

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 991

Short Title: Wetlands Program/Mitigation Bank.

(Public)

Sponsors: Senators Rand and Perdue.

Referred to: Agriculture/Environment/Natural Resources

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 Commission 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 wetland 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 wetland functions and values across the State to replace critical functions lost through
17 historic wetland conversion and through current and future permitted fill. The
18 implementation of this program shall include a statewide plan for wetland restoration to
19 be developed by the Commission within the context of the basinwide planning initiatives,
20 with the goal of protecting and enhancing water quality, flood prevention, fisheries,

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

6 (b) Mitigation Banking Program. – There is established within the Department a
7 wetland mitigation bank. The wetland mitigation bank is part of the Wetlands
8 Restoration, Enhancement, and Protection Program. The purpose of the mitigation bank
9 is to replace wetland acres, functions, and values that are lost through activities permitted
10 under wetland regulatory programs. The emphasis of mitigation is on replacing functions
11 within the same river basin or smaller watershed in which the functions are lost.

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

20 (d) Wetland Mitigation Fees. – The Department may accept monetary payment
21 into the Wetland Restoration Fund in lieu of other compensatory mitigation requirements
22 for wetland permits. The Department may accept payment into the Fund on a case by
23 case method, if the Department, after careful analysis determines that the fees paid into
24 the Fund are sufficient to ensure the successful restoration and maintenance of wetland
25 acres, function, and values sufficient to offset the loss of wetlands that will result if the
26 permit being applied for is granted.

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

32 Sec. 2. This act becomes effective July 1, 1995.