

# SENATE BILL REPORT

## SB 6221

---

As of January 26, 2004

**Title:** An act relating to the department of natural resources' authority for compensatory mitigation management on state-owned aquatic lands.

**Brief Description:** Creating a wetland mitigation program.

**Sponsors:** Senators Morton, Doumit, Swecker, T. Sheldon, Oke, Fraser, Hargrove, Winsley and Haugen; by request of Commissioner of Public Lands.

**Brief History:**

**Committee Activity:** Natural Resources, Energy & Water: 1/29/04.

---

### SENATE COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER

**Staff:** Genevieve Pisarski (786-7488)

**Background:** Environmental impacts to wetlands can adversely affect resources on state-owned aquatic lands. Compensatory mitigation can offset such impacts, but studies show that additional measures are needed to ensure long-term success.

To help assure the efficacy of compensatory mitigation, the state has authorized wetlands mitigation banking under the jurisdiction of the Department of Ecology. An off-site wetlands mitigation bank can be used by state agencies and local governments to compensate for the impacts of a specific public or private project on wetlands, if all appropriate and practicable steps have been made to minimize environmental impacts, there is no opportunity for on-site compensation, and the banking represents creation, restoration, or enhancement of wetlands in close proximity to the project.

The authority of the Department of Natural Resources (DNR) to manage the state's aquatic lands does not include express authority to manage an aquatic lands mitigation banking program. DNR is generally authorized to manage state-owned aquatic lands for the benefit of the public. It is required to support a balance of goals, including public access, water-dependent uses, renewable resources, and revenue. Revenue is to be used for public benefits, such as shoreline access, environmental protection, and recreation.

**Summary of Bill:** The Department of Natural Resources (DNR) is authorized to accept public and private funds for the purpose of creating an endowment to fund long-term monitoring, maintenance, and management of compensatory mitigation sites and mitigation bank sites on state-owned aquatic lands. The amount required must be determined by DNR before it assumes management of a site and must be based on the specific conditions of the site and the long-term management plan for the site. DNR is authorized to sell credits from a mitigation bank located on state-owned aquatic lands. Credits must be sold for no less than market value as determined by current market appraisal techniques.

Revenue generated from the sale of mitigation credits is deposited in the Aquatic Lands Compensatory Mitigation Endowment Account (Endowment Account), which is created as a non-appropriated account to fund long-term management, maintenance, and monitoring of mitigation sites. Funds in the Endowment Account must be pooled and administered by the State Investment Board. Revenues that exceed that amount identified for that purpose must be distributed to local governments, the Aquatic Lands Management Account, and the Resource Management Cost Account. Any interest and investment revenues generated by the Endowment Account must be transferred to the Aquatic Lands Compensatory Mitigation Account (Mitigation Account), which is created as a non-appropriated account to accept such transfers and payments in lieu of compensatory mitigation. Moneys in the Mitigation Account can be used for purposes similar to those of the Endowment Account.

Compensatory mitigation is defined as the process of restoring, creating, or preserving aquatic resources, either uplands or wetlands, for the purpose of compensating unavoidable adverse impacts. It can occur either on-site, at a nearby site, or at a site distant from the project's impacts. It can also occur either in advance of, or at the same time as, a project's impact and may provide either the same, or different, biological functions as those impacted by the project.

A credit is defined as a unit of trade representing the increase in the ecological value of a site. This increase can be measured by acreage, functions, values, or any other assessment method.

A mitigation bank is defined as a business venture that restores, creates, enhances, or preserves natural resources for the purpose of providing compensatory mitigation.

**Appropriation:** None.

**Fiscal Note:** Available for companion HB 2320.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.