

Committee on Environment and Natural Resources

CS/CS/CS/SB 1532 — Mitigation

by Rules Committee; Community Affairs Committee; Environment and Natural Resources Committee; and Senator Brodeur

The bill expands the water quality enhancement credit program to allow private entities to purchase credits. Currently, only governmental entities may purchase water quality enhancement credits under the program. Specifically, the bill provides that water quality enhancement credits may be sold to governmental entities seeking to meet an assigned basin management action plan allocation or reasonable assurance plan or to private or governmental applicants for the purpose of achieving net improvement or meeting environmental resource permit performance standards.

Regarding mitigation banking, the bill allows limited use of local government land for private mitigation banks, provided that the private mitigation banks are located in credit-deficient basins and would produce certain habitat type credits that are unavailable or insufficient in such basins.

Current law directs the Department of Environmental Protection (DEP) and water management districts (WMDs) to participate in and encourage the establishment of private and public mitigation banks and offsite regional mitigation. The bill amends this provision by directing DEP and WMDs to encourage the establishment of private mitigation banks and offsite regional mitigation on lands owned by a local government, when such lands are located in a credit-deficient basin and the proposed mitigation bank or offsite regional mitigation would provide one or more of the deficient habitat type credits described in this bill.

A local government with land in a credit-deficient basin may, through the public procurement process identified in chapter 287 or other established competitive procurement processes, consider a proposal from a private entity for the right to establish a mitigation bank on the local government land, including such lands purchased for conservation purposes, provided acquisition encumbrances do not exist to the contrary. The bill outlines the meaning of “credit-deficient basin.” The bill provides that if such a mitigation bank is to be established and operated on local government land, the local government and private applicant must enter into a use agreement that meets certain requirements. This provision does not apply to lands owned by the state or a water management district.

The bill provides that, in determining the number of mitigation bank credits to be awarded to a mitigation bank established pursuant to this section, the proposed mitigation bank’s location in or adjacent to the local government conservation lands may not increase the uniform mitigation assessment method location factor assessment and scoring value, even if the conservation status of the mitigation bank land is improved due to such location.

If approved by the Governor, or allowed to become law without the Governor’s signature, these provisions take effect July 1, 2024.

Vote: Senate 39-0; House 114-0