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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2025	.	
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The Appropriations Committee on Agriculture, Environment, and General Government (McClain) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (5) and (6) of section 373.4136,
Florida Statutes, are amended to read:

373.4136 Establishment and operation of mitigation banks.—

(5) SCHEDULE FOR CREDIT RELEASE.—After July 1, 2025, when
issuing ~~awarding mitigation credits to~~ a mitigation bank permit,
the department or the water management district shall adhere to



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the credit release schedule set forth in this subsection a
schedule for the release of these credits awarded by in the
mitigation bank permit. A mitigation credit that has been
released may be sold or used to offset adverse impacts from an
activity regulated under this part.

(a) Thirty percent of awarded credits shall be released for
the recordation of the conservation easement and establishment
of financial assurances required by the mitigation bank permit.
If a preservation-only assessment area is used, 100 percent of
awarded credits shall be released for the recordation of the
conservation easement and establishment of financial assurances
required by the mitigation bank permit ~~The department or the
water management district shall allow a portion of the
mitigation credits awarded to a mitigation bank to be released
for sale or use prior to meeting all of the performance criteria
specified in the mitigation bank permit. The department or the
water management district shall allow release of all of a
mitigation bank's awarded mitigation credits only after the bank
meets the mitigation success criteria specified in the permit.~~

(b) Thirty percent of awarded credits shall be released
following completion of initial construction activities as
established by the mitigation bank permit.

(c) Twenty percent of awarded credits shall be released in
increments as monitoring indicates interim performance criteria
established by the mitigation bank permit are being met.

(d) Twenty percent of awarded credits shall be released
upon meeting final success criteria established by the
mitigation bank permit ~~The number of credits and schedule for
release shall be determined by the department or water~~



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~~management district based upon the performance criteria for the mitigation bank and the success criteria for each mitigation activity. The release schedule for a specific mitigation bank or phase thereof shall be related to the actions required to implement the bank, such as site protection, site preparation, earthwork, removal of wastes, planting, removal or control of nuisance and exotic species, installation of structures, and annual monitoring and management requirements for success. In determining the specific release schedule for a bank, the department or water management district shall consider, at a minimum, the following factors:~~

~~1. Whether the mitigation consists solely of preservation or includes other types of mitigation.~~

~~2. The length of time anticipated to be required before a determination of success can be achieved.~~

~~3. The ecological value to be gained from each action required to implement the bank.~~

~~4. The financial expenditure required for each action to implement the bank.~~

(e) The mitigation bank applicant may propose an alternative credit release schedule and the department or water management district shall consider the proposed alternative credit release schedule.

(f)(e) Notwithstanding the provisions of this subsection, a mitigation ~~no~~ credit may not ~~shall~~ be released for freshwater wetland creation until the success criteria established ~~included~~ in the mitigation bank permit for initial construction activities are met.

(g)(d) The withdrawal of mitigation credits from a



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mitigation bank shall be accomplished as a minor modification of the mitigation bank permit. A processing fee is not ~~shall not be~~ required by the department or water management district for this minor modification.

(6) MITIGATION SERVICE AREA.—The department or water management district shall establish a mitigation service area for each mitigation bank permit. The department or water management district shall notify and consider comments received on the proposed mitigation service area from each local government within the proposed mitigation service area. Except as provided in this section ~~herein~~, mitigation credits may be withdrawn and used only to offset adverse impacts in the mitigation service area. The boundaries of the mitigation service area shall depend upon the geographic area where the mitigation bank could reasonably be expected to offset adverse impacts. Mitigation service areas may overlap, and mitigation service areas for two or more mitigation banks may be approved for a regional watershed.

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

1. Contributes to a regional integrated ecological network;
2. Will significantly enhance the water quality or restoration of an offsite receiving water body that is designated as an Outstanding Florida Water, a Wild and Scenic River, an aquatic preserve, a water body designated in a plan approved pursuant to the Surface Water Improvement and



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Management Act, or a nationally designated estuarine preserve;

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

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

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

(b) The department and water management districts shall use regional watersheds to guide the establishment of mitigation service areas. Drainage basins established pursuant to s. 373.414(8) may be used as regional watersheds when they are established based on the hydrological or ecological characteristics of the basin. A mitigation service area may extend beyond the regional watershed in which the bank is located into all or part of other regional watersheds when the mitigation bank has the ability to offset adverse impacts outside that regional watershed. Similarly, a mitigation service area may be smaller than the regional watershed in which the mitigation bank is located when adverse impacts throughout the regional watershed cannot reasonably be expected to be offset by the mitigation bank because of local ecological or hydrological conditions.

(c) Once a mitigation bank service area has been established by the department or a water management district for a mitigation bank, such mitigation bank shall be deemed to implement a plan that provides regional ecological value; such



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service area shall be accepted by all water management districts, local governments, and the department; and the use of credits from such mitigation bank to offset impacts within that bank's service area shall be considered to have met the cumulative impact requirements of s. 373.414(8)(a).

