

ADOPTED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1087

AMENDMENT NO. A1
(to be filled in by
Principal Clerk)

H1087-AMH-68 [v.2]

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Amends Title [NO]
Fifth Edition

Date _____, 2020

Senator Newton

1 moves to amend the bill on page 1, line 15, by deleting the word "AND";

2
3 and on page 1, line 17, by rewriting the line to read: "RESOURCES PROJECTS; AND TO
4 INCORPORATE FLOOD STORAGE CAPACITY ENHANCEMENT PROJECTS INTO THE
5 ACTIVITIES AND PURPOSES OF THE DIVISION OF MITIGATION SERVICES."
6

7 and on page 14, lines 10-11, by inserting the following language between those lines:

8 "SECTION 11A.(a) G.S. 143-214.8 reads as rewritten:

9 "§ 143-214.8. **Division of Mitigation Services: established.**

10 The Division of Mitigation Services is established within the Department of Environmental
11 Quality. The Division of Mitigation Services shall be developed by the Department as a
12 nonregulatory statewide mitigation services program for the acquisition, maintenance,
13 restoration, enhancement, and creation of wetland and riparian resources that contribute to the
14 protection and improvement of water quality, flood prevention, fisheries, wildlife habitat, and
15 recreational opportunities. The Division of Mitigation Services shall consist of the following
16 components:

17 ...

18 (9) Restoration and monitoring of projects or land acquisitions that create or
19 restore flood storage capacity."

20 SECTION 11A.(b) G.S. 143-214.9 reads as rewritten:

21 "§ 143-214.9. **Division of Mitigation Services: purposes.**

22 The purposes of the Division of Mitigation Services are as follows:

23 ...

24 (7) To reduce flood risk by creating or restoring flood storage capacity in streams,
25 wetlands and floodplains."

26 SECTION 11A.(c) G.S. 143-214.12(a) reads as rewritten:

27 "(a) Ecosystem Restoration Fund. – The Ecosystem Restoration Fund is established as a
28 nonreverting fund within the Department. The Fund shall be treated as a special trust fund and
29 shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and
30 G.S. 147-69.3. The Ecosystem Restoration Fund shall provide a repository (i) for monetary
31 contributions and donations or dedications of interests in real property to promote projects for
32 the restoration, enhancement, preservation, or creation of wetlands and riparian areas ~~and~~ or the



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1 enhancement or restoration of flood storage capacity, (ii) for payments made in lieu of
 2 compensatory mitigation as described in subsection (b) of this section, and (iii) for
 3 appropriations and grants supporting projects that enhance flood storage capacity and mitigate
 4 flood risk under G.S. 143-214.11A. No funds shall be expended from this Fund for any purpose
 5 other than those directly contributing to the acquisition, perpetual maintenance, enhancement,
 6 restoration, or creation of wetlands, streams, and riparian areas, and the
 7 enhancement and restoration of flood storage capacity in accordance with the basinwide plan as
 8 described in G.S. 143-214.10. The cost of acquisition includes a payment in lieu of ad valorem
 9 taxes required under G.S. 146-22.3 when the Department is the State agency making the
 10 acquisition. The Department shall separately account for funds provided to the Ecosystem
 11 Restoration Fund in support of projects for enhancement or restoration of flood storage capacity
 12 under G.S. 143-214.11A."

13 **SECTION 11A.(d)** G.S. 143-214.13 reads as rewritten:

14 **"§ 143-214.13. Division of Mitigation Services: reporting requirement.**

15 (a) The Department of Environmental Quality shall report each year by November 1 to
 16 the Environmental Review Commission, the Joint Legislative Oversight Committee on
 17 Agriculture and Natural and Economic Resources, and the Fiscal Research Division regarding
 18 its progress in implementing the Division of Mitigation Services and its use of the funds in the
 19 Ecosystem Restoration Fund. The report shall document statewide wetlands losses and ~~gains~~
 20 ~~and gains~~, compensatory mitigation performed under G.S. 143-214.8 through
 21 ~~G.S. 143-214.12.~~G.S. 143-214.12, and gains in acre-feet of flood storage capacity from projects
 22 funded under G.S. 143-214.11A. The report shall also provide an accounting of receipts and
 23 disbursements of the Ecosystem Restoration Fund, an analysis of the per-acre cost of wetlands
 24 restoration, and a cost comparison on a per-acre basis between the State's Division of Mitigation
 25 Services and private mitigation banks. The Department shall also send a copy of its report to the
 26 Fiscal Research Division of the General Assembly.

27 (b) The Department shall maintain an inventory of all property that is held, managed,
 28 maintained, enhanced, restored, or used to create wetlands or to enhance or restore flood storage
 29 capacity under the Division of Mitigation Services. The inventory shall also list all conservation
 30 easements held by the Department. The inventory shall be included in the annual report required
 31 under subsection (a) of this section."

32 **SECTION 11A.(e)** Article 21 of Chapter 143 of the General Statutes is amended by
 33 adding a new section to read:

34 **"§ 143-214.11A. Flood storage capacity restoration and enhancement.**

35 (a) Definition. – A Flood Storage Project is defined as a project that creates or restores
 36 a quantity of flood storage capacity expressed in acre-feet. A flood storage project includes, but
 37 is not limited to, the creation or restoration of wetlands, streams and riparian areas, temporary
 38 flooding of fields, pastures or forests, and other nature-based projects that can demonstrably
 39 increase flood storage capacity.

40 (b) Flood storage capacity basinwide planning; advisory board. – To the extent of funds
 41 available for this purpose, basinwide plans developed under G.S. 143-214.10 shall include plans
 42 for restoration and enhancement of flood storage capacity to reduce the risk of flooding in flood
 43 prone areas of the state and enhance stormwater management capacity, and shall set target

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1 amounts of flood storage capacity for each basin and sub-basin. It is the intent of the General
2 Assembly that appropriations, grants and other funds received for flood storage enhancement
3 shall be held in the Ecosystem Restoration Fund established by G.S. 143-214.12 and allocated
4 for projects consistent with the basinwide plans, this section, and the conditions on funding for
5 grants received in support of the program or a specific project. The Division shall establish an
6 advisory board to guide program development and implementation.

7 (c) Projects funded under this section shall meet all of the following requirements:

8 (1) Be consistent with plans for restoration and enhancement of stormwater
9 management or flood storage capacity included in basinwide plans developed
10 under G.S. 143-214.10.

11 (2) Be designed and constructed to provide for a quantifiable increase in flood
12 storage capacity in the designated watershed or sub-watershed based on the
13 difference between the total number of acre-feet of flood storage in the
14 watershed or sub-watershed before project commencement and after project
15 completion.

16 (3) Incorporate a mechanism for post-construction monitoring.

17 (d) The Division shall comply with the procurement preferences set forth in
18 G.S. 143-214.11(i) in procuring flood storage enhancement or restoration projects with funds set
19 aside for those purposes. Requests for proposal shall require that projects specify the number of
20 acre-feet of flood storage capacity enhancement or restoration in a specified watershed or
21 sub-watershed based on the watershed planning required by this section. Submitted proposals
22 shall be prioritized and selected based on criteria to be developed by Division with input from
23 the advisory board. These criteria may include analysis of costs and benefits, compatibility with
24 and maintenance of working lands and ecological benefits."

25 **SECTION 11A.(f)** This section is effective when it becomes law."
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SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

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and vote information, is available in the
Senate Principal Clerk's Office**