

1 A bill to be entitled
2 An act relating to surface waters; amending s.
3 373.414, F.S.; requiring the Department of
4 Environmental Protection to incorporate habitat
5 equivalency analysis in the uniform mitigation
6 assessment method; defining the term "habitat
7 equivalency analysis"; amending s. 403.811, F.S.;
8 requiring that permits for dredging and filling
9 include certain requirements; requiring the department
10 to adopt rules; requiring permitted entities to bear
11 the full cost and responsibility for any damage or
12 destruction caused by dredging, filling, or related
13 activities; amending s. 403.93345, F.S.; revising
14 legislative findings; providing a legislative
15 designation; reenacting s. 373.4137(2)(b) and (4),
16 F.S., relating to mitigation requirements for
17 specified transportation projects, to incorporate the
18 amendment made to s. 373.414, F.S., in a reference
19 thereto; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 **Section 1. Paragraph (a) of subsection (18) of section**
24 **373.414, Florida Statutes, is amended to read:**

25 373.414 Additional criteria for activities in surface

26 | waters and wetlands.—

27 | (18) The department and each water management district
28 | responsible for implementation of the environmental resource
29 | permitting program shall develop a uniform mitigation assessment
30 | method for wetlands and other surface waters. The department
31 | shall adopt the uniform mitigation assessment method by rule no
32 | later than July 31, 2002. The rule shall provide an exclusive
33 | and consistent process for determining the amount of mitigation
34 | required to offset impacts to wetlands and other surface waters,
35 | and, once effective, shall supersede all rules, ordinances, and
36 | variance procedures from ordinances that determine the amount of
37 | mitigation needed to offset such impacts. Once the department
38 | adopts the uniform mitigation assessment method by rule, the
39 | uniform mitigation assessment method shall be binding on the
40 | department, the water management districts, local governments,
41 | and any other governmental agencies and shall be the sole means
42 | to determine the amount of mitigation needed to offset adverse
43 | impacts to wetlands and other surface waters and to award and
44 | deduct mitigation bank credits. A water management district and
45 | any other governmental agency subject to chapter 120 may apply
46 | the uniform mitigation assessment method without the need to
47 | adopt it pursuant to s. 120.54. It shall be a goal of the
48 | department and water management districts that the uniform
49 | mitigation assessment method developed be practicable for use
50 | within the timeframes provided in the permitting process and

51 result in a consistent process for determining mitigation
52 requirements. It shall be recognized that any such method shall
53 require the application of reasonable scientific judgment. The
54 uniform mitigation assessment method must determine the value of
55 functions provided by wetlands and other surface waters
56 considering the current conditions of these areas, utilization
57 by fish and wildlife, location, uniqueness, and hydrologic
58 connection, and, when applied to mitigation banks, the factors
59 listed in s. 373.4136(4). The uniform mitigation assessment
60 method shall also account for the expected time-lag associated
61 with offsetting impacts and the degree of risk associated with
62 the proposed mitigation. The uniform mitigation assessment
63 method shall account for different ecological communities in
64 different areas of the state. In developing the uniform
65 mitigation assessment method, the department and water
66 management districts shall consult with approved local programs
67 under s. 403.182 which have an established mitigation program
68 for wetlands or other surface waters. The department and water
69 management districts shall consider the recommendations
70 submitted by such approved local programs, including any
71 recommendations relating to the adoption by the department and
72 water management districts of any uniform mitigation methodology
73 that has been adopted and used by an approved local program in
74 its established mitigation program for wetlands or other surface
75 waters. Environmental resource permitting rules may establish

76 categories of permits or thresholds for minor impacts under
77 which the use of the uniform mitigation assessment method will
78 not be required. The application of the uniform mitigation
79 assessment method is not subject to s. 70.001. In the event the
80 rule establishing the uniform mitigation assessment method is
81 deemed to be invalid, the applicable rules related to
82 establishing needed mitigation in existence prior to the
83 adoption of the uniform mitigation assessment method, including
84 those adopted by a county which is an approved local program
85 under s. 403.182, and the method described in paragraph (b) for
86 existing mitigation banks, shall be authorized for use by the
87 department, water management districts, local governments, and
88 other state agencies.

89 (a) In developing the uniform mitigation assessment
90 method, the department shall:

91 1. Seek input from the United States Army Corps of
92 Engineers in order to promote consistency in the mitigation
93 assessment methods used by the state and federal permitting
94 programs.

