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BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

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Senate Bill 1038 (as enrolled)

Senate Bill 1039 (as enrolled)

Sponsor: Senator Phil Arthurs

Senate Committee: Natural Resources and Environmental Affairs

House Committee: Conservation and Environment

PUBLIC ACT 484 of 1988PUBLIC ACT 485 of 1988

Date Completed: 1-3-89

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 Everett Township (which is in Newaygo County) and the Village of 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 Everett Township and Luther dams. Some people feel that the reconstruction permit requirement should be waived for these dams.

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 the dams, in Everett Township and the Village of Luther that were damaged by the 1986 floods. The requirements would be waived for three years.

A person who repaired, reconstructed, or improved one of the dams, however, would have to submit the project's plans and specifications to the DNR and the Joint Capital Outlay Committee (JCOC). The plans and specifications would have to be prepared by a licensed professional engineer, meet acceptable industry standards, and be approved by the JCOC. In reviewing the plans and specifications for approval, the JCOC could require environmental considerations to protect water quality. Any contaminated sediments would have to be disposed of in compliance with State law. In addition, the performance of the project would have to be supervised and its completion certified to the DNR by a licensed professional engineer.

Senate Bill 1038 would waive the permit requirement for the repair, reconstruction, or improvement of 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 IMPACTSenate 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 Everett Township 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 Everett 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. These communities 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 in a lake that has been lost due to one of the dam's destruction, there also is a certain recreational value in a natural stream. The river that was blocked by the Everett Township 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.

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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.