

By the Committee on Environment and Natural Resources; and
Senator Truenow

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1 A bill to be entitled
2 An act relating to stormwater treatment; amending s.
3 373.019, F.S.; defining the terms "compensating
4 stormwater treatment" and "total land area"; amending
5 s. 373.4134, F.S.; revising legislative findings;
6 requiring compensating stormwater treatment to comply
7 with certain provisions unless certain circumstances
8 exist; authorizing entities to apply for a water
9 quality enhancement area provisional permit under
10 certain circumstances; requiring the Department of
11 Environmental Protection to issue such provisional
12 permit if certain criteria are met; requiring the
13 department to allow the use of enhancement credits
14 from a water quality enhancement area established
15 under a provisional permit; requiring a water
16 management district issuing an environmental resource
17 permit to certain applicants to allow such applicants
18 to use enhancement credits under certain
19 circumstances; authorizing the department to modify a
20 water quality enhancement area provisional permit
21 after the adoption of certain rules; requiring the
22 department and water management districts to recognize
23 any enhancement credit used from a water quality
24 enhancement area established pursuant to a provisional
25 permit; amending s. 373.414, F.S.; clarifying the
26 types of mitigation measures for compensating
27 stormwater treatment which the department or a water
28 management district governing board must consider
29 under certain circumstances; authorizing mitigation

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30 measures or enhancement credits intended to address
31 certain impacts to be generated by third parties and
32 sold and transferred to environmental resource permit
33 applicants pursuant to specified provisions;
34 requiring, beginning on a specified date, that public
35 landowners direct private entities to cease certain
36 activities upon a certain determination by the
37 department; providing applicability; authorizing a
38 public landowner to allow a private entity to resume
39 compensatory stormwater treatment activities on public
40 lands upon a certain final agency action determination
41 by the department or final determination of a water
42 management district; amending ss. 373.036, 373.250,
43 373.421, 403.813, and 556.102, F.S.; conforming cross-
44 references; reenacting s. 373.4136(6)(d), F.S.,
45 relating to establishment and operation of mitigation
46 banks, to incorporate the amendment made to s.
47 373.414, F.S., in a reference thereto; providing an
48 effective date.

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. Present subsections (4) through (21) and (22)
53 through (28) of section 373.019, Florida Statutes, are
54 redesignated as subsections (5) through (22) and (24) through
55 (30), respectively, and new subsections (4) and (23) are added
56 to that section, to read:

57 373.019 Definitions.—When appearing in this chapter or in
58 any rule, regulation, or order adopted pursuant thereto, the

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59 term:

60 (4) "Compensating stormwater treatment" means a method of
61 stormwater treatment for discharges from more than two parcels,
62 implemented in accordance with the conditions established in s.
63 373.4134.

64 (23) "Total land area" means land holdings under common
65 ownership which are contiguous, or land holdings served by
66 common surface water management facilities.

67 Section 2. Present paragraphs (d) through (g) of subsection
68 (3) of section 373.4134, Florida Statutes, are redesignated as
69 paragraphs (e) through (h), respectively, a new paragraph (d) is
70 added to that subsection, and paragraph (e) of subsection (1)
71 and subsection (9) of that section are amended, to read:

72 373.4134 Water quality enhancement areas.—

73 (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
74 that:

75 (e) Water quality enhancement areas that provide water
76 quality enhancement credits to applicants seeking permits under
77 ss. 373.403-373.443 and to governmental entities seeking to meet
78 an assigned basin management action plan allocation or
79 reasonable assurance plan under s. 403.067 are considered an
80 appropriate and permissible option. The use of an enhancement
81 credit as specified herein transfers the legal responsibility
82 for complying with the applicable regulatory water quality
83 treatment requirement from the purchaser and user of such
84 enhancement credit to the generator of such enhancement credit.
85 The transfer of legal responsibility for complying with
86 applicable regulatory water quality treatment requirements does
87 not occur outside of the use of enhancement credits.

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88 (3) WATER QUALITY ENHANCEMENT AREAS.—

89 (d) Compensating stormwater treatment must comply with this
90 section unless:

91 1. The treatment and discharging parcels are owned,
92 operated, and maintained by the same entity; or

93 2. The area providing compensating stormwater treatment
94 receives stormwater discharge directly from parcels within the
95 total land area and treats the discharge before such discharge
96 flows off the parcel on which the compensating stormwater
97 treatment occurs.

