

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Policy and Steering Committee on Ways and Means

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BILL: SB/CS 24-A

INTRODUCER: General Government Appropriations Committee and Senator Baker

SUBJECT: Transportation Projects/Mitigation Funding

DATE: January 8, 2009 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kynoch</u>	<u>DeLoach</u>	<u>GA</u>	<b>Fav/CS</b>
2.	<u>McVaney</u>	<u>Kelly</u>	<u>WPSC</u>	<b>Favorable</b>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The bill removes the requirement for the Department of Environmental Protection (DEP) and the Department of Transportation (DOT) to track mitigation credits associated with water management district mitigation projects.

This bill repeals 373.4137(4)(c), Florida Statutes.

**II. Present Situation:**

Enacted in 1996, s. 373.4137, F.S., (ch. 96-238, L.O.F.) directs the DOT to annually submit for approval to the water management districts a copy of its adopted work program and an inventory of habitats anticipated to be adversely impacted by planned transportation projects. In order to mitigate for the adverse impacts to the surface waters of the state and to help implement invasive plant control projects, the DOT, as a part of this section, was directed to provide an advance transfer of \$12 million to the DEP to initiate this program. Pursuant to specific appropriations 1163 and 1223, ch. 96-424, L.O.F., these funds were deposited in the Ecosystems Management and Restoration Trust Fund and divided equally between the Surface Water Improvement

Program and the Aquatic Plant Control Matching Grant Program. The funds were then passed through to the water management districts, which implement these programs.

In order to reimburse the DOT for the advance, the law provides a methodology for applying a \$75,000 per acre impacted credit toward the advance through Fiscal Year 2005-2006.

Subsequently, in ch. 2005-281, L.O.F., the statutory expiration of the credits was removed and the law provides that the credits remain available until fully credited to the DOT.

Since 1996, approximately \$9 million has been credited against the advance. Historically, the DEP has annually reserved actual funds within the Ecosystem Management and Restoration Trust Fund, in an amount equal to the earned credits subtracted from the original \$12 million advance, though not required by the provisions of section 373.4137, F.S. Currently this amount is \$3 million. In recent years, minimal credits have been earned. In Fiscal Year 2006-2007, \$209,235.44 credits were earned. In Fiscal Year 2007-2008, \$46,731.77 credits were earned. Through December 31, 2008, for the 2008-2009 fiscal year, no credits have been earned and adjustments have been made by the DOT to increase the unearned advance by -\$332.47.

### **III. Effect of Proposed Changes:**

This bill repeals s. 373.4137(4)(c), F.S., removing the requirement that the DEP and the DOT track credits associated with water management district mitigation projects. The bill does not change the mitigation requirements for the DOT.

The removal of the tracking requirement would also eliminate the reserving of funds by the DEP.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill removes the requirement that the DEP and the DOT track credits associated with water management district mitigation projects, but does not change the mitigation requirements for Department of Transportation projects.

Since 1996, approximately \$9 million has been credited against the \$12 million advance. In recent years, minimal credits have been earned. In Fiscal Year 2006-2007, \$209,235.44 credits were earned. In Fiscal Year 2007-2008, \$46,731.77 credits were earned. Through December 31, 2008, for the 2008-2009 fiscal year, no credits have been earned and adjustments have been made by the DOT to increase the unearned advance by -\$332.47. The removal of the tracking requirement would also eliminate the reservation of \$3 million cash by the DEP.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by General Government Appropriations on January 7, 2009:**

The committee substitute removes the requirement for the Department of Environmental Protection (DEP) and the Department of Transportation (DOT) to track mitigation credits associated with water management district mitigation projects. The removal of the tracking requirement eliminates the cause for the DEP to reserve \$3 million cash within the Ecosystem Management and Restoration Trust Fund.

**B. Amendments:**

None.