

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2080

Introduced by

Natural Resources Committee

(At the request of the State Engineer)

1 A BILL for an Act to amend and reenact section 61-16.1-38 of the North Dakota Century Code,
2 relating to issuing temporary permits for dikes, dams, or other devices in cases of emergency.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 61-16.1-38 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **61-16.1-38. Permit to construct or modify dam, dike, or other device required -**
7 **Penalty - Emergency.** No dikes, dams, or other devices for water conservation, flood control
8 regulation, watershed improvement, or storage of water which are capable of retaining,
9 obstructing, or diverting more than twelve and one-half acre-feet [15418.52 cubic meters] of
10 water ~~shall~~ may be constructed within any district except in accordance with the provisions of
11 this chapter. An application for the construction of any dike, dam, or other device, along with
12 complete plans and specifications, ~~shall~~ must be presented first to the state engineer. After
13 receipt, the state engineer shall consider the application in such detail as the state engineer
14 deems necessary and proper. The state engineer shall refuse to allow the construction of any
15 unsafe or improper dike, dam, or other device which would interfere with the orderly control of
16 the water resources of the district, or may order such changes, conditions, or modifications as
17 in the judgment of the state engineer may be necessary for safety or the protection of property.
18 Within forty-five days after receipt of the application, except in unique or complex situations, the
19 state engineer shall complete the state engineer's initial review of the application and forward
20 the application, along with any changes, conditions, or modifications, to the water resource
21 board of the district within which the contemplated project is located. The board thereupon
22 shall consider, within forty-five days, the application, and suggest any changes, conditions, or
23 modifications to the state engineer. If the application meets with the board's approval, the
24 board shall forward the approved application to the state engineer. The state engineer shall

1 make the final decision on the application and forward that decision to the applicant and the
2 local water resource board. The state engineer may issue temporary permits for dikes, dams,
3 or other devices in cases of an emergency. Any person constructing a dam, dike, or other
4 device, which is capable of retaining, obstructing, or diverting more than twelve and one-half
5 acre-feet [15418.52 cubic meters] of water, without first securing a permit to do so, as required
6 by this section, ~~shall be~~ is liable for all damages proximately caused by ~~such~~ the dam, dike, or
7 other device, and ~~shall be~~ is guilty of a class B misdemeanor.