

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

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1 Committee/Subcommittee hearing bill: State Affairs Committee  
 2 Representative Duggan offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

**Section 1. Subsections (5) and (6) of section 373.4136, Florida Statutes, are amended to read:**

373.4136 Establishment and operation of mitigation banks.—

9 (5) SCHEDULE FOR CREDIT RELEASE.—After July 1, 2025, when  
 10 issuing ~~awarding mitigation credits to~~ a mitigation bank permit,  
 11 the department or the water management district shall adhere to  
 12 the credit release schedule set forth in this subsection a  
 13 schedule for the release of ~~those~~ credits awarded by ~~in~~ the  
 14 mitigation bank permit. A mitigation credit that has been  
 15 released may be sold or used to offset adverse impacts from an  
 16 activity regulated under this part.

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17           (a) Thirty percent of awarded credits shall be released  
18 for the recordation of the conservation easement and  
19 establishment of financial assurances required by the mitigation  
20 bank permit. If a preservation-only assessment area is used, 100  
21 percent of awarded credits shall be released for the recordation  
22 of the conservation easement and establishment of financial  
23 assurances required by the mitigation bank permit ~~The department~~  
24 ~~or the water management district shall allow a portion of the~~  
25 ~~mitigation credits awarded to a mitigation bank to be released~~  
26 ~~for sale or use prior to meeting all of the performance criteria~~  
27 ~~specified in the mitigation bank permit. The department or the~~  
28 ~~water management district shall allow release of all of a~~  
29 ~~mitigation bank's awarded mitigation credits only after the bank~~  
30 ~~meets the mitigation success criteria specified in the permit.~~

31           (b) Thirty percent of awarded credits shall be released  
32 following completion of initial construction activities as  
33 established by the mitigation bank permit.

34           (c) Twenty percent of awarded credits shall be released in  
35 increments as monitoring indicates interim performance criteria  
36 established by the mitigation bank permit are being met.

37           (d) Twenty percent of awarded credits shall be released  
38 upon meeting final success criteria established by the  
39 mitigation bank permit ~~The number of credits and schedule for~~  
40 ~~release shall be determined by the department or water~~  
41 ~~management district based upon the performance criteria for the~~

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42 ~~mitigation bank and the success criteria for each mitigation~~  
43 ~~activity. The release schedule for a specific mitigation bank or~~  
44 ~~phase thereof shall be related to the actions required to~~  
45 ~~implement the bank, such as site protection, site preparation,~~  
46 ~~earthwork, removal of wastes, planting, removal or control of~~  
47 ~~nuisance and exotic species, installation of structures, and~~  
48 ~~annual monitoring and management requirements for success. In~~  
49 ~~determining the specific release schedule for a bank, the~~  
50 ~~department or water management district shall consider, at a~~  
51 ~~minimum, the following factors:~~

52 ~~1. Whether the mitigation consists solely of preservation~~  
53 ~~or includes other types of mitigation.~~

54 ~~2. The length of time anticipated to be required before a~~  
55 ~~determination of success can be achieved.~~

56 ~~3. The ecological value to be gained from each action~~  
57 ~~required to implement the bank.~~

58 ~~4. The financial expenditure required for each action to~~  
59 ~~implement the bank.~~

60 (e) The mitigation bank applicant may propose an  
61 alternative credit release schedule and the department or water  
62 management district shall consider the proposed alternative  
63 credit release schedule.

64 (f) ~~(e)~~ Notwithstanding the provisions of this subsection,  
65 a mitigation ~~no~~ credit may not shall be released for freshwater  
66 wetland creation until the success criteria established ~~included~~

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67 in the mitigation bank permit for initial construction  
68 activities are met.

69 ~~(g)-(d)~~ The withdrawal of mitigation credits from a  
70 mitigation bank shall be accomplished as a minor modification of  
71 the mitigation bank permit. A processing fee is not ~~shall not be~~  
72 required by the department or water management district for this  
73 minor modification.

74 (6) MITIGATION SERVICE AREA.—The department or water  
75 management district shall establish a mitigation service area  
76 for each mitigation bank permit. The department or water  
77 management district shall notify and consider comments received  
78 on the proposed mitigation service area from each local  
79 government within the proposed mitigation service area. Except  
80 as provided in this section ~~herein~~, mitigation credits may be  
81 withdrawn and used only to offset adverse impacts in the  
82 mitigation service area. The boundaries of the mitigation  
83 service area shall depend upon the geographic area where the  
84 mitigation bank could reasonably be expected to offset adverse  
85 impacts. Mitigation service areas may overlap, and mitigation  
86 service areas for two or more mitigation banks may be approved  
87 for a regional watershed.

