

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 991

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/8/95

Short Title: Wetlands Program/Mitigation Bank.

(Public)

Sponsors:

Referred to: Finance

May 4, 1995

A BILL TO BE ENTITLED

1 AN ACT TO ESTABLISH THE WETLANDS RESTORATION, ENHANCEMENT,
2 AND PROTECTION PROGRAM, TO ESTABLISH A WETLANDS MITIGATION
3 BANK, AND TO PROVIDE THAT A MITIGATION FEE MAY BE PAID INTO
4 THE WETLANDS MITIGATION BANK IN LIEU OF OTHER MITIGATION
5 MEASURES.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. Article 21 of Chapter 143 of the General Statutes is amended by
9 adding a new section to read:

10 "**§ 143-214.8. Wetlands Restoration, Enhancement, and Protection Program.**

11 (a) Policy, Purpose, and Intent. – The Department shall develop a wetlands
12 restoration, enhancement, and protection program. The program shall be a statewide
13 program for the restoration, enhancement, and creation of wetlands resources that
14 contribute to the protection and improvement of water quality, flood prevention, fisheries,
15 wildlife habitat, and recreational opportunities. The purpose of the program is to restore
16 wetlands functions and values across the State to replace critical functions lost through
17 historic wetlands conversion and through current and future permitted fill. The
18 implementation of this program shall include a statewide plan for wetlands restoration to
19 be developed by the Department within the context of the basinwide planning initiatives,

1 with the goal of protecting and enhancing water quality, flood prevention, fisheries,
2 wildlife habitat, and recreational opportunities within each river basin in the State.
3 Further, it is the intent that this program be implemented to streamline the wetlands
4 permitting process, minimize delays in permit decisions, decrease the burden of permit
5 applicants of planning and performing compensatory mitigation for wetlands losses, and
6 increase the ecological effectiveness of compensatory mitigations.

7 (b) Mitigation Banking Program. – There is established within the Department a
8 wetlands mitigation bank. The wetlands mitigation bank is part of the Wetlands
9 Restoration, Enhancement, and Protection Program. It is the intent of this section that all
10 mitigation shall be coordinated by the Department unless specifically exempted by the
11 Secretary of the Department. The purpose of the mitigation bank is to replace wetlands
12 acres, functions, and values that are lost through activities permitted under wetlands
13 regulatory programs. The emphasis of mitigation is on replacing functions within the
14 same river basin or smaller watershed in which the functions are lost.

15 (c) Wetlands Restoration Fund. – The Wetlands Restoration Fund is established as
16 a nonreverting fund within the Department. Receipts collected under this section shall be
17 credited to the Fund and shall be used to defray the expenses of planning, designing, and
18 implementing wetlands and riparian area restoration and mitigation banking activities
19 under this section. No funds shall be expended from this Fund for any purpose other than
20 those directly contributing to the enhancement, restoration, or creation of wetlands
21 functions and values on sites previously identified as having high potential for these
22 purposes.

23 (d) Wetlands Mitigation Fees. – Upon development and implementation of rules
24 and procedures by the Environmental Management Commission, the Department may
25 accept monetary payment into the Wetlands Restoration Fund in lieu of other
26 compensatory mitigation requirements for wetlands permits. The Department may accept
27 payment into the Fund on a case by case method, if the Department, after careful analysis
28 determines that the fees paid into the Fund are sufficient to ensure the successful
29 restoration and maintenance of wetlands acres, functions, and values sufficient to offset
30 the loss of wetlands that will result if the permit being applied for is granted.

31 The fee shall be based on the per-acre cost of restoring or creating a wetlands capable
32 of performing the same or similar functions in the same river basin as the permitted
33 wetlands loss, including the overhead costs that are associated with wetlands restoration
34 planning and administration of the program, and the long-term monitoring and
35 maintenance of the restored area.

36 (e) Exceptions to Wetlands Mitigation and Certification. – Mitigation or
37 certification of wetlands fill less than one acre will not be required."

38 Sec. 2. There is appropriated from the General Fund to the Department of
39 Environment, Health, and Natural Resources, the sum of two hundred fifty thousand
40 dollars (\$250,000) in recurring funds for the 1995-96 fiscal year and the sum of two
41 million dollars (\$2,000,000) in recurring funds for the 1996-97 fiscal year to implement
42 the Wetlands Restoration, Enhancement, and Protection Program.

43 Sec. 3. This act becomes effective July 1, 1995.