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1 A bill to be entitled
 2 An act relating to wetlands mitigation; amending s.
 3 373.414, F.S.; providing additional criteria for local
 4 governments with regard to uniform wetlands mitigation
 5 assessment methods under certain circumstances; providing
 6 an effective date.

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

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 10 Section 1. Subsection (18) of section 373.414, Florida
 11 Statutes, is amended to read:

12 373.414 Additional criteria for activities in surface
 13 waters and wetlands.--

14 (18) The department and each water management district
 15 responsible for implementation of the environmental resource
 16 permitting program shall develop a uniform mitigation assessment
 17 method for wetlands and other surface waters. The department
 18 shall adopt the uniform mitigation assessment method by rule no
 19 later than July 31, 2002. The rule shall provide an exclusive
 20 and consistent process for determining the amount of mitigation
 21 required to offset impacts to wetlands and other surface waters,
 22 and, once effective, shall supersede all rules, ordinances, and
 23 variance procedures from ordinances that determine the amount of
 24 mitigation needed to offset such impacts. Once the department
 25 adopts the uniform mitigation assessment method by rule, the
 26 uniform mitigation assessment method shall be binding on the
 27 department, the water management districts, local governments,
 28 and any other governmental agencies and shall be the sole means
 29 to determine the amount of mitigation needed to offset adverse

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30 impacts to wetlands and other surface waters and to award and
31 deduct mitigation bank credits, unless a local government as
32 part of its comprehensive plan has adopted a wetlands policy
33 that includes mitigation ratios established prior to July 31,
34 2002, and has been found to be in compliance by the state land
35 planning agency. If the local government's established wetlands
36 policy is more comprehensive and restrictive than the
37 requirement of the uniform mitigation assessment method, that
38 policy shall control. Nothing in this section shall preclude the
39 local government from amending its comprehensive plan to adopt
40 the uniform mitigation assessment method. A water management
41 district and any other governmental agency subject to chapter
42 120 may apply the uniform mitigation assessment method without
43 the need to adopt it pursuant to s. 120.54. It shall be a goal
44 of the department and water management districts that the
45 uniform mitigation assessment method developed be practicable
46 for use within the timeframes provided in the permitting process
47 and result in a consistent process for determining mitigation
48 requirements. It shall be recognized that any such method shall
49 require the application of reasonable scientific judgment. The
50 uniform mitigation assessment method must determine the value of
51 functions provided by wetlands and other surface waters
52 considering the current conditions of these areas, utilization
53 by fish and wildlife, location, uniqueness, and hydrologic
54 connection, and, when applied to mitigation banks, the factors
55 listed in s. 373.4136(4). The uniform mitigation assessment
56 method shall also account for the expected time-lag associated
57 with offsetting impacts and the degree of risk associated with
58 the proposed mitigation. The uniform mitigation assessment

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59 method shall account for different ecological communities in
60 different areas of the state. In developing the uniform
61 mitigation assessment method, the department and water
62 management districts shall consult with approved local programs
63 under s. 403.182 which have an established mitigation program
64 for wetlands or other surface waters. The department and water
65 management districts shall consider the recommendations
66 submitted by such approved local programs, including any
67 recommendations relating to the adoption by the department and
68 water management districts of any uniform mitigation methodology
69 that has been adopted and used by an approved local program in
70 its established mitigation program for wetlands or other surface
71 waters. Environmental resource permitting rules may establish
72 categories of permits or thresholds for minor impacts under
73 which the use of the uniform mitigation assessment method will
74 not be required. The application of the uniform mitigation
75 assessment method is not subject to s. 70.001. In the event the
76 rule establishing the uniform mitigation assessment method is
77 deemed to be invalid, the applicable rules related to
78 establishing needed mitigation in existence prior to the
79 adoption of the uniform mitigation assessment method, including
80 those adopted by a county ~~which is an approved local program~~
81 ~~under s. 403.182,~~ and the method described in paragraph (b) for
82 existing mitigation banks, shall be authorized for use by the
83 department, water management districts, local governments, and
84 other state agencies.

85 (a) In developing the uniform mitigation assessment
86 method, the department shall seek input from the United States
87 Army Corps of Engineers in order to promote consistency in the

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88 mitigation assessment methods used by the state and federal
89 permitting programs.

90 (b) An entity which has received a mitigation bank permit
91 prior to the adoption of the uniform mitigation assessment
92 method shall have impact sites assessed, for the purpose of
93 deducting bank credits, using the credit assessment method,
94 including any functional assessment methodology, which was in
95 place when the bank was permitted; unless the entity elects to
96 have its credits redetermined, and thereafter have its credits
97 deducted, using the uniform mitigation assessment method.

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