95 2. Incorporate habitat equivalency analysis. As used in
96 this paragraph, the term "habitat equivalency analysis" means a
97 type of methodology used to determine how much restoration is
98 necessary to compensate for adverse impacts.

99 **Section 2. Section 403.811, Florida Statutes, is amended**
100 **to read:**

101 403.811 Dredge and fill permits issued pursuant to this
102 chapter and s. 373.414.—

103 (1) Permits or other orders addressing dredging and
104 filling in, on, or over waters of the state issued pursuant to
105 this chapter or s. 373.414(9) before the effective date of rules
106 adopted under s. 373.414(9) and permits or other orders issued
107 in accordance with s. 373.414(13), (14), (15), or (16) shall
108 remain valid through the duration specified in the permit or
109 order, unless revoked by the agency issuing the permit. The
110 agency issuing the permit or other order may seek to enjoin the
111 violation of, or to enforce compliance with, the permit or other
112 order as provided in ss. 403.121, 403.131, 403.141, and 403.161.
113 A violation of a permit or other order addressing dredging or
114 filling issued pursuant to this chapter is punishable by a civil
115 penalty as provided in s. 403.141 or a criminal penalty as
116 provided in s. 403.161.

117 (2) Permits for dredging and filling must include a
118 requirement that dredging and turbidity monitoring be performed
119 by separate and distinct entities. The department shall adopt
120 rules to implement this subsection.

121 (3) Permitted entities shall bear the full cost of and
122 responsibility for any damage or destruction caused by dredging,
123 filling, or related activities.

124 **Section 3. Present subsections (5) through (12) of section**
125 **403.93345, Florida Statutes, are redesignated as subsections (6)**

126 **through (13), respectively, and a new subsection (5) is added,**
127 **and present subsection (4) is amended to read:**

128 403.93345 Coral reef protection.—

129 (4)(a) The Legislature finds that coral reefs are valuable
130 natural resources that contribute ecologically, aesthetically,
131 and economically to the state. Therefore, the Legislature
132 declares it is in the best interest of the state to clarify the
133 department's powers and authority to protect coral reefs through
134 timely and efficient recovery of monetary damages resulting from
135 vessel groundings and anchoring-related injuries.

136 (b) The Legislature further finds that coral reefs, if
137 healthy and effectively managed, can help mitigate the risks and
138 related loss and damage from floods, climate change, and natural
139 disasters. The Legislature recognizes that studies have shown
140 that healthy coral reefs can protect coastal properties from
141 such climate change-related risks and disaster events, including
142 storms, high wave events, sea level rise, and flooding. The
143 Federal Emergency Management Agency (FEMA) is responsible for
144 responding to natural disasters and providing technical and
145 financial hazard mitigation support, primarily distributed as
146 grant funding through FEMA's hazard mitigation assistance
147 programs. Coral reef restoration for risk reduction, known as
148 CR4, is an active restoration strategy with the aim of
149 increasing the structural integrity and complexity of coral reef
150 ecosystems to attenuate wave energy and reduce coastal flooding.

151 Legislative recognition of coral reefs as critical natural
152 infrastructure and a nature-based solution demonstrates
153 political support for nature-based solutions.

154 (c) It is the intent of the Legislature that the
155 department be recognized as the state's lead trustee for coral
156 reef resources located within waters of the state or on
157 sovereignty submerged lands unless preempted by federal law.
158 This section does not divest other state agencies and political
159 subdivisions of the state of their interests in protecting coral
160 reefs.

161 (5) The Legislature designates coral reefs as critical
162 natural infrastructure and as a nature-based solution that helps
163 mitigate climate change-related risks and disaster events,
164 including, exposure to storms, high wave events, sea level rise,
165 and flooding.

166 **Section 4. For the purpose of incorporating the amendment**
167 **made by this act to section 373.414, Florida Statutes, in a**
168 **reference thereto, paragraph (b) of subsection (2) and**
169 **subsection (4) of section 373.4137, Florida Statutes, are**
170 **reenacted to read:**

171 373.4137 Mitigation requirements for specified
172 transportation projects.—

173 (2) Environmental impact inventories for transportation
174 projects proposed by the Department of Transportation or a
175 transportation authority established pursuant to chapter 348 or

chapter 349 shall be developed as follows:

(b) The environmental impact inventory must include a description of habitat impacts, including location, acreage, and type; the anticipated mitigation needed based on the functional loss as determined through the uniform mitigation assessment method adopted by the Department of Environmental Protection by rule pursuant to s. 373.414(18); identification of the proposed mitigation option; state water quality classification of impacted wetlands and other surface waters; any other state or regional designations for these habitats; and a list of threatened species, endangered species, and species of special concern affected by the proposed project.

