



HB 1291

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1 A bill to be entitled

2 An act relating to mitigation banks; amending s. 373.4136,
3 F.S.; providing that already established mitigation bank
4 service areas are not subject to cumulative impact
5 analysis on the release of credits to certain persons;
6 amending s. 373.414, F.S.; providing that proposed
7 mitigation which offsets the adverse impact in the
8 mitigation bank service area shall be considered to meet
9 certain cumulative impact requirements; providing an
10 effective date.

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

13
14 Section 1. Subsection (6) of section 373.4136, Florida
15 Statutes, is amended to read:

16 373.4136 Establishment and operation of mitigation
17 banks.--

18 (6) MITIGATION SERVICE AREA.--The department or water
19 management district shall establish a mitigation service area
20 for each mitigation bank permit. The department or water
21 management district shall notify and consider comments received
22 on the proposed mitigation service area from each local
23 government within the proposed mitigation service area. Except
24 as provided herein, mitigation credits may be withdrawn and used
25 only to offset adverse impacts in the mitigation service area.
26 The boundaries of the mitigation service area shall depend upon
27 the geographic area where the mitigation bank could reasonably
28 be expected to offset adverse impacts. Mitigation service areas
29 may overlap, and mitigation service areas for two or more
30 mitigation banks may be approved for a regional watershed.



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31 (a) In determining the boundaries of the mitigation
32 service area, the department or the water management district
33 shall consider the characteristics, size, and location of the
34 mitigation bank and, at a minimum, the extent to which the
35 mitigation bank:

36 1. Contributes to a regional integrated ecological
37 network;

38 2. Will significantly enhance the water quality or
39 restoration of an offsite receiving water body that is
40 designated as an Outstanding Florida Water, a Wild and Scenic
41 River, an aquatic preserve, a water body designated in a plan
42 adopted pursuant to s. 373.456 of the Surface Water Improvement
43 and Management Act, or a nationally designated estuarine
44 preserve;

45 3. Will provide for the long-term viability of endangered
46 or threatened species or species of special concern;

47 4. Is consistent with the objectives of a regional
48 management plan adopted or endorsed by the department or water
49 management districts; and

50 5. Can reasonably be expected to offset specific types of
51 wetland impacts within a specific geographic area. A mitigation
52 bank need not be able to offset all expected impacts within its
53 service area.

54 (b) The department and water management districts shall
55 use regional watersheds to guide the establishment of mitigation
56 service areas. Drainage basins established pursuant to s.
57 373.414(8) may be used as regional watersheds when they are
58 established based on the hydrological or ecological
59 characteristics of the basin. A mitigation service area may
60 extend beyond the regional watershed in which the bank is



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61 located into all or part of other regional watersheds when the
62 mitigation bank has the ability to offset adverse impacts
63 outside that regional watershed. Similarly, a mitigation service
64 area may be smaller than the regional watershed in which the
65 mitigation bank is located when adverse impacts throughout the
66 regional watershed cannot reasonably be expected to be offset by
67 the mitigation bank because of local ecological or hydrological
68 conditions.

69 (c) Once a mitigation bank service area has been
70 established by the department or a water management district for
71 a mitigation bank, such service area shall be accepted by all
72 water management districts, local governments, and the
73 department, and is not subject to cumulative impact analysis on
74 the release of credits to any qualified applicant.

75 (d) If the requirements in s. 373.414(1)(b) and (8) are
76 met, the following projects or activities regulated under this
77 part shall be eligible to use a mitigation bank, regardless of
78 whether they are located within the mitigation service area:

79 1. Projects with adverse impacts partially located within
80 the mitigation service area.

81 2. Linear projects, such as roadways, transmission lines,
82 distribution lines, pipelines, or railways.

83 3. Projects with total adverse impacts of less than 1 acre
84 in size.

85 Section 2. Paragraph (c) is added to subsection (8) of
86 section 373.414, Florida Statutes, to read:

87 373.414 Additional criteria for activities in surface
88 waters and wetlands.--

89 (8)



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90 (c) If an applicant proposes mitigation within the same
91 mitigation service area as the adverse impacts to be mitigated,
92 the mitigation offsets these adverse impacts, and the mitigation
93 service area has been established as part of a mitigation bank
94 created and permitted pursuant to s. 373.4136, the governing
95 board and the department shall consider the regulated activity
96 to meet the cumulative impact requirements of paragraph (a).

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