

Committee on Environment and Natural Resources

CS/CS/SB 492 — Mitigation Banks

by Rules Committee; Appropriations Committee on Agriculture, Environment, and General Government; and Senator McClain

The bill establishes the following standardized schedule for releasing mitigation credits:

- 30 percent upon recording a conservation easement and establishing financial assurances (or 100 percent for preservation-only banks).
- 30 percent after completing initial construction activities.
- 20 percent upon meeting interim performance criteria.
- 20 percent upon meeting final success criteria.

The bill provides that permit applicants are entitled to a one-time use of credits from a mitigation bank outside the mitigation bank service area if the Department of Environmental Protection (DEP) or water management district confirms there are an insufficient number or type of credits available within the impacted area. Out-of-service-area credits may not be used until all out-of-kind credits within the service area are used. The following multipliers, which the bill declares to meet the requirements for addressing cumulative impacts, apply to credits outside the service area:

- 1.0 multiplier for use of in-kind credits within the service area.
- 1.0 multiplier for use of in-kind and out-of-service-area credits when the service area overlays part of the same regional watershed as the proposed impacts.
- 1.2 multiplier for use of in-kind and out-of-service-area credits located within a regional watershed immediately adjacent to the regional watershed overlain by a mitigation bank service area in which proposed impacts are located.
- When in-kind credits are not available to offset impacts in the regional watershed immediately adjacent to the regional watershed overlain by a bank service area in which the proposed impacts are located, an additional 0.25 multiplier must be applied for each additional regional watershed boundary crossed.
- An additional 0.50 multiplier must be applied if the mitigation used to offset impacts entails an out-of-kind replacement.

Once the amount of mitigation required to offset impacts is determined, the bill requires DEP or the water management district to contact all mitigation banks with a service area encompassing the location of the proposed impacts within seven business days to verify the availability of credits. Mitigation banks have 15 days to respond; if no response is received, it is presumed credits from that bank are not available. Mitigation banks must submit annual reports detailing the number and type of available credits for sale. DEP and water management districts must compile these reports and provide an annual assessment of the state's mitigation banking system to the Legislature.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2025.

Vote: Senate 30-3; House 87-26

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