(4) Before March 1 of each year, each water management district shall develop a mitigation plan to offset only the impacts of transportation projects in the environmental impact inventory for which a water management district is implementing mitigation that meets the requirements of this section, 33 U.S.C. s. 1344, and 33 C.F.R. part 332. The water management district mitigation plan must be developed in consultation with the Department of Environmental Protection, the United States Army Corps of Engineers, the Department of Transportation, participating transportation authorities established pursuant to chapter 348 or chapter 349, other appropriate federal, state, and local governments, and other interested parties, including entities operating mitigation banks. In developing such plans,

the water management districts shall use sound ecosystem management practices to address significant water resource needs and consider activities of the Department of Environmental Protection and the water management districts, such as surface water improvement and management (SWIM) projects and lands identified for potential acquisition for preservation, restoration, or enhancement, and the control of invasive and exotic plants in wetlands and other surface waters, to the extent that the activities comply with the mitigation requirements adopted under this part, 33 U.S.C. s. 1344, and 33 C.F.R. part 332. The water management district mitigation plan must identify each site where the water management district will mitigate for a transportation project. For each mitigation site, the water management district shall provide the scope of the mitigation services; provide the functional gain as determined through the uniform mitigation assessment method adopted by the Department of Environmental Protection by rule pursuant to s. 373.414(18); describe how the mitigation offsets the impacts of each transportation project as permitted; and provide a schedule for the mitigation services. The water management districts shall maintain records of costs incurred and payments received for providing these services. Records must include, but are not limited to, planning, land acquisition, design, construction, staff support, long-term maintenance and monitoring of the mitigation site, and other costs necessary to meet the

226 requirements of 33 U.S.C. s. 1344 and 33 C.F.R. part 332. To the
227 extent moneys paid to a water management district by the
228 Department of Transportation or a participating transportation
229 authority are greater than the amount spent by the water
230 management districts in providing the mitigation services to
231 offset the permitted transportation project impacts, these
232 moneys must be refunded to the Department of Transportation or
233 participating transportation authority. The mitigation plan
234 shall be submitted to the water management district governing
235 board or its designee for review and approval. At least 14 days
236 before approval by the governing board, the water management
237 district shall provide a copy of the draft mitigation plan to
238 the Department of Environmental Protection and any person who
239 has requested a copy. Subsequent to the governing board
240 approval, the mitigation plan shall be submitted to the
241 Department of Environmental Protection for approval. The plan
242 may not be implemented until it is submitted to, and approved in
243 part or in its entirety by, the Department of Environmental
244 Protection.

245 (a) Specific projects may be excluded from the mitigation
246 plan, in whole or in part, and are not subject to this section
247 upon the election of the Department of Transportation, a
248 transportation authority if applicable, or the appropriate water
249 management district. The Department of Transportation or a
250 participating transportation authority may not exclude a

251 transportation project from the mitigation plan if mitigation is
252 scheduled for implementation by the water management district in
253 the current fiscal year unless the transportation project is
254 removed from the Department of Transportation's work program or
255 transportation authority funding plan, the mitigation cannot be
256 timely permitted to offset the impacts of a Department of
257 Transportation project identified in the environmental impact
258 inventory, or the proposed mitigation does not meet state and
259 federal requirements. If a project is removed from the work
260 program or the mitigation plan, costs spent by the water
261 management district before removal are eligible for
262 reimbursement by the Department of Transportation or
263 participating transportation authority.

264 (b) When determining which projects to include in or
265 exclude from the mitigation plan, the Department of
266 Transportation shall investigate using credits from a permitted
267 mitigation bank before those projects are submitted for
268 inclusion in a water management district mitigation plan. The
269 Department of Transportation shall exclude a project from the
270 mitigation plan if the investigation undertaken pursuant to this
271 paragraph results in the conclusion that the use of credits from
272 a permitted mitigation bank promotes efficiency, timeliness in
273 project delivery, cost-effectiveness, and transfer of liability
274 for success and long-term maintenance.

275 **Section 5.** This act shall take effect July 1, 2026.