98 (9) RULES.—The department shall adopt rules to implement
99 this section. Pending the adoption of rules to implement this
100 section, entities may apply for a water quality enhancement area
101 provisional permit. The department must issue a water quality
102 enhancement area provisional permit in response to such
103 application if the applicant meets the statutory criteria of
104 this section. The department shall allow the use of such
105 enhancement credits from a water quality enhancement area
106 established under a provisional permit as provided in this
107 section and subject to compliance with s. 373.4134.

108 Notwithstanding any other provision of law or rule, a water
109 management district issuing an environmental resource permit to
110 applicants seeking to satisfy environmental resource permit
111 performance standards must allow such applicants to use
112 enhancement credits if the department has issued a provisional
113 permit for the water quality enhancement area from which the
114 enhancement credits are generated. After the department adopts
115 rules to implement this section, the department may modify an
116 issued water quality enhancement area provisional permit to

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117 conform such permit to such adopted rules. Any enhancement
118 credit used from a water quality enhancement area established
119 pursuant to a provisional permit must continue to be recognized
120 by the department and water management districts without change,
121 regardless of whether the provisional permit is subsequently
122 modified to conform to the adopted ~~This section may not be~~
123 ~~implemented until the department adopts such rules.~~

124 Section 3. Paragraph (b) of subsection (1) of section
125 373.414, Florida Statutes, is amended to read:

126 373.414 Additional criteria for activities in surface
127 waters and wetlands.—

128 (1) As part of an applicant's demonstration that an
129 activity regulated under this part will not be harmful to the
130 water resources or will not be inconsistent with the overall
131 objectives of the district, the governing board or the
132 department shall require the applicant to provide reasonable
133 assurance that state water quality standards applicable to
134 waters as defined in s. 403.031 will not be violated and
135 reasonable assurance that such activity in, on, or over surface
136 waters or wetlands, as delineated in s. 373.421(1), is not
137 contrary to the public interest. However, if such an activity
138 significantly degrades or is within an Outstanding Florida
139 Water, as provided by department rule, the applicant must
140 provide reasonable assurance that the proposed activity will be
141 clearly in the public interest.

142 (b) If the applicant is unable to otherwise meet the
143 criteria set forth in this subsection, the governing board or
144 the department, in deciding to grant or deny a permit, must
145 consider measures proposed by or acceptable to the applicant to

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146 mitigate adverse effects that may be caused by the regulated
147 activity. Such measures may include, but are not limited to,
148 onsite mitigation, offsite mitigation, offsite regional
149 mitigation, and the purchase of mitigation credits from
150 mitigation banks permitted under s. 373.4136. It is the
151 responsibility of the applicant to choose the form of
152 mitigation. The mitigation must offset the adverse effects
153 caused by the regulated activity.

154 1. The department or water management districts may accept
155 the donation of money as mitigation only where the donation is
156 specified for use in a duly noticed environmental creation,
157 preservation, enhancement, or restoration project, endorsed by
158 the department or the governing board of the water management
159 district, which offsets the impacts of the activity permitted
160 under this part. However, this subsection does not apply to
161 projects undertaken pursuant to s. 373.4137 or chapter 378.
162 Where a permit is required under this part to implement any
163 project endorsed by the department or a water management
164 district, all necessary permits must be ~~have been~~ issued before
165 ~~prior to~~ the acceptance of any cash donation. After the
166 effective date of this act, when money is donated to either the
167 department or a water management district to offset impacts
168 authorized by a permit under this part, the department or the
169 water management district shall accept only a donation that
170 represents the full cost to the department or water management
171 district of undertaking the project that is intended to mitigate
172 the adverse impacts. The full cost shall include all direct and
173 indirect costs, as applicable, such as those for land
174 acquisition, land restoration or enhancement, perpetual land

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175 management, and general overhead consisting of costs such as
176 staff time, building, and vehicles. The department or the water
177 management district may use a multiplier or percentage to add to
178 other direct or indirect costs to estimate general overhead.
179 Mitigation credit for such a donation may be given only to the
180 extent that the donation covers the full cost to the agency of
181 undertaking the project intended to mitigate the adverse
182 impacts. However, nothing herein may be construed to prevent the
183 department or a water management district from accepting a
184 donation representing a portion of a larger project, provided
185 that the donation covers the full cost of that portion and
186 mitigation credit is given only for that portion. The department
187 or water management district may deviate from the full cost
188 requirements of this subparagraph to resolve a proceeding
189 brought pursuant to chapter 70 or a claim for inverse
190 condemnation. ~~Nothing in~~ This section may not be construed to
191 require the owner of a private mitigation bank, permitted under
192 s. 373.4136, to include the full cost of a mitigation credit in
193 the price of the credit to a purchaser of such ~~said~~ credit.

