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BILL ANALYSIS

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Senate Bill 1038 (as reported without amendment)  
 Senate Bill 1039 (as reported without amendment)  
 Sponsor: Senator Phil Arthurhultz  
 Committee: Natural Resources and Environmental Affairs

Date Completed: 11-23-88

**RATIONALE**

In the autumn of 1986, heavy rains fell on much of Michigan, causing severe flooding in many parts of the State. As a result of the flooding, dams in White Cloud (which is in Newaygo County) and Luther (which is in Lake County) that had stood for over 100 years were destroyed. Residents of those two communities reportedly would like to rebuild their dams to return waterways to pre-1986 conditions. State law requires the Department of Natural Resources (DNR) to issue permits before the reconstruction or repair of dams, fills, or structures can proceed, however. The DNR has denied reconstruction permits for the replacement of the White Cloud and Luther dams. Some people feel that the reconstruction permit requirement should be waived for older dams that are destroyed by nature, so that long-standing damaged dams can be replaced.

**CONTENT**

Senate Bills 1038 and 1039 would amend Public Act 184 of 1963 and the Inland Lakes and Streams Act, respectively, to provide that the Acts' permit requirements would not apply to the repair, reconstruction, or improvement of a dam, fill, or structure that was over 75 years old and had been damaged by an act of God. The requirements would be waived for three years.

Senate Bill 1038 would waive the permit requirement for the repair, reconstruction, or improvement to dams and Senate Bill 1039 would waive the requirement for fills and structures.

MCL 281.132 (Senate Bill 1038)  
 281.954 (Senate Bill 1039)

**FISCAL IMPACT**Senate Bill 1038

The bill would have minimal direct fiscal impact on State and local government by allowing an exemption from the \$0-\$600 Dam Construction Approval permit fee.

Senate Bill 1039

The bill would have minimal direct fiscal impact on State and local government by allowing an exemption from the \$25 Inland Lakes and Streams permit fee.

**ARGUMENTS****Supporting Argument**

Only two dams, the ones in White Cloud and Luther, were denied dam repair or reconstruction permits by the DNR after the 1986 floods. Each of these dams was erected

over 100 years ago, the White Cloud dam in 1866 and the Luther dam in 1881, and had become an integral part of its community. The waterways impeded by the dams provided recreational opportunities for many and valuable lakefront property for residents. The communities of White Cloud and Luther should be permitted to return to the type of lifestyle afforded them by the dams for over 100 years.

**Opposing Argument**

The permits requested for the reconstruction of these dams were denied after extensive hearings and deliberations as required by law. The DNR permit process should not be circumvented.

**Opposing Argument**

Although there is recreational value to a lake that has been lost due to one of the dam's destruction, there also is a certain recreational value to a natural stream. The river that was blocked by the White Cloud dam, for instance, has become a spawning area for some species of fish. Replacing that dam would block those fish from their seasonal spawning grounds and ruin a cold-water fishery. In addition, restoration of a swimming area, by diking an overflow area of the former lake, has been offered to residents in order to replace some of their lost recreational activities.

**Opposing Argument**

By issuing a three-year blanket waiver from reconstruction and repair permit requirements to dams over 75 years old that were damaged by an act of God, the bill inadvertently could apply to many dams rather than just the ones in White Cloud and Luther. In addition, waiving the permit requirement, in effect, could exempt the dams from all of the safety and inspection standards imposed by the Acts. In order to limit the waiver to the permit process for these two dams, the bill should be amended to require the DNR to issue the permits, rather than waiving the permit requirement altogether.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

S.B. 1038 &amp; 1039 (11-23-88)