88 (a) In determining the boundaries of the mitigation  
89 service area, the department or the water management district  
90 shall consider the characteristics, size, and location of the

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91 mitigation bank and, at a minimum, the extent to which the  
92 mitigation bank:

93 1. Contributes to a regional integrated ecological  
94 network;

95 2. Will significantly enhance the water quality or  
96 restoration of an offsite receiving water body that is  
97 designated as an Outstanding Florida Water, a Wild and Scenic  
98 River, an aquatic preserve, a water body designated in a plan  
99 approved pursuant to the Surface Water Improvement and  
100 Management Act, or a nationally designated estuarine preserve;

101 3. Will provide for the long-term viability of endangered  
102 or threatened species or species of special concern;

103 4. Is consistent with the objectives of a regional  
104 management plan adopted or endorsed by the department or water  
105 management districts; and

106 5. Can reasonably be expected to offset specific types of  
107 wetland impacts within a specific geographic area. A mitigation  
108 bank need not be able to offset all expected impacts within its  
109 service area.

110 (b) The department and water management districts shall  
111 use regional watersheds to guide the establishment of mitigation  
112 service areas. Drainage basins established pursuant to s.  
113 373.414(8) may be used as regional watersheds when they are  
114 established based on the hydrological or ecological  
115 characteristics of the basin. A mitigation service area may

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116 extend beyond the regional watershed in which the bank is  
117 located into all or part of other regional watersheds when the  
118 mitigation bank has the ability to offset adverse impacts  
119 outside that regional watershed. Similarly, a mitigation service  
120 area may be smaller than the regional watershed in which the  
121 mitigation bank is located when adverse impacts throughout the  
122 regional watershed cannot reasonably be expected to be offset by  
123 the mitigation bank because of local ecological or hydrological  
124 conditions.

125 (c) Once a mitigation bank service area has been  
126 established by the department or a water management district for  
127 a mitigation bank, such mitigation bank shall be deemed to  
128 implement a plan that provides regional ecological value; such  
129 service area shall be accepted by all water management  
130 districts, local governments, and the department; and the use of  
131 credits from such mitigation bank to offset impacts within that  
132 bank's service area shall be considered to have met the  
133 cumulative impact requirements of s. 373.414(8) (a).

134 (d) If the requirements in s. 373.414(1)(b) and (8) are  
135 met, the following projects or activities regulated under this  
136 part shall be eligible to use credits released from a mitigation  
137 bank to offset impacts resulting from such projects or  
138 activities a mitigation bank, regardless of whether they are  
139 located within the mitigation service area:

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140 1. Projects with adverse impacts partially located within  
141 the mitigation service area.

142 2. Linear projects, such as roadways, transmission lines,  
143 distribution lines, pipelines, railways, or seaports listed in  
144 s. 311.09(1).

145 3. Projects with total adverse impacts of less than 1 acre  
146 in size.

147 4. Projects that meet the requirements of s. 373.414(1)(b)  
148 and the criteria in paragraphs (e)-(g).

149 (e) If the requirements of s. 373.414(1)(a) are met and an  
150 insufficient number or type of credits from banks whose  
151 permitted service area overlays in whole or in part the regional  
152 watershed in which the impacts occur, the project applicant is  
153 entitled to a one-time use of credits released from a mitigation  
154 bank outside the mitigation bank service area to offset impacts  
155 pursuant to s. 373.414(1)(b), as established by the procedure in  
156 paragraph (g), and upon verification by the department or water  
157 management district that mitigation banks within the regional  
158 watershed in which the adverse impacts are located lack the  
159 appropriate credit type to offset impacts associated with the  
160 proposed project. If the number of released credits within a  
161 mitigation service area only partially offset the impacts  
162 associated with a proposed project in the mitigation service  
163 area, the permit applicant may only use out-of-service-area  
164 credits to account for the difference between the released

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165 credits available in the mitigation bank service area and the  
166 credits required to offset the impacts associated with the  
167 proposed project. In implementing this subsection, the  
168 department and water management districts shall apply a  
169 proximity factor to determine adequate compensatory mitigation  
170 as follows:

171 1. A 1.0 multiplier shall be applied for use of in-kind  
172 credits within any regional watershed overlain in whole or in  
173 part by the service area.

174 2. A 1.0 multiplier shall be applied for use of in-kind  
175 and out-of-service-area credits when the service area overlays  
176 part of the same regional watershed as the proposed impacts.

177 3. A 1.2 multiplier shall be applied for use of in-kind  
178 and out-of-service-area credits located within a regional  
179 watershed immediately adjacent to the regional watershed  
180 overlain by a bank service area in which proposed impacts are  
181 located.

182 4. When in-kind credits are not available to offset  
183 impacts in the regional watershed immediately adjacent to the  
184 regional watershed overlain by a bank service area in which the  
185 proposed impacts are located, as established by the procedure in  
186 paragraph (g), an additional 0.25 multiplier shall be applied  
187 for each additional regional watershed boundary crossed.

