

HOUSE BILL NO. 1087

Introduced by

Agriculture 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**
7 **required - 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 or agricultural dikes less than two feet [0.61 meters] in height, the plans
16 and specifications must be completed by a professional engineer registered in this state. After
17 receipt, the state engineer shall consider the application in such detail as the state engineer
18 deems necessary and proper. The state engineer shall refuse to allow the construction of any
19 unsafe or improper dike, dam, or other device which would interfere with the orderly control of
20 the water resources of the district, or may order such changes, conditions, or modifications as in
21 the judgment of the state engineer may be necessary for safety or the protection of property.
22 Within forty-five days after receipt of the application, except in unique or complex situations, the
23 state engineer shall complete the state engineer's initial review of the application and forward
24 the application, along with any changes, conditions, or modifications, to the water resource

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