

SENATE BILL NO. 115—SENATOR FLORES

FEBRUARY 8, 2023

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to the mitigation of certain projects. (BDR 20-679)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to counties; revising provisions relating to compensatory mitigation for losses of aquatic resources; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing federal law sets forth certain requirements: (1) governing compensatory mitigation for losses of aquatic resources resulting from certain activities governed by section 404 of the federal Clean Water Act, 33 U.S.C. § 1344, including the establishment, use and operation of mitigation banks and in-lieu fee programs; (2) relating to certain Department of the Army permits concerning waters of the United States; and (3) governing disposal sites for dredged or fill material, including specifications for mitigation banks and in-lieu fee programs. (33 C.F.R. Parts 325 and 332, 40 C.F.R. Part 230) Existing state law authorizes a board of county commissioners to: (1) by ordinance establish, use and operate a wetlands mitigation bank in accordance with guidelines set forth in certain federal regulations; and (2) enter into a cooperative agreement with a public agency or nonprofit organization for the operation of the mitigation bank. (NRS 244.388) **Section 1** of this bill authorizes a board of county commissioners to also: (1) establish, use and operate an in-lieu fee program for compensatory mitigation in accordance with guidelines set forth in certain federal regulations; and (2) enter into a cooperative agreement with a public agency or nonprofit organization for the establishment, use or operation of the in-lieu fee program.

**Section 2** of this bill makes a conforming change to amend a reference to a definition deleted in **section 1**.



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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** NRS 244.388 is hereby amended to read as follows:

244.388 1. The board of county commissioners of a county may by ordinance establish, use and operate a ~~[wetlands]~~ mitigation bank *or an in-lieu fee program* in accordance with the ~~[guidelines]~~ *federal regulations* set forth in ~~[Federal Guidance for the Establishment, Use and Operation of Mitigation Banks, as issued by the United States Army Corps of Engineers, Environmental Protection Agency, National Resources Conservation Service, Fish and Wildlife Service and National Marine Fisheries Service in 60 Federal Register 58,605 on November 28, 1995.]~~ *33 C.F.R. Parts 325 and 332 and 40 C.F.R. Part 230.*

2. A board of county commissioners that establishes a mitigation bank *or an in-lieu fee program* pursuant to subsection 1 may enter into a cooperative agreement with a public agency or nonprofit organization for the *establishment, use or* operation of the mitigation bank ~~[-~~

~~—3. As used in this section:~~

~~—(a) “Hydric soil” means soil that, in its undrained condition, is saturated, flooded or ponded long enough during a growing season to develop an anaerobic condition that supports the growth and regeneration of hydrophytic vegetation.~~

~~—(b) “Hydrophytic vegetation” means a plant growing in:~~

~~——(1) Water; or~~

~~——(2) A substrate that is at least periodically deficient in oxygen during a growing season as a result of excessive water content.~~

~~—(c) “Mitigation bank” means a system in which the creation, enhancement, restoration or preservation of wetlands is recognized by a regulatory agency as generating compensatory credits allowing the future development of other wetland sites.~~

~~—(d) “Public agency” has the meaning ascribed to it in NRS 277.100.~~

~~—(e) “Wetland” means land that:~~

~~——(1) Has a predominance of hydric soil;~~

~~——(2) Is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and~~

~~——(3) Under normal circumstances does support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.]~~ *or the in-lieu fee program.*



**Sec. 2.** NRS 482.379185 is hereby amended to read as follows:

482.379185 1. Except as otherwise provided in this subsection and NRS 482.38279, the Department, in cooperation with Nevada Ducks Unlimited or its successor, shall design, prepare and issue license plates for the support of the conservation of wetlands, using any colors and designs that the Department deems appropriate. The Department shall not design, prepare or issue the license plates unless it receives at least 1,000 applications for the issuance of those plates.

2. If the Department receives at least 1,000 applications for the issuance of license plates for the support of the conservation of wetlands, the Department shall issue those plates for a passenger car or light commercial vehicle upon application by a person who is entitled to license plates pursuant to NRS 482.265 and who otherwise complies with the requirements for registration and licensing pursuant to this chapter. A person may request that personalized prestige license plates issued pursuant to NRS 482.3667 be combined with license plates for the support of the conservation of wetlands if that person pays the fees for the personalized prestige license plates in addition to the fees for the license plates for the support of the conservation of wetlands pursuant to subsections 3 and 4.

3. The fee for license plates for the support of the conservation of wetlands is \$35, in addition to all other applicable registration and license fees and governmental services taxes. The license plates are renewable upon the payment of \$10.

4. In addition to all other applicable registration and license fees and governmental services taxes and the fee prescribed in subsection 3, a person who requests a set of license plates for the support of the conservation of wetlands must pay for the initial issuance of the plates an additional fee of \$25 and for each renewal of the plates an additional fee of \$20, to be distributed pursuant to subsection 5.

5. Except as otherwise provided in NRS 482.38279, the Department shall deposit the fees collected pursuant to subsection 4 with the State Treasurer for credit to the State General Fund. The State Treasurer shall, on a quarterly basis, distribute the fees deposited pursuant to this subsection to the Treasurer of Nevada Ducks Unlimited or its successor for use by Nevada Ducks Unlimited or its successor in carrying out:

(a) Projects for the conservation of wetlands that are:

(1) Conducted within Nevada; and

(2) Sponsored or participated in by Nevada Ducks Unlimited or its successor; and



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(b) Fundraising activities for the conservation of wetlands that are:

(1) Conducted within Nevada; and

(2) Sponsored or participated in by Nevada Ducks Unlimited or its successor.

6. If, during a registration period, the holder of license plates issued pursuant to the provisions of this section disposes of the vehicle to which the plates are affixed, the holder shall:

(a) Retain the plates and affix them to another vehicle that meets the requirements of this section if the holder pays the fee for the transfer of the registration and any registration fee or governmental services tax due pursuant to NRS 482.399; or

(b) Within 30 days after removing the plates from the vehicle, return them to the Department.

7. As used in this section, "wetland" ~~[has the meaning ascribed to it in NRS 244.388.]~~ *means land that:*

*(a) Has a predominance of hydric soil;*

*(b) Is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and*

*(c) Under normal circumstances supports a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.*

**Sec. 3.** This act becomes effective upon passage and approval.

