

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:**

1 Existing federal law sets forth certain requirements governing compensatory  
2 mitigation for losses of aquatic resources resulting from certain activities governed  
3 by section 404 of the federal Clean Water Act, 33 U.S.C. § 1344, including the  
4 establishment, use and operation of mitigation banks and in-lieu fee programs. (33  
5 C.F.R. Part 332) Existing state law authorizes a board of county commissioners to:  
6 (1) by ordinance establish, use and operate a wetlands mitigation bank in  
7 accordance with guidelines set forth in certain federal regulations; and (2) enter into  
8 a cooperative agreement with a public agency or nonprofit organization for the  
9 operation of the mitigation bank. (NRS 244.388) **Section 1** of this bill authorizes a  
10 board of county commissioners to also: (1) establish, use and operate an in-lieu fee  
11 program for compensatory mitigation in accordance with guidelines set forth in  
12 certain federal regulations; and (2) enter into a cooperative agreement with a public  
13 agency or nonprofit organization for the operation of the in-lieu fee program.  
14 **Section 2** of this bill makes a conforming change to amend a reference to a  
15 definition deleted in **section 1**.

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

1 **Section 1.** NRS 244.388 is hereby amended to read as follows:  
2 244.388 1. The board of county commissioners of a county  
3 may by ordinance establish, use and operate a ~~[wetlands]~~ mitigation  
4 bank *or an in-lieu fee program* in accordance with the ~~[guidelines]~~  
5 *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. Part 332.~~

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



1 license plates unless it receives at least 1,000 applications for the  
2 issuance of those plates.

3 2. If the Department receives at least 1,000 applications for the  
4 issuance of license plates for the support of the conservation of  
5 wetlands, the Department shall issue those plates for a passenger car  
6 or light commercial vehicle upon application by a person who is  
7 entitled to license plates pursuant to NRS 482.265 and who  
8 otherwise complies with the requirements for registration and  
9 licensing pursuant to this chapter. A person may request that  
10 personalized prestige license plates issued pursuant to NRS  
11 482.3667 be combined with license plates for the support of the  
12 conservation of wetlands if that person pays the fees for the  
13 personalized prestige license plates in addition to the fees for  
14 the license plates for the support of the conservation of wetlands  
15 pursuant to subsections 3 and 4.

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

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

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

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

35 (1) Conducted within Nevada; and

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

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

40 (1) Conducted within Nevada; and

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

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



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

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

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

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

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

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

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