194 2. The department and each water management district shall
195 report by March 1 of each year, as part of the consolidated
196 annual report required by s. 373.036(7), all cash donations
197 accepted under subparagraph 1. during the preceding water
198 management district fiscal year for wetland mitigation purposes.
199 The report must exclude those contributions pursuant to s.
200 373.4137. The report must include a description of the endorsed
201 mitigation projects and, except for projects governed by s.
202 373.4135(6), must address, as applicable, success criteria,
203 project implementation status and timeframe, monitoring, long-

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204 term management, provisions for preservation, and full cost
205 accounting.

206 3. If the applicant is unable to meet water quality
207 standards because existing ambient water quality does not meet
208 standards, the governing board or the department must consider
209 mitigation measures, such as compensating stormwater treatment,
210 proposed by or acceptable to the applicant that cause net
211 improvement of the water quality in the receiving body of water
212 for those parameters which do not meet standards. Mitigation
213 measures or enhancement credits intended to address water
214 quality impacts regulated under ss. 373.403-373.443 may be
215 generated by third parties and sold and transferred to
216 environmental resource permit applicants only as authorized
217 under s. 373.4134.

218 4. Beginning July 1, 2026, if a public landowner authorizes
219 or enters into an agreement with a private entity to construct,
220 modify, or operate stormwater management systems or other
221 features on public lands so that the private entity can provide
222 offsite compensatory treatment for third-party water quality
223 impacts or stormwater discharge, and if the department or a
224 water management district employing the criteria in paragraph
225 (a) determines by final agency action that the use of such
226 public lands for such compensatory stormwater treatment is
227 contrary to the public interest, the public landowner must
228 direct the private entity to cease operation of the offsite
229 compensatory treatment activities identified in the final order
230 of the department or water management district. The requirement
231 to cease such activities does not apply to other compensatory
232 treatment activities governed by the agreement between the

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233 public landowner and the private entity which are not covered by
234 the final order of the department or water management district.
235 The public landowner may allow the private entity to resume such
236 compensatory stormwater treatment activities on such public
237 lands upon a subsequent final agency action determination by the
238 department or final determination of a water management district
239 that the use of such public lands for such compensatory
240 treatment is no longer contrary to the public interest under the
241 criteria of paragraph (a).

242 5. If mitigation requirements imposed by a local government
243 for surface water and wetland impacts of an activity regulated
244 under this part cannot be reconciled with mitigation
245 requirements approved under a permit for the same activity
246 issued under this part, including application of the uniform
247 wetland mitigation assessment method adopted pursuant to
248 subsection (18), the mitigation requirements for surface water
249 and wetland impacts are controlled by the permit issued under
250 this part.

251 Section 4. Paragraph (d) of subsection (1) of section
252 373.036, Florida Statutes, is amended to read:

253 373.036 Florida water plan; district water management
254 plans.—

255 (1) FLORIDA WATER PLAN.—In cooperation with the water
256 management districts, regional water supply authorities, and
257 others, the department shall develop the Florida water plan. The
258 Florida water plan shall include, but not be limited to:

259 (d) Goals, objectives, and guidance for the development and
260 review of programs, rules, and plans relating to water
261 resources, based on statutory policies and directives. The state

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262 water policy rule, renamed the water resource implementation
263 rule pursuant to s. 373.019(27) ~~s. 373.019(25)~~, shall serve as
264 this part of the plan. Amendments or additions to this part of
265 the Florida water plan shall be adopted by the department as
266 part of the water resource implementation rule. In accordance
267 with s. 373.114, the department shall review rules of the water
268 management districts for consistency with this rule. Amendments
269 to the water resource implementation rule must be adopted by the
270 secretary of the department and be submitted to the President of
271 the Senate and the Speaker of the House of Representatives
272 within 7 days after publication in the Florida Administrative
273 Register. Amendments do shall not become effective until the
274 conclusion of the next regular session of the Legislature
275 following their adoption.

