

SENATE BILL No. 524

By Committee on Natural Resources

2-8

9 AN ACT concerning water and watercourses; relating to dams; amending
10 K.S.A. 82a-303c and K.S.A. 2005 Supp. 82a-303b and repealing the
11 existing sections.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2005 Supp. 82a-303b is hereby amended to read
15 as follows: 82a-303b. (a) (1) In order to secure conformity with adopted
16 rules and regulations and to assure compliance with the terms, conditions
17 or restrictions of any consent or permit granted pursuant to the provisions
18 of K.S.A. 82a-301 through 82a-303, and amendments thereto, the chief
19 engineer or an authorized representative of the chief engineer shall have
20 the power and the duty to inspect any dam or other water obstruction.
21 Upon a finding pursuant to subsection (a) of K.S.A. 82a-303c, and amend-
22 ments thereto, by the chief engineer that a dam is unsafe, the chief en-
23 gineer shall order an annual inspection of the dam until it is either in
24 compliance with all applicable provisions of this act, any rules and regu-
25 lations promulgated pursuant to this act, permit conditions and orders of
26 the chief engineer; or the dam is removed. The safety inspection shall be
27 conducted by the chief engineer or authorized representative and the
28 cost shall be paid by the dam owner. *Except as provided in subsection*
29 *(a)(4) of K.S.A. 82a-303b, and amendments thereto*, the class and size of
30 a dam provided for by the provisions of this act shall be defined by rules
31 and regulations adopted by the chief engineer pursuant to K.S.A. 82a-
32 303a, and amendments thereto. Inspection fees are as follows:

33 Size of Dam	Inspection fee
34 Class 1	\$1,500
35 Class 2	\$1,500
36 Class 3	\$2,500
37 Class 4	\$4,000.

38 (2) *Except as provided in subsection (a)(5) of K.S.A. 82a-303b, and*
39 *amendments thereto*, each hazard class C dam shall be required to have
40 a safety inspection conducted by a licensed professional engineer quali-
41 fied in design, construction, maintenance and operation of dams once
42 every three years, unless otherwise ordered by the chief engineer.

43 (3) *Except as provided in subsection (a)(5) of K.S.A. 82a-303b, and*

1 *amendments thereto*, each hazard class B dam shall be required to have
2 a safety inspection conducted by a licensed professional engineer quali-
3 fied in design, construction, maintenance and operation of dams once
4 every five years unless otherwise ordered by the chief engineer.

5 (4) (A) *The chief engineer shall not change the size or hazard class*
6 *of any dam to a larger size class or higher hazard class after the dam has*
7 *been built, regardless of downstream development or construction, unless*
8 *the dam in question has been voluntarily structurally modified to a larger*
9 *size or impoundment after the downstream construction in question.*

10 (B) *Any dam in existence, prior to the passage of this act, that the*
11 *chief engineer has re-classified to a larger size or hazard class due to*
12 *downstream development or construction shall be re-classified to its as-*
13 *signed classification at the time of the dam's construction or its most recent*
14 *voluntary structural modification.*

15 (C) *The provisions of subsections (A) and (B) shall only apply after*
16 *the owner or operator of the dam in question has notified local emergency*
17 *management personnel of the presence of the dam.*

18 (5) *A dam is not required to have a safety inspection if the only lives*
19 *or property continuously endangered by the dam are the lives or property*
20 *of the dam owner or operator or their immediate family.*

21 ~~(4)~~ (6) Within 60 days of the date of inspection, a report of the in-
22 spection shall be provided to the chief engineer by the licensed profes-
23 sional engineer who conducted the inspection. The report shall document
24 the physical condition of the dam, describing any deficiencies observed,
25 an analysis of the capacity of the dam and its spillway works, compliance
26 of the dam with approved plans and permit conditions, changes observed
27 in the condition of the dam since the previous inspection, an assessment
28 of the hazard classification of the dam including a statement that the
29 engineer either agrees or disagrees with the current classification, and
30 any other information relevant to the safety of the dam or specifically
31 requested by the chief engineer.

32 ~~(5)~~ (7) Upon failure of a dam owner to comply with the applicable
33 inspection interval, the chief engineer or such chief engineer's authorized
34 representative shall conduct a mandatory inspection of the dam and the
35 costs as established by this act for the inspection shall be paid by the
36 owner, in addition to any other remedies provided for violations of this
37 act.

38 ~~(6)~~ (8) The failure to file a complete and timely report as required
39 by the provisions of this act, or the failure to submit the fees assessed for
40 inspections conducted by the chief engineer or such chief engineer's au-
41 thorized representative shall be deemed a violation of this act and subject
42 to the penalties provided by K.S.A. 82a-305a, and amendments thereto.

43 (b) For the purpose of inspecting any dam or other water obstruction,

1 the chief engineer or an authorized representative of the chief engineer
2 shall have the right of access to private property. Costs for any work which
3 may be required by the chief engineer or the authorized representative
4 prior to or as a result of the inspection of a dam or other water obstruction
5 shall be paid by the owner, governmental agency or operator of such dam
6 or other water obstruction.

7 (c) All fees collected by the chief engineer pursuant to this section
8 shall be remitted to the state treasurer as provided in K.S.A. 2005 Supp.
9 82a-328, and amendments thereto.

10 Sec. 2. K.S.A. 82a-303c is hereby amended to read as follows: 82a-
11 303c. (a) *Except as otherwise provided in subsection (b) of K.S.A. 82a-
12 303c, and amendments thereto*, whenever the chief engineer finds that:
13 (1) The construction, modification, operation or maintenance of a dam
14 or other water obstruction is in violation of adopted rules and regulations
15 or of terms, conditions or restrictions of a permit or consent granted by
16 the chief engineer or, (2) conditions exist in the construction, modifica-
17 tion, operation or maintenance of a dam or other water obstruction which
18 may present a hazard to the public's safety, he or she shall issue an order
19 to require the correction of any such violation or condition existing in the
20 construction, modification, operation or maintenance of a dam or other
21 water obstruction by the owner or operator thereof. An order may be
22 issued to require the removal of a dam or other water obstruction. The
23 order shall contain the chief engineer's findings concerning any violation
24 or conditions existing and shall prescribe the corrective action to be taken.

25 (b) *The chief engineer shall not require the correction of any violation
26 or condition existing in the construction, modification, operation or main-
27 tenance of a dam or other water obstruction if the only lives or property
28 endangered by the dam are the lives or property of the dam owner or
29 operator, or their immediate family.*

30 ~~(b)~~ (c) Whenever the condition of any dam or other water obstruction
31 is so dangerous to the safety of life or property as not to permit time for
32 the issuance and enforcement of an order relative to construction, mod-
33 ification, maintenance or operation thereof, or, the passing of imminent
34 floods threaten the safety of any dam or other water obstruction, the chief
35 engineer shall immediately employ any remedial means necessary to pro-
36 tect the safety of life or property. The chief engineer shall continue in
37 full charge and control of any such dam or other water obstruction until
38 the same is rendered safe or the emergency occasioning the remedial
39 action has ceased.

40 Sec. 3. K.S.A. 82a-303c and K.S.A. 2005 Supp. 82a-303b are hereby
41 repealed.

42 Sec. 4. This act shall take effect and be in force from and after its
43 publication in the statute book.