

Introduced by

Energy and Natural Resources Committee

(At the request of the Department of Water Resources)

1 A BILL for an Act to amend and reenact section 61-16.1-38 of the North Dakota Century Code
2 relating to the department of water resources authority regarding water permit thresholds for
3 dikes, dams, and other devices; and to provide a penalty.

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

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

7 **61-16.1-38. Permit to construct or modify dam, dike, or other device required -**
8 **Penalty - Emergency.**

9 ~~No dikes~~Dikes, dams, or other devices for water conservation, flood control regulation,
10 watershed improvement, or water storage of water which are~~must be constructed in accordance~~
11 with this chapter. A permit is required from the department for the construction of a low-hazard
12 dam or other device capable of retaining, obstructing, or diverting more than fifty acre-feet
13 [61674.08 cubic meters] of water ~~or; a medium-hazard or high-hazard dam capable of retaining,~~
14 obstructing, or diverting more than twenty-five acre-feet [30837.04 cubic meters] of water ~~for a~~
15 ~~medium-hazard or high-hazard dam, may be constructed within any district except in~~
16 ~~accordance with the provisions of this chapter; an agricultural dike capable of protecting more~~
17 than eighty acres [32.37 hectares] of land area; or any dike capable of protecting an occupied
18 residence or structure or public infrastructure. A~~A~~ permit application for the construction of any
19 dike, dam, or other device, along with complete plans and specifications, must be ~~presented~~
20 ~~first~~submitted to the department of water resources. Except for low-hazard dams less than
21 ten feet [3.05 meters] in height ~~or, agricultural dikes less than two feet [0.61 meters] in height, or~~
22 a farmstead ring dike, the plans and specifications must be completed by a professional
23 engineer. ~~The professional engineer must be registered in this state. After receipt, the~~The
24 department shall consider the application in such detail as the department deems necessary

1 and proper. The department shall refuse to allow the construction of any unsafe or improper
2 dike, dam, or other device ~~which~~that would interfere with the orderly control of the water
3 resources of the district, or may order changes, conditions, or modifications as in the ~~judgment~~
4 ~~of the department~~department's judgment may be necessary for safety or the protection of
5 property. Within forty-five days after application receipt ~~of the application~~, except in unique or
6 complex situations, the department shall complete the initial review of the application and
7 forward the application, along with any changes, conditions, or modifications, to the water
8 resource board of the district within which the contemplated project is located. The board shall
9 consider the application within forty-five days, and suggest any changes, conditions, or
10 modifications to the department. If the board approves the application, the board shall forward
11 the approved application to the department. If the board fails to respond within forty-five days,
12 the board will be deemed to have no changes, conditions, or modifications to make. The
13 department shall make the final decision on the application and forward that decision to the
14 applicant and the local water resource board. The department may issue temporary permits for
15 dikes, dams, or other devices in cases of an emergency. Any person constructing a dam, dike,
16 or other device ~~capable of retaining, obstructing, or diverting more than fifty acre-feet [61674.08-~~
17 ~~cubic meters] of water or twenty-five acre-feet [30837.04 cubic meters] of water for a~~
18 ~~medium-hazard or high-hazard dam~~, without first securing a necessary permit ~~to do so~~, as
19 required by this section, is liable for all damages proximately caused by the dam, dike, or other
20 device, and is guilty of a class B misdemeanor.