276 Section 5. Paragraph (a) of subsection (5) of section
277 373.250, Florida Statutes, is amended to read:

278 373.250 Reuse of reclaimed water.-

279 (5) (a) No later than October 1, 2012, the department shall
280 initiate rulemaking to adopt revisions to the water resource
281 implementation rule, as defined in s. 373.019(27) ~~s.~~
282 ~~373.019(25)~~, which shall include:

283 1. Criteria for the use of a proposed impact offset derived
284 from the use of reclaimed water when a water management district
285 evaluates an application for a consumptive use permit. As used
286 in this subparagraph, the term "impact offset" means the use of
287 reclaimed water to reduce or eliminate a harmful impact that has
288 occurred or would otherwise occur as a result of other surface
289 water or groundwater withdrawals.

290 2. Criteria for the use of substitution credits where a

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291 water management district has adopted rules establishing
292 withdrawal limits from a specified water resource within a
293 defined geographic area. As used in this subparagraph, the term
294 "substitution credit" means the use of reclaimed water to
295 replace all or a portion of an existing permitted use of
296 resource-limited surface water or groundwater, allowing a
297 different user or use to initiate a withdrawal or increase its
298 withdrawal from the same resource-limited surface water or
299 groundwater source provided that the withdrawal creates no net
300 adverse impact on the limited water resource or creates a net
301 positive impact if required by water management district rule as
302 part of a strategy to protect or recover a water resource.

303 Section 6. Subsection (1) of section 373.421, Florida
304 Statutes, is amended to read:

305 373.421 Delineation methods; formal determinations.—

306 (1) The Environmental Regulation Commission shall adopt a
307 unified statewide methodology for the delineation of the extent
308 of wetlands as defined in s. 373.019(29) ~~s. 373.019(27)~~. This
309 methodology shall consider regional differences in the types of
310 soils and vegetation that may serve as indicators of the extent
311 of wetlands. This methodology shall also include provisions for
312 determining the extent of surface waters other than wetlands for
313 the purposes of regulation under s. 373.414. This methodology
314 does ~~shall~~ not become effective until ratified by the
315 Legislature. Subsequent to legislative ratification, the wetland
316 definition in s. 373.019(29) ~~s. 373.019(27)~~ and the adopted
317 wetland methodology shall be binding on the department, the
318 water management districts, local governments, and any other
319 governmental entities. Upon ratification of such wetland

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320 methodology, the Legislature preempts the authority of any water
321 management district, state or regional agency, or local
322 government to define wetlands or develop a delineation
323 methodology to implement the definition and determines that the
324 exclusive definition and delineation methodology for wetlands
325 shall be that established pursuant to s. 373.019(29) ~~s.~~
326 ~~373.019(27)~~ and this section. Upon such legislative
327 ratification, any existing wetlands definition or wetland
328 delineation methodology shall be superseded by the wetland
329 definition and delineation methodology established pursuant to
330 this chapter. Subsequent to legislative ratification, a
331 delineation of the extent of a surface water or wetland by the
332 department or a water management district, pursuant to a formal
333 determination under subsection (2), or pursuant to a permit
334 issued under this part in which the delineation was field-
335 verified by the permitting agency and specifically approved in
336 the permit, shall be binding on all other governmental entities
337 for the duration of the formal determination or permit. All
338 existing rules and methodologies of the department, the water
339 management districts, and local governments, regarding surface
340 water or wetland definition and delineation shall remain in full
341 force and effect until the common methodology rule becomes
342 effective. However, this may ~~shall~~ not be construed to limit any
343 power of the department, the water management districts, and
344 local governments to amend or adopt a surface water or wetland
345 definition or delineation methodology until the common
346 methodology rule becomes effective.

347 Section 7. Paragraphs (r) and (u) of subsection (1) of
348 section 403.813, Florida Statutes, are amended to read:

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349 403.813 Permits issued at district centers; exceptions.—

350 (1) A permit is not required under this chapter, chapter
351 373, chapter 61-691, Laws of Florida, or chapter 25214 or
352 chapter 25270, 1949, Laws of Florida, and a local government may
353 not require a person claiming this exception to provide further
354 department verification, for activities associated with the
355 following types of projects; however, except as otherwise
356 provided in this subsection, this subsection does not relieve an
357 applicant from any requirement to obtain permission to use or
358 occupy lands owned by the Board of Trustees of the Internal
359 Improvement Trust Fund or a water management district in its
360 governmental or proprietary capacity or from complying with
361 applicable local pollution control programs authorized under
362 this chapter or other requirements of county and municipal
363 governments:

