

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

Representative(s) Clarke offered the following:

**Amendment (with title amendment)**

On page 1, between lines 26 and 27

insert:

Section 1. Subsection (18) and (19) of section 373.414 are amended to read:

373.414 Additional criteria for activities in surface waters and wetlands.--

(18) The department and each water management district responsible for implementation of the environmental resource permitting program shall develop a uniform ~~wetland~~ mitigation assessment method for wetlands and other surface waters. ~~no later than October 1, 2001.~~ The department shall adopt the uniform ~~wetland~~ mitigation assessment method by rule no later than July 31, January 31, 2002. The rule shall provide an exclusive and consistent process for determining the amount of mitigation required to offset impacts to wetlands and other surface waters, and, once effective, shall supersede all rules, ordinances, and variance procedures from ordinances

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1 that determine the amount of mitigation needed to offset such  
2 impacts. Once the department adopts the uniform ~~wetland~~  
3 mitigation assessment method by rule, the uniform ~~wetland~~  
4 mitigation assessment method shall be binding on the  
5 department, the water management districts, local governments,  
6 and any other governmental agencies and shall be the sole  
7 means to determine the amount of mitigation needed to offset  
8 adverse impacts to wetlands and other surface waters and to  
9 award and deduct mitigation bank credits. A water management  
10 district and any other governmental agency subject to chapter  
11 120 may apply the uniform ~~wetland~~ mitigation assessment method  
12 without the need to adopt it pursuant to s. 120.54. It shall  
13 be a goal of the department and water management districts  
14 that the uniform ~~wetland~~ mitigation assessment method  
15 developed be practicable for use within the timeframes  
16 provided in the permitting process and result in a consistent  
17 process for determining mitigation requirements. It shall be  
18 recognized that any such method shall require the application  
19 of reasonable scientific judgment. The uniform ~~wetland~~  
20 mitigation assessment method must determine the value of  
21 functions provided by wetlands and other surface waters  
22 considering the current conditions of these areas, utilization  
23 by fish and wildlife, location, uniqueness, and hydrologic  
24 connection, and, when applied to mitigation banks, in addition  
25 ~~to~~ the factors listed in s. 373.4136(4). The uniform ~~wetland~~  
26 mitigation assessment method shall also account for the  
27 expected time-lag associated with offsetting impacts and the  
28 degree of risk associated with the proposed mitigation. The  
29 uniform ~~wetland~~ mitigation assessment method shall account for  
30 different ecological communities in different areas of the  
31 state. In developing the uniform ~~wetland~~ mitigation assessment

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1 method, the department and water management districts shall  
2 consult with approved local programs under s. 403.182 which  
3 have an established ~~wetland~~ mitigation program for wetlands or  
4 other surface waters. The department and water management  
5 districts shall consider the recommendations submitted by such  
6 approved local programs, including any recommendations  
7 relating to the adoption by the department and water  
8 management districts of any uniform ~~wetland~~ mitigation  
9 methodology that has been adopted and used by an approved  
10 local program in its established ~~wetland~~ mitigation program  
11 for wetlands or other surface waters. Environmental resource  
12 permitting rules may establish categories of permits or  
13 thresholds for minor impacts under which the use of the  
14 uniform ~~wetland~~ mitigation assessment method will not be  
15 required. The application of the uniform ~~wetland~~ mitigation  
16 assessment method is not subject to s. 70.001. In the event  
17 the rule establishing the uniform ~~wetland~~ mitigation  
18 assessment method is deemed to be invalid, the applicable  
19 rules related to establishing needed mitigation in existence  
20 prior to the adoption of the uniform ~~wetland~~ mitigation  
21 assessment method, including those adopted by a county which  
22 is an approved local program under s. 403.182, and the method  
23 described in paragraph (b) for existing mitigation banks,  
24 shall be authorized for use by the department, water  
25 management districts, local governments, and other state  
26 agencies.

27 (a) In developing the uniform ~~wetland~~ mitigation  
28 assessment method, the department shall seek input from the  
29 United States Army Corps of Engineers in order to promote  
30 consistency in the mitigation assessment methods used by the  
31 state and federal permitting programs.

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1           (b) An entity which has received a mitigation bank  
 2 permit prior to the adoption of the uniform ~~wetland~~ mitigation  
 3 assessment method shall have impact sites assessed, for the  
 4 purpose of deducting bank credits, using the credit assessment  
 5 method, including any functional assessment methodology, which  
 6 was in place when the bank was permitted; unless the entity  
 7 elects to have its credits redetermined, and thereafter have  
 8 its credits deducted, using the uniform ~~wetland~~ mitigation  
 9 assessment method.

10           ~~(19) The Office of Program Policy Analysis and~~  
 11 ~~Government Accountability shall study the cumulative impact~~  
 12 ~~consideration required by subsection (8) and issue a report by~~  
 13 ~~July 1, 2001. The study shall address the justification for~~  
 14 ~~the cumulative impact consideration, changes that can provide~~  
 15 ~~clarity and certainty in the cumulative impact consideration,~~  
 16 ~~and whether a practicable, consistent, and equitable~~  
 17 ~~methodology can be developed for considering cumulative~~  
 18 ~~impacts within the environmental resource permitting program.~~

=====T I T L E   A M E N D M E N T=====

22 And the title is amended as follows:

23           On page 1, line 2 after the semicolon

25 insert:

26           amending s. 373.414, F.S.; requiring that the  
 27           Department of Environmental Protection adopt a  
 28           uniform mitigation assessment method by rule by  
 29           July 31, 2002;