

By Representative Posey

1 A bill to be entitled
2 An act relating to environmental mitigation;
3 amending s. 373.4137, F.S.; providing for the
4 admissibility of specified costs in cases
5 involving Department of Transportation
6 mitigation projects; providing an effective
7 date.

8

9 Be It Enacted by the Legislature of the State of Florida:

10

11 Section 1. Subsection (3) of section 373.4137, Florida
12 Statutes, is amended to read:

13

373.4137 Mitigation requirements.--

14

(3) To fund the mitigation plan for the projected
15 impacts identified in the inventory described in subsection
16 (2), the Department of Transportation shall identify funds
17 quarterly in an escrow account within the State Transportation
18 Trust Fund for the environmental mitigation phase of projects
19 budgeted by the Department of Transportation for the current
20 fiscal year. The escrow account will be maintained by the
21 Department of Transportation for the benefit of the Department
22 of Environmental Protection and the water management
23 districts. Any interest earnings from the escrow account
24 shall remain with the Department of Transportation. The
25 Department of Environmental Protection or water management
26 districts may request a transfer of funds from the escrow
27 account no sooner than 30 days prior to the date the funds are
28 needed to pay for activities associated with development or
29 implementation of the approved mitigation plan described in
30 subsection (4) for the current fiscal year, including, but not
31 limited to, design, engineering, production, and staff

1 support. Actual conceptual plan preparation costs incurred
2 before plan approval may be submitted to the Department of
3 Transportation and the Department of Environmental Protection
4 by November 1 of each year with the plan. The conceptual plan
5 preparation costs of each water management district will be
6 paid based on the amount approved on the mitigation plan and
7 allocated to the current fiscal year projects identified by
8 the water management district. The amount transferred to the
9 escrow account each year by the Department of Transportation
10 shall correspond to a cost per acre of \$75,000 multiplied by
11 the projected acres of impact identified in the inventory
12 described in subsection (2). However, the \$75,000 cost per
13 acre does not constitute an admission against interest by the
14 state or its subdivisions nor is the cost admissible as
15 evidence of full compensation for any property acquired by
16 eminent domain or through inverse condemnation.Each July 1,
17 the cost per acre shall be adjusted by the percentage change
18 in the average of the Consumer Price Index issued by the
19 United States Department of Labor for the most recent 12-month
20 period ending September 30, compared to the base year average,
21 which is the average for the 12-month period ending September
22 30, 1996. At the end of each year, the projected acreage of
23 impact shall be reconciled with the acreage of impact of
24 projects as permitted, including permit modifications,
25 pursuant to this part and s. 404 of the Clean Water Act, 33
26 U.S.C. s. 1344. The subject year's transfer of funds shall be
27 adjusted accordingly to reflect the overtransfer or
28 undertransfer of funds from the preceding year. The Department
29 of Transportation is authorized to transfer such funds from
30 the escrow account to the Department of Environmental
31

1 Protection and the water management districts to carry out the
2 mitigation programs.

3 Section 2. This act shall take effect upon becoming a
4 law.

5
6 *****

7 SENATE SUMMARY

8 Provides for the admissibility of specific costs in
9 judicial proceedings involving environmental mitigation
10 projects of the Department of Transportation.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31