364 (r) The removal of aquatic plants, the removal of tussocks,
365 the associated replanting of indigenous aquatic plants, and the
366 associated removal from lakes of organic detrital material when
367 such planting or removal is performed and authorized by permit
368 or exemption granted under s. 369.20 or s. 369.25, provided
369 that:

370 1. Organic detrital material that exists on the surface of
371 natural mineral substrate shall be allowed to be removed to a
372 depth of 3 feet or to the natural mineral substrate, whichever
373 is less;

374 2. All material removed pursuant to this paragraph shall be
375 placed on a self-contained, upland spoil site which will prevent
376 the escape of the spoil material into waters in the state except
377 when spoil material is permitted to be used to create wildlife

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378 islands in freshwater bodies of the state when a governmental
379 entity is permitted pursuant to s. 369.20 to create such islands
380 as a part of a restoration or enhancement project;

381 3. All activities are performed in a manner consistent with
382 state water quality standards; and

383 4. Activities under this exemption are not conducted in
384 wetland areas, as defined in s. 373.019(29) ~~s. 373.019(27)~~,
385 which are supported by a natural soil as shown in applicable
386 United States Department of Agriculture county soil surveys,
387 except when a governmental entity is permitted pursuant to s.
388 369.20 to conduct such activities as a part of a restoration or
389 enhancement project.

390

391 The department may not adopt implementing rules for this
392 paragraph, notwithstanding any other provision of law.

393 (u) Notwithstanding any provision to the contrary in this
394 subsection, a permit or other authorization under chapter 253,
395 chapter 369, chapter 373, or this chapter is not required for an
396 individual residential property owner for the removal of organic
397 detrital material from freshwater rivers or lakes that have a
398 natural sand or rocky substrate and that are not aquatic
399 preserves or for the associated removal and replanting of
400 aquatic vegetation for the purpose of environmental enhancement,
401 providing that:

402 1. No activities under this exemption are conducted in
403 wetland areas, as defined in s. 373.019(29) ~~s. 373.019(27)~~,
404 which are supported by a natural soil as shown in applicable
405 United States Department of Agriculture county soil surveys.

406 2. No filling or peat mining is allowed.

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407 3. No removal of native wetland trees, including, but not
408 limited to, ash, bay, cypress, gum, maple, or tupelo, occurs.

409 4. When removing organic detrital material, no portion of
410 the underlying natural mineral substrate or rocky substrate is
411 removed.

412 5. Removed organic detrital material and plant material is
413 placed on an upland spoil site which will not cause water
414 quality violations.

415 6. All activities are conducted in such a manner, and with
416 appropriate turbidity controls, so as to prevent any water
417 quality violations outside the immediate work area.

418 7. Replanting with a variety of aquatic plants native to
419 the state shall occur in a minimum of 25 percent of the
420 preexisting vegetated areas where organic detrital material is
421 removed, except for areas where the material is removed to bare
422 rocky substrate; however, an area may be maintained clear of
423 vegetation as an access corridor. The access corridor width may
424 not exceed 50 percent of the property owner's frontage or 50
425 feet, whichever is less, and may be a sufficient length
426 waterward to create a corridor to allow access for a boat or
427 swimmer to reach open water. Replanting must be at a minimum
428 density of 2 feet on center and be completed within 90 days
429 after removal of existing aquatic vegetation, except that under
430 dewatered conditions replanting must be completed within 90 days
431 after reflooding. The area to be replanted must extend waterward
432 from the ordinary high water line to a point where normal water
433 depth would be 3 feet or the preexisting vegetation line,
434 whichever is less. Individuals are required to make a reasonable
435 effort to maintain planting density for a period of 6 months

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436 after replanting is complete, and the plants, including
437 naturally recruited native aquatic plants, must be allowed to
438 expand and fill in the revegetation area. Native aquatic plants
439 to be used for revegetation must be salvaged from the
440 enhancement project site or obtained from an aquatic plant
441 nursery regulated by the Department of Agriculture and Consumer
442 Services. Plants that are not native to the state may not be
443 used for replanting.

444 8. No activity occurs any farther than 100 feet waterward
445 of the ordinary high water line, and all activities must be
446 designed and conducted in a manner that will not unreasonably
447 restrict or infringe upon the riparian rights of adjacent upland
448 riparian owners.

