

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE PRINCIPAL CLERK

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HOUSE DRH30552-TFz-3 (09/26)

Short Title: Environmental Technical Corrections 2012. (Public)

Sponsors: Representatives Gillespie and Samuelson (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS
3 TO VARIOUS LAWS RELATED TO ENVIRONMENT AND NATURAL RESOURCES,
4 AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 113-182.1(e) reads as rewritten:

7 "(e) The Secretary of Environment and Natural Resources shall monitor progress in the
8 development and adoption of Fishery Management Plans in relation to the Schedule for
9 development and adoption of the plans established by the Marine Fisheries Commission. The
10 Secretary of Environment and Natural Resources shall report to the Joint Legislative
11 Commission on Governmental Operations on progress in developing and implementing the
12 Fishery Management Plans on or before 1 September of each year. The Secretary of
13 Environment and Natural Resources shall report to the ~~Joint Legislative Commission on~~
14 ~~Seafood and Aquaculture~~ Joint Legislative Commission on Governmental Operations within 30
15 days of the completion or substantial revision of each proposed Fishery Management Plan. The
16 Joint Legislative Commission on Governmental Operations shall review each proposed Fishery
17 Management Plan within 30 days of the date the proposed Plan is submitted by the Secretary.
18 The Joint Legislative Commission on Governmental Operations may submit comments and
19 recommendations on the proposed Plan to the Secretary within 30 days of the date the proposed
20 Plan is submitted by the Secretary."

21 **SECTION 2.(a)** G.S. 113A-151.1 is amended by adding a new subsection to read:

22 "**§ 113A-115.1. Limitations on erosion control structures.**

23 ...

24 (i) No later than September 1 of each year, the Commission shall report to the
25 Environmental Review Commission on the implementation of this section. The report shall
26 provide a detailed description of each proposed and permitted terminal groin and its
27 accompanying beach fill project, including the information required to be submitted pursuant to
28 subsection (e) of this section. For each permitted terminal groin and its accompanying beach
29 fill project, the report shall also provide all of the following:

30 (1) The findings of the Commission required pursuant to subsection (f) of this
31 section.

32 (2) The status of construction and maintenance of the terminal groin and its
33 accompanying beach fill project, including the status of the implementation
34 of the plan for construction and maintenance and the inlet management plan.



1 (3) A description and assessment of the benefits of the terminal groin and its
2 accompanying beach fill project, if any.

3 (4) A description and assessment of the adverse impacts of the terminal groin
4 and its accompanying beach fill project, if any, including a description and
5 assessment of any mitigation measures implemented to address adverse
6 impacts."

7 **SECTION 2.(b)** Section 5 of S.L. 2011-387 is repealed.

8 **SECTION 3.** The title of Part 2 of Article 3B of Chapter 143 of the General
9 Statutes reads as rewritten:

10 "Part 2. ~~Guaranteed Energy Savings Contracts for~~ Energy Saving Measures for Governmental
11 Units."

12 **SECTION 4.(a)** G.S. 143-214.11 is amended by adding two new subsections to
13 read:

14 "**§ 143-214.11. Ecosystem Enhancement Program: compensatory mitigation.**

15 ...

16 (i) The Ecosystem Enhancement Program shall exercise its authority to provide for
17 compensatory mitigation under the authority granted by this section to use mitigation
18 procurement programs in the following order of preference:

19 (1) Full delivery/bank credit purchase program. – The Ecosystem Enhancement
20 Program shall first seek to meet compensatory mitigation procurement
21 requirements through the Program's full delivery program or by the purchase
22 of credits from a private compensatory mitigation bank.

23 (2) Existing local compensatory mitigation bank credit purchase program. –
24 Any compensatory mitigation procurement requirements that are not
25 fulfillable under subdivision (1) of this subsection shall be procured from an
26 existing local compensatory mitigation bank, provided that the credit
27 purchase is made to mitigate the impacts of a project located within the
28 mitigation bank service area and hydrologic area of the existing local
29 compensatory mitigation bank.

30 (3) Design/build program. – Any compensatory mitigation procurement
31 requirements that are not fulfillable under subdivisions (1) or (2) of this
32 subsection shall be procured under a program in which Ecosystem
33 Enhancement Program contracts with one private entity to lead or implement
34 the design, construction, and postconstruction monitoring of compensatory
35 mitigation at sites obtained by the Ecosystem Enhancement Program. Such a
36 program shall be considered the procurement of compensatory mitigation
37 credits.

38 (4) Design-bid-build program. – Any compensatory mitigation procurement
39 requirements that are not fulfillable under either subdivision (1) or (2) of this
40 subsection may be procured under the Ecosystem Enhancement Program's
41 design-bid-build program. The Ecosystem Enhancement Program may
42 utilize this program only when procurement under subdivision (1) or (2) of
43 this subsection is not feasible. Any mitigation site design work currently
44 being performed through contracts awarded under the design-bid-build
45 program shall be allowed to continue as scheduled. Contracts for
46 construction of projects with a design already approved by the Ecosystem
47 Enhancement Program shall be awarded by the Ecosystem Enhancement
48 Program by issuing a Request for Proposal (RFP). Only contractors who
49 have prequalified under procedures established by the Ecosystem
50 Enhancement Program shall be eligible to bid on Ecosystem Enhancement
51 Program construction projects. Construction contracts issued under this

1 subdivision shall be exempt from the requirements of Article 8B of Chapter
2 143 of the General Statutes.

3 (j) The regulatory requirements for the establishment, operation, and monitoring of a
4 compensatory mitigation bank or full delivery project shall vest at the time of the execution of
5 the mitigation banking instrument or the award of a full delivery contract."

6 **SECTION 4.(b)** Sections 1.2 and 1.3 of S.L. 2011-343 are repealed.

7 **SECTION 5.** G.S. 143B-279.8(f) reads as rewritten:

8 "(f) The Secretary of Environment and Natural Resources shall report to the
9 Environmental Review Commission and the ~~Joint Legislative Commission on Seafood and~~
10 ~~Aquaculture [Joint Legislative Commission on Governmental Operations]~~ Joint Legislative
11 Commission on Governmental Operations within 30 days of the completion or substantial
12 revision of each draft Coastal Habitat Protection Plan. The Environmental Review Commission
13 and the Joint Legislative Commission on Governmental Operations shall concurrently review
14 each draft Coastal Habitat Protection Plan within 30 days of the date the draft Plan is submitted
15 by the Secretary. The Environmental Review Commission and the Joint Legislative
16 Commission on Governmental Operations may submit comments and recommendations on the
17 draft Plan to the Secretary within 30 days of the date the draft Plan is submitted by the
18 Secretary."

19 **SECTION 6.** This act is effective when it becomes law.