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LEGISLATIVE ACTION

Senate	.	House
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Floor: AD/2R	.	
01/14/2009 10:45 AM	.	
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The Conference Committee on CS for SB 24-A recommended the following:

Senate Conference Committee Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (c) of subsection (3) and paragraph (c) of subsection (4) of section 373.4137, Florida Statutes, are amended to read:

373.4137 Mitigation requirements for specified transportation projects.—

(3)



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12 (c) Except for current mitigation projects in the
13 monitoring and maintenance phase and except as allowed by
14 paragraph (d), the water management districts may request a
15 transfer of funds from an escrow account no sooner than 30 days
16 prior to the date the funds are needed to pay for activities
17 associated with development or implementation of the approved
18 mitigation plan described in subsection (4) for the current
19 fiscal year, including, but not limited to, design, engineering,
20 production, and staff support. Actual conceptual plan
21 preparation costs incurred before plan approval may be submitted
22 to the Department of Transportation or the appropriate
23 transportation authority each year with the plan. The conceptual
24 plan preparation costs of each water management district will be
25 paid from mitigation funds associated with the environmental
26 impact inventory for the current year. The amount transferred to
27 the escrow accounts each year by the Department of
28 Transportation and participating transportation authorities
29 established pursuant to chapter 348 or chapter 349 shall
30 correspond to a cost per acre of \$75,000 multiplied by the
31 projected acres of impact identified in the environmental impact
32 inventory described in subsection (2). However, the \$75,000 cost
33 per acre does not constitute an admission against interest by
34 the state or its subdivisions nor is the cost admissible as
35 evidence of full compensation for any property acquired by
36 eminent domain or through inverse condemnation. Each July 1, the
37 cost per acre shall be adjusted by the percentage change in the
38 average of the Consumer Price Index issued by the United States
39 Department of Labor for the most recent 12-month period ending
40 September 30, compared to the base year average, which is the



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41 average for the 12-month period ending September 30, 1996. Each
42 quarter, the projected acreage of impact shall be reconciled
43 with the acreage of impact of projects as permitted, including
44 permit modifications, pursuant to this part and s. 404 of the
45 Clean Water Act, 33 U.S.C. s. 1344. The subject year's transfer
46 of funds shall be adjusted accordingly to reflect the acreage of
47 impacts as permitted. The Department of Transportation and
48 participating transportation authorities established pursuant to
49 chapter 348 or chapter 349 are authorized to transfer such funds
50 from the escrow accounts to the water management districts to
51 carry out the mitigation programs. For a mitigation project that
52 is in the maintenance and monitoring phase, the water management
53 district may request and receive a one-time payment based on the
54 project's expected future maintenance and monitoring costs. Upon
55 disbursement of the final maintenance and monitoring payment,
56 the escrow account for the project established by the Department
57 of Transportation or the participating transportation authority
58 may be closed. Any interest earned on these disbursed funds
59 shall remain with the water management district and must be used
60 as authorized under this section ~~paragraph (4)(c)~~.

61 (4) Prior to March 1 of each year, each water management
62 district, in consultation with the Department of Environmental
63 Protection, the United States Army Corps of Engineers, the
64 Department of Transportation, transportation authorities
65 established pursuant to chapter 348 or chapter 349, and other
66 appropriate federal, state, and local governments, and other
67 interested parties, including entities operating mitigation
68 banks, shall develop a plan for the primary purpose of complying
69 with the mitigation requirements adopted pursuant to this part



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70 and 33 U.S.C. s. 1344. In developing such plans, the districts
71 shall utilize sound ecosystem management practices to address
72 significant water resource needs and shall focus on activities
73 of the Department of Environmental Protection and the water
74 management districts, such as surface water improvement and
75 management (SWIM) projects and lands identified for potential
76 acquisition for preservation, restoration or enhancement, and
77 the control of invasive and exotic plants in wetlands and other
78 surface waters, to the extent that such activities comply with
79 the mitigation requirements adopted under this part and 33
80 U.S.C. s. 1344. In determining the activities to be included in
81 such plans, the districts shall also consider the purchase of
82 credits from public or private mitigation banks permitted under
83 s. 373.4136 and associated federal authorization and shall
84 include such purchase as a part of the mitigation plan when such
85 purchase would offset the impact of the transportation project,
86 provide equal benefits to the water resources than other
87 mitigation options being considered, and provide the most cost-
88 effective mitigation option. The mitigation plan shall be
89 submitted to the water management district governing board, or
90 its designee, for review and approval. At least 14 days prior to
91 approval, the water management district shall provide a copy of
92 the draft mitigation plan to any person who has requested a
93 copy.

94 ~~(c) Surface water improvement and management or invasive~~
95 ~~plant control projects undertaken using the \$12 million advance~~
96 ~~transferred from the Department of Transportation to the~~
97 ~~Department of Environmental Protection in fiscal year 1996-1997~~
98 ~~which meet the requirements for mitigation under this part and~~



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99 ~~33 U.S.C. s. 1344 shall remain available for mitigation until~~
100 ~~the \$12 million is fully credited. When these projects are used~~
101 ~~as mitigation, the \$12 million advance shall be reduced by~~
102 ~~\$75,000 per acre of impact mitigated. To the extent the cost of~~
103 ~~developing and implementing the mitigation plans is less than~~
104 ~~the funds placed in the escrow account pursuant to subsection~~
105 ~~(3), the difference shall be retained by the Department of~~
106 ~~Transportation and credited towards the \$12 million advance~~
107 ~~until the Department of Transportation is fully refunded for~~
108 ~~this advance funding. After the \$12 million advance funding is~~
109 ~~fully credited, any funds not directed to implement the~~
110 ~~mitigation plan should, to the greatest extent possible, be~~
111 ~~directed to fund invasive plant control within wetlands and~~
112 ~~other surface waters, SWIM projects, or other water resource~~
113 ~~projects approved by the governing board of the water management~~
114 ~~district which may be appropriate to offset environmental~~
115 ~~impacts of future transportation projects. The water management~~
116 ~~districts may request these funds upon submittal of the final~~
117 ~~invoice for each road project.~~

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

119
120 ===== T I T L E A M E N D M E N T =====

121 And the title is amended as follows:

122 Delete everything before the enacting clause
123 and insert:

124 A bill to be entitled
125 An act relating to mitigation funding for transportation
126 projects; amending s. 373.4137, F.S.; deleting provisions
127 directing that certain funds of the Department of Transportation



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128 be used for invasive plant control, SWIM projects, or other
129 water resource projects; providing an effective date.