188 5. An additional 0.50 multiplier shall be applied after  
189 any multipliers required in subparagraphs 1., 2., 3., and 4., if

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190 the mitigation used to offset impacts entails out-of-kind  
191 replacement which does not replace the same type of freshwater  
192 wetland or fresh surface water impacted.

193 (f) Use of the multipliers in subparagraphs (e)2.-4. meets  
194 the requirements of s. 373.414(8)(a) for addressing cumulative  
195 impacts.

196 (g) Once a permit applicant requests to use out-of-  
197 service-area or out-of-kind credits, the department or water  
198 management district shall contact all mitigation banks with a  
199 mitigation service area encompassing the location of the  
200 proposed impacts within 3 business days after receipt of the  
201 request from the permit applicant and request an accounting of  
202 available credits. The accounting may not include credits  
203 reserved for other permit applicants. The mitigation banks  
204 contacted by the department or water management district shall  
205 be allowed 15 business days after receipt of the request by the  
206 department or water management district. If a mitigation bank  
207 does not reply within the 15 business day timeframe, it is  
208 presumed credits are not available. Upon receipt of the  
209 accounting from the mitigation banks, the department or water  
210 management district shall determine if sufficient credits are  
211 available to offset impacts associated with the proposed project  
212 and notify the permit applicant of such determination within 15  
213 business days. The permit applicant, and no other entity, may  
214 rely on the determination from the department or water

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215 management district for a period of 1 year beginning on the date  
216 the department or water management district notifies the permit  
217 applicant of such determination, but only for purposes relating  
218 to the pending application producing such determination and not  
219 any extensions, nor renewals, nor modifications of any permit  
220 issued pursuant to that pending application, nor for any other  
221 permit application.

222 (h) Beginning July 1, 2026, and each July 1 thereafter,  
223 each mitigation bank in this state shall submit to the  
224 department or water management district an accounting of the  
225 number and type of credits the mitigation has available for  
226 sale. The accounting may not include names of parties for which  
227 credits have been reserved or the contract price paid for the  
228 credits. The department or water management district shall  
229 compile the information to provide an assessment of this state's  
230 mitigation banking system and submit a report to the President  
231 of the Senate and the Speaker of the House of Representatives on  
232 October 1, 2026, and each October 1 thereafter.

233 **Section 2. Subsection (14) is added to section 704.06,**  
234 **Florida Statutes, to read:**

235 704.06 Conservation easements; creation; acquisition;  
236 enforcement.—

237 (14) (a) Upon application by the fee simple owner of a  
238 parcel of land subject to a conservation easement to a water

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239 management district, a water management district shall release  
240 the conservation easement if the following conditions are met:

241 1. The land subject to the easement is less than 15 acres  
242 and is bordered on three or more sides by impervious surfaces;

243 2. Any undeveloped adjacent parcels of land are less than  
244 15 acres and similarly bordered on three or more sides by  
245 impervious surfaces;

246 3. The land contains no historical, architectural,  
247 archeological, or cultural significance; and

248 4. Before the release of the conservation easement, the  
249 applicant must have secured sufficient mitigation credits using  
250 the uniform mitigation assessment method from a mitigation bank  
251 located in this state to offset the loss of wetlands located on  
252 the land subject to the conservation easement.

253 (b) Upon the water management district's release of the  
254 conservation easement, the ad valorem taxes on the property  
255 shall be based on the just value of the property, and the  
256 property may be used for development consistent with the zoning  
257 designation of the adjacent lands.

258 **Section 3.** This act shall take effect July 1, 2025.

259  
260 -----

261 **T I T L E A M E N D M E N T**

262 Remove everything before the enacting clause and insert:

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263 An act relating to mitigation banks; amending s.  
264 373.4136, F.S.; revising provisions for the release  
265 and use of mitigation bank credits; providing  
266 conditions for the use of out-of-service-area  
267 mitigation credits by project applicants; providing a  
268 methodology for determining the award of such credits;  
269 requiring mitigation banks to submit specified annual  
270 reports to the Department of Environmental Protection  
271 or water management district; requiring the department  
272 or water management district to submit specified  
273 annual reports to the Legislature; amending s. 704.06,  
274 F.S.; requiring certain water management districts,  
275 upon application by the owner of a parcel subject to a  
276 conservation easement, to release the conservation  
277 easement if specified conditions are met, including  
278 obtaining sufficient mitigation credits from a  
279 mitigation bank; providing for the valuation of the  
280 property upon such release; specifying that land  
281 released from the conservation easement may be used  
282 for development consistent with certain zoning;  
283 providing an effective date.