursuant to the provisions of this Section shall be
10 collected by the court and forwarded to the state treasurer for deposit in the
11 Transportation Trust Fund to defray the costs of the Louisiana Dam Safety
12 Program.

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____