

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE BILL 638
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Short Title: Capitalize on Wetland Mitigation. (Public)

Sponsors: Representatives Millis, J. Bell, and Pendleton (Primary Sponsor).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Environment.

April 14, 2015

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, IN COOPERATION WITH THE WILDLIFE RESOURCES COMMISSION, TO TAKE ACTION THAT ENCOURAGES WETLAND MITIGATION PRACTICES SUPPORTIVE OF PUBLIC RECREATION AND HUNTING ON MITIGATION SITES.

The General Assembly of North Carolina enacts:

SECTION 1. It is the intent of the General Assembly to capitalize on the establishment of public and private wetland mitigation banks that serve to meet federal mitigation requirements for wildlife habitat and hunting opportunities. The directives to Department of Environment and Natural Resources and the Wildlife Resources Commission enacted in this act are intended to facilitate voluntary cooperation by third-party groups to realize the goal of increased wildlife habitats and hunting opportunities on lands contained within public and private wetland mitigation banks through the pursuit of federal mitigation credits without increasing the cost of achieving those credits.

SECTION 2. Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-214.15. Compensatory mitigation for diverse habitats.

(a) The Department of Environment and Natural Resources shall seek more net gains of aquatic resources through compensatory mitigation by increasing wetland establishment of diverse habitats, including emergent marsh habitat, shallow open water, and other forested and non-forested wetland habitats.

(b) The Department of Environment and Natural Resources shall further establish with the district engineer of the Wilmington District of the United States Army Corps of Engineers compensatory mitigation credit ratios that incentivize the creation or establishment of diverse wetland habitats to support waterfowl and other wildlife.

(c) The Department of Environment and Natural Resources shall work in cooperation with the Wildlife Resources Commission to ensure that all purchased mitigation lands or conservation easements on these lands maximize opportunities for public recreation, including hunting, and promote wildlife and biological diversity. The Department and the Commission shall pursue the voluntary involvement of third-party groups to leverage resources and ensure that there is no additional cost to private mitigation bankers or the taxpayers in achieving these mitigation credits.

(d) The Office of Land and Water Stewardship of the Department of Environment and Natural Resources shall catalog an inventory of all its land holdings and determine how many



1 of those holdings are potential wildlife habitats, either as currently held or with some
2 modification. The Wildlife Resources Commission shall conduct a third-party review of this
3 inventory, and the Commission and the Office of Land and Water Stewardship shall both report
4 their findings to the Environmental Review Commission as part of the report required under
5 subsection (f) of this section.

6 (e) If private individuals, corporations, or other nongovernmental entities wish to
7 purchase any of the inventory of land suitable for wildlife habitat, then the Office of Land and
8 Water Stewardship of the Department of Environment and Natural Resources shall issue a
9 request for proposal to all interested respondents for the purchase of the land, and the State
10 shall accept a proposal and proceed to dispose of the land only if the Department determines
11 that the proposal meets both of the following requirements:

12 (1) The proposal provides for the maintenance in perpetuity of management
13 measures listed in the original mitigation instrument or otherwise needed on
14 an ongoing or periodic basis to maintain the functions of the mitigation site.

15 (2) Where the functions of the mitigation site include provision of recreation or
16 hunting opportunities to members of the general public, the proposal
17 includes measures needed to continue that level of access.

18 The instrument conveying a property interest in a mitigation site shall be executed in the
19 manner required by Article 16 of Chapter 146 of the General Statutes, and shall reflect the
20 requirements of this subsection.

21 (f) The Department of Environment and Natural Resources shall report to the
22 Environmental Review Commission by March 1 of each year on its progress in complying with
23 the provisions of this section."

24 **SECTION 3.** This act is effective when it becomes law.