

THE FLORIDA SENATE
2019 SUMMARY OF LEGISLATION PASSED
Committee on Community Affairs

CS/HB 521 — Wetland Mitigation

by Agriculture and Natural Resources Subcommittee; and Reps. McClure, Overdorf, and others (CS/SB 532 by Community Affairs Committee and Senators Lee and Farmer)

Mitigation banking is a practice in which an environmental enhancement and preservation project is conducted by a public agency or private entity (banker) to provide mitigation for unavoidable wetland impacts within a defined region (mitigation service area). The bank is the site itself, and the currency sold by the banker to the impact permittee is a credit, which represents the wetland ecological value equivalent to the complete restoration of one acre. The number of potential credits permitted for the bank and the credit debits required for impact permits are determined by the Department of Environmental Protection or one of the state's water management districts. A banker must apply for a mitigation bank permit before establishing and operating a mitigation bank.

In 2012, the Legislature prohibited a governmental entity from creating or providing for mitigation for a project other than its own unless the governmental entity uses land that was not previously purchased for conservation and unless the governmental entity provides the same financial assurances as required for mitigation banks permitted under s. 373.4136, F.S.

CS/HB 521 authorizes a local government to allow permittee-responsible mitigation consisting of the restoration or enhancement of lands purchased and owned by a local government for conservation purposes if state and federal mitigation credits are not available. Such mitigation must conform to the permitting requirements for mitigation banks.

The bill also creates an exemption allowing a local government to provide mitigation credits for proposed projects when credits are not available at regional mitigation bank and the mitigation area to be utilized was created by a local government prior to December 31, 2011, using the Uniform Mitigation Assessment Method.

The bill may have a positive fiscal impact on local governments who allow a public or private mitigation project to be created on conservation lands owned by the local government. The bill has no fiscal impact on state government.

If approved by the Governor, these provisions take effect July 1, 2019.

Vote: Senate 39-1; House 72-42