

March 20, 1979

LB 544

Kremer, what do we do with the bill?

SENATOR KREMER: I move the bill be advanced. I think I have explained it.

SPEAKER MARVEL: The motion is that LB 544 as amended be advanced to E & R for Review. Senator Murphy.

SENATOR MURPHY: Question of Senator Kremer. Senator Kremer, in reading the bill I see that the party involved shall be given notice that the dam is in disrepair, but I see no provision of any penalty nor any means of enforcing that notice. Is there something else in another statute that would compel them to do what is necessary in the way of repair? Or should there be possibly on Select File some kind of enforcement or notice given, I mean penalty or enforcement so that, in fact, the structure is repaired?

SENATOR KREMER: Senator Murphy, in answer to your question it was, does the department have a...are there penalties if there is no compliance to the department's orders? Is this right?

SENATOR MURPHY: Yes.

SENATOR KREMER: Well, I'm...it would be my opinion that the department can take legal action if there is no response to their order to repair the dam, and follow the usual procedure of going to court with them. We did...this question came up and the answer they gave was...almost, I guess that all the times they've had voluntary compliance and they've had no problem, however, I would suppose if there was an element of danger in the dam, if there was no compliance on the part of the owner, they would take legal action and take them to court.

SENATOR MURPHY: You feel then that it is provided for in some other statute?

SENATOR KREMER: Well, just...I would say that every man has a right to a day in court, and this is what would happen in this case, but since they have no problem I imagine the ones that brought us this bill saw no need to provide for a penalty. Now if you feel that one should be...that the bill should be amended to that extent, I would have no problem, but the testimony given to the Committee was that voluntary compliance is effective and it does come about.

SENATOR MURPHY: Possibly we could ask your researcher to