

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Transportation & Highway
2 Safety Subcommittee
3 Representative Pilon offered the following:
4

5 **Amendment (with title amendment)**

6 Remove lines 184-227 and insert:

7 (c) When determining which projects to include or exclude
8 from the mitigation plan, the Department of Transportation shall
9 investigate using credits from a permitted private mitigation
10 bank before those projects are submitted to, or are allowed to
11 remain in, the plan.

12 1. The investigation shall include the cost-effectiveness
13 of private mitigation bank credits.

14 2. The cost-effectiveness analysis must be in writing and
15 consider:

16 a. How the nominal cost of the private mitigation bank
17 credits compares with the nominal cost for any given project to
18 be included in the plan;

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19 b. The value of complying with federal transportation
20 policies for federal aid projects;

21 c. The value that private mitigation bank credits provide
22 as the result of the expedited approvals by the Army Corps of
23 Engineers when private mitigation banks are used; and

24 d. The value that private mitigation banks provide to the
25 state and its residents as a result of the state and federal
26 liability for the success of the mitigation transferring to the
27 private mitigation bank when credits are purchased from the
28 private mitigation bank.

29 (5) The water management district shall ensure ~~be~~
30 ~~responsible for ensuring~~ that mitigation requirements pursuant
31 to 33 U.S.C. s. 1344 are met for the impacts identified in the
32 environmental impact inventory described in subsection (2), by
33 implementation of the approved plan described in subsection (4)
34 to the extent funding is provided by the Department of
35 Transportation, or a transportation authority established
36 pursuant to chapter 348 or chapter 349, if applicable. During
37 the federal permitting process, the water management district
38 may deviate from the approved mitigation plan in order to comply
39 with federal permitting requirements.

40 Section 2. Paragraphs (b) through (e) of subsection (1) of
41 section 373.4135, Florida Statutes, are redesignated as
42 paragraphs (c) through (f), respectively, and a new paragraph
43 (b) is added to that subsection, to read:

44 373.4135 Mitigation banks and offsite regional
45 mitigation.—

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46 (1) The Legislature finds that the adverse impacts of
47 activities regulated under this part may be offset by the
48 creation, maintenance, and use of mitigation banks and offsite
49 regional mitigation. Mitigation banks and offsite regional
50 mitigation can enhance the certainty of mitigation and provide
51 ecological value due to the improved likelihood of environmental
52 success associated with their proper construction, maintenance,
53 and management. Therefore, the department and the water
54 management districts are directed to participate in and
55 encourage the establishment of private and public mitigation
56 banks and offsite regional mitigation. Mitigation banks and
57 offsite regional mitigation should emphasize the restoration and
58 enhancement of degraded ecosystems and the preservation of
59 uplands and wetlands as intact ecosystems rather than alteration
60 of landscapes to create wetlands. This is best accomplished
61 through restoration of ecological communities that were
62 historically present.

63 (b) Notwithstanding s. 373.4135(5), a governmental entity
64 may not create or provide mitigation for a project other than
65 its own unless the governmental entity uses land that was not
66 previously purchased for conservation and unless the
67 governmental entity provides the same financial assurances as
68 required for mitigation banks permitted under s. 373.4136 and
69 regional offsite mitigation areas permitted under s.
70 373.4135(6). This paragraph does not apply to:

71 1. Mitigation banks permitted prior to December 31, 2011,
72 under s. 373.4136;

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73 2. Offsite regional mitigation areas established prior to
74 December 31, 2011, under s. 373.4135(6);

75 3. Mitigation for transportation projects under ss.
76 373.4137 and 373.4139;

77 4. Mitigation for impacts from mining activities under s.
78 373.41492; or

79 5. Mitigation provided for single family lots or
80 homeowners under s. 373.4135(6).

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

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84 **T I T L E A M E N D M E N T**

85 Remove lines 2-3 and insert:

86 An act relating to mitigation; amending s. 373.4137, F.S.;

87 Remove lines 26-28 and insert:

88 plan; amending s. 373.4135, F.S.; providing the circumstances
89 under which a governmental entity may create or provide
90 mitigation outside of the statutory program; providing an
91 effective date.