449 9. The person seeking this exemption notifies the
450 applicable department district office in writing at least 30
451 days before commencing work and allows the department to conduct
452 a preconstruction site inspection. Notice must include an
453 organic-detrital-material removal and disposal plan and, if
454 applicable, a vegetation-removal and revegetation plan.

455 10. The department is provided written certification of
456 compliance with the terms and conditions of this paragraph
457 within 30 days after completion of any activity occurring under
458 this exemption.

459 Section 8. Subsection (6) of section 556.102, Florida
460 Statutes, is amended to read:

461 556.102 Definitions.—As used in this act:

462 (6) "Excavate" or "excavation" means any manmade cut,
463 cavity, trench, or depression in the earth's surface, formed by
464 removal of earth, intended to change the grade or level of land,

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465 or intended to penetrate or disturb the surface of the earth,
466 including land beneath the waters of the state, as defined in s.
467 373.019(24) ~~s. 373.019(22)~~, and the term includes pipe bursting
468 and directional drilling or boring from one point to another
469 point beneath the surface of the earth, or other trenchless
470 technologies.

471 Section 9. For the purpose of incorporating the amendment
472 made by this act to section 373.414, Florida Statutes, in a
473 reference thereto, paragraph (d) of subsection (6) of section
474 373.4136, Florida Statutes, is reenacted to read:

475 373.4136 Establishment and operation of mitigation banks.—

476 (6) MITIGATION SERVICE AREA.—The department or water
477 management district shall establish a mitigation service area
478 for each mitigation bank permit. The department or water
479 management district shall notify and consider comments received
480 on the proposed mitigation service area from each local
481 government within the proposed mitigation service area. Except
482 as provided in this section, mitigation credits may be withdrawn
483 and used only to offset adverse impacts in the mitigation
484 service area. The boundaries of the mitigation service area
485 shall depend upon the geographic area where the mitigation bank
486 could reasonably be expected to offset adverse impacts.
487 Mitigation service areas may overlap, and mitigation service
488 areas for two or more mitigation banks may be approved for a
489 regional watershed.

490 (d) If the provisions of s. 373.414(1)(b) and (8) are met
491 and an insufficient number or type of credits from banks whose
492 permitted service area overlays in whole or in part the regional
493 watershed in which the impacts occur, the permit applicant is

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494 entitled to a one-time use of credits released from a mitigation
495 bank outside the mitigation bank service area to offset impacts
496 pursuant to s. 373.414(1)(b), as established by the procedure in
497 paragraph (f). The department or water management district must
498 have determined that the mitigation service area lacked the
499 appropriate credit type. Priority must be given to mitigation
500 banks whose permitted service area fully includes the impacted
501 site. If the number of released credits within a mitigation
502 service area only partially offsets the impacts associated with
503 a proposed project in the mitigation service area, the permit
504 applicant may only use out-of-service-area credits to account
505 for the difference between the released credits available in the
506 mitigation bank service area and the credits required to offset
507 the impacts associated with the proposed project. In
508 implementing this subsection, the department and water
509 management districts shall apply a proximity factor to determine
510 adequate compensatory mitigation as follows:

511 1. A 1.0 multiplier shall be applied for use of in-kind
512 credits within the service area.

513 2. A 1.0 multiplier shall be applied for use of in-kind and
514 out-of-service-area credits when the service area overlays part
515 of the same regional watershed as the proposed impacts only
516 after credit deficiency has been established by the procedure
517 set forth in paragraph (f).

518 3. A 1.2 multiplier shall be applied for use of in-kind and
519 out-of-service-area credits located within a regional watershed
520 immediately adjacent to the regional watershed overlain by a
521 bank service area in which proposed impacts are located only
522 after credit deficiency has been established by the procedure

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523 set forth in paragraph (f).

524 4. When in-kind credits are not available to offset impacts
525 in the regional watershed immediately adjacent to the regional
526 watershed overlain by a mitigation bank service area in which
527 the proposed impacts are located, an additional 0.25 multiplier
528 shall be applied for each additional regional watershed boundary
529 crossed only after credit deficiency has been established by the
530 procedure set forth in paragraph (f).

531 5. An additional 0.50 multiplier shall be applied after any
532 multipliers required in subparagraphs 1.-4., if the mitigation
533 used to offset impacts entails out-of-kind replacement.

534 Section 10. This act shall take effect July 1, 2026.