## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2011

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## SENATE DRS35319-TFz-3A\* (09/26)

Short Title:	Environmental Technical Corrections 2012.	(Public)
Sponsors:	Senators Rouzer, East and Jackson.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO ENVIRONMENT AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

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

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

**SECTION 2.(a)** G.S. 113A-151.1 is amended to add a new subsection to read: "§ 113A-115.1. Limitations on erosion control structures.

- (i) No later than September 1 of each year, the Commission shall report to the Environmental Review Commission on the implementation of this section. The report shall provide a detailed description of each proposed and permitted terminal groin and its accompanying beach fill project, including the information required to be submitted pursuant to subsection (e) of this section. For each permitted terminal groin and its accompanying beach fill project, the report shall also provide all of the following:
  - (1) The findings of the Commission required pursuant to subsection (f) of this section.
  - (2) The status of construction and maintenance of the terminal groin and its accompanying beach fill project, including the status of the implementation of the plan for construction and maintenance and the inlet management plan.



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

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

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

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

**SECTION 4.(a)** G.S. 143-214.11 is amended to add two new subsections to read: "§ 143-214.11. Ecosystem Enhancement Program: compensatory mitigation.

...

- (i) The Ecosystem Enhancement Program shall exercise its authority to provide for compensatory mitigation under the authority granted by this section to use mitigation procurement programs in the following order of preference:
  - (1) Full delivery/Bank credit purchase program. The Ecosystem Enhancement Program shall first seek to meet compensatory mitigation procurement requirements through the Program's full delivery program or by the purchase of credits from a private compensatory mitigation bank.
  - (2) Existing local compensatory mitigation bank credit purchase program. Any compensatory mitigation procurement requirements that are not fulfillable under subdivision (1) of this subsection shall be procured from an existing local compensatory mitigation bank provided that the credit purchase is made to mitigate the impacts of a project located within the mitigation bank service area and hydrologic area of the existing local compensatory mitigation bank.
  - (3) Design/build program. Any compensatory mitigation procurement requirements that are not fulfillable under subdivisions (1) or (2) of this subsection shall be procured under a program in which Ecosystem Enhancement Program contracts with one private entity to lead or implement the design, construction, and post-construction monitoring of compensatory mitigation at sites obtained by the Ecosystem Enhancement Program. Such a program shall be considered the procurement of compensatory mitigation credits.
  - Design-bid-build program. Any compensatory mitigation procurement (4) requirements that are not fulfillable under either subdivisions (1) or (2) of this subsection may be procured under Ecosystem Enhancement Programs design-bid-build program. Ecosystem Enhancement Program may utilize this program only when procurement under subdivisions (1) or (2) of this subsection is not feasible. Any mitigation site design work currently being performed through contracts awarded under the design-bid-build program shall be allowed to continue as scheduled. Contracts for construction of projects with a design already approved by Ecosystem Enhancement Program shall be awarded by Ecosystem Enhancement Program by issuing a Request for Proposal (RFP). Only contractors who have prequalified under procedures established by Ecosystem Enhancement Program shall be eligible to bid on Ecosystem Enhancement Program construction projects. Construction contracts issued under this subdivision shall be exempt from the requirements of Article 8B of Chapter 143 of the General Statutes.

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

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

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

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

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

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