

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 a permit to construct or modify a dam, dike, or other device.

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.**

8 No dikes, dams, or other devices for water conservation, flood control regulation, watershed
9 improvement, or storage of water which are capable of retaining, obstructing, or diverting more
10 than fifty acre-feet [61674.08 cubic meters] of water or twenty-five acre-feet [30837.04 cubic
11 meters] of water for a medium-hazard or high-hazard dam, may be constructed within any
12 district except in accordance with the provisions of this chapter. An application for the
13 construction of any dike, dam, or other device, along with complete plans and specifications,
14 must be presented first to the state engineer. Except for low-hazard dams less than ten feet
15 [3.05 meters] in height, the plans and specifications must be completed by a professional
16 engineer registered in this state. After receipt, the state engineer shall consider the application
17 in such detail as the state engineer deems necessary and proper. The state engineer shall
18 refuse to allow the construction of any unsafe or improper dike, dam, or other device which
19 would interfere with the orderly control of the water resources of the district, or may order such
20 changes, conditions, or modifications as in the judgment of the state engineer may be
21 necessary for safety or the protection of property. Within forty-five days after receipt of the
22 application, except in unique or complex situations, the state engineer shall complete the state
23 engineer's initial review of the application and forward the application, along with any changes,
24 conditions, or modifications, to the water resource board of the district within which the

1 contemplated project is located. The board thereupon shall consider, within forty-five days, the
2 application, and suggest any changes, conditions, or modifications to the state engineer. If the
3 application meets with the board's approval, the board shall forward the approved application to
4 the state engineer. If the board fails to respond within forty-five days, it shall be determined the
5 board has no changes, conditions, or modifications. The state engineer shall make the final
6 decision on the application and forward that decision to the applicant and the local water
7 resource board. The state engineer may issue temporary permits for dikes, dams, or other
8 devices in cases of an emergency. Any person constructing a dam, dike, or other device, which
9 is capable of retaining, obstructing, or diverting more than fifty acre-feet [61674.08 cubic
10 meters] of water or twenty-five acre-feet [30837.04 cubic meters] of water for a medium-hazard
11 or high-hazard dam, without first securing a permit to do so, as required by this section, is liable
12 for all damages proximately caused by the dam, dike, or other device, and is guilty of a class B
13 misdemeanor.