(d) If the requirements in s. 373.414(1)(b) and (8) are met, the following projects or activities regulated under this part shall be eligible to use credits released from a mitigation bank to offset impacts resulting from such projects or activities ~~a mitigation bank, regardless of whether they are located within the mitigation service area:~~

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

2. Linear projects, such as roadways, transmission lines, distribution lines, pipelines, railways, or seaports listed in s. 311.09(1).

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

4. Projects that meet the requirements of s. 373.414(1)(b) and the criteria in paragraphs (e)-(g).

(e) If the requirements of s. 373.414(1)(a) are met and an insufficient number or type of credits from banks whose permitted service area overlays in whole or in part the regional watershed in which the impacts occur, the project applicant is entitled to a one-time use of credits released from a mitigation bank outside the mitigation bank service area to offset impacts pursuant to s. 373.414(1)(b), as established by the procedure in paragraph (g), and upon verification by the department or water management district that mitigation banks within the regional



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watershed in which the adverse impacts are located lack the appropriate credit type to offset impacts associated with the proposed project. If the number of released credits within a mitigation service area only partially offsets the impacts associated with a proposed project in the mitigation service area, the permit applicant may only use out-of-service-area credits to account for the difference between the released credits available in the mitigation bank service area and the credits required to offset the impacts associated with the proposed project. In implementing this subsection, the department and water management districts shall apply a proximity factor to determine adequate compensatory mitigation as follows:

1. A 1.0 multiplier shall be applied for use of in-kind credits within any regional watershed overlain in whole or in part by the service area.

2. A 1.0 multiplier shall be applied for use of in-kind and out-of-service-area credits when the service area overlays part of the same regional watershed as the proposed impacts.

3. A 1.2 multiplier shall be applied for use of in-kind and out-of-service-area credits located within a regional watershed immediately adjacent to the regional watershed overlain by a bank service area in which proposed impacts are located.

4. When in-kind credits are not available to offset impacts in the regional watershed immediately adjacent to the regional watershed overlain by a bank service area in which the proposed impacts are located, as established by the procedure in paragraph (g), an additional 0.25 multiplier shall be applied for each additional regional watershed boundary crossed.



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185 5. An additional 0.50 multiplier shall be applied after any
186 multipliers required in subparagraphs 1., 2., 3., and 4., if the
187 mitigation used to offset impacts entails out-of-kind
188 replacement which does not replace the same type of freshwater
189 wetland or fresh surface water impacted.

190 (f) Use of the multipliers in subparagraphs (e)2.-4. meets
191 the requirements of s. 373.414(8)(a) for addressing cumulative
192 impacts.

193 (g) Once a permit applicant requests to use out-of-service-
194 area or out-of-kind credits, the department or water management
195 district shall contact all mitigation banks with a mitigation
196 service area encompassing the location of the proposed impacts
197 within 3 business days after receipt of the request from the
198 permit applicant and request an accounting of available credits.
199 The accounting may not include credits reserved for other permit
200 applicants. The mitigation banks contacted by the department or
201 water management district shall be allowed 15 business days
202 after receipt of the request by the department or water
203 management district to reply to such request. If a mitigation
204 bank does not reply within the 15 business day timeframe, it is
205 presumed credits are not available. Upon receipt of the
206 accounting from the mitigation banks, the department or water
207 management district shall determine if sufficient credits are
208 available to offset impacts associated with the proposed project
209 and notify the permit applicant of such determination within 15
210 business days. The permit applicant, and no other entity, may
211 rely on the determination from the department or water
212 management district for a period of 1 year beginning on the date
213 the department or water management district notifies the permit



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applicant of such determination, but only for purposes relating
to the pending application producing such determination and not
any extensions, nor renewals, nor modifications of any permit
issued pursuant to that pending application, nor for any other
permit application.

(h) Beginning July 1, 2026, and each July 1 thereafter,
each mitigation bank in this state shall submit to the
department or water management district an accounting of the
number and type of credits the mitigation bank has available for
sale. The accounting may not include names of parties for which
credits have been reserved or the contract price paid for the
credits. The department or water management district shall
compile the information to provide an assessment of this state's
mitigation banking system and submit a report to the President
of the Senate and the Speaker of the House of Representatives on
October 1, 2026, and each October 1 thereafter.

Section 2. Subsection (14) is added to section 704.06,
Florida Statutes, to read:

704.06 Conservation easements; creation; acquisition;
enforcement.—

(14) (a) Upon application by the fee simple owner of a
parcel of land subject to a conservation easement to a water
management district, a water management district shall release
the conservation easement if the following conditions are met:

1. The land subject to the easement is less than 15 acres
and is bordered on three or more sides by impervious surfaces;

2. Any undeveloped adjacent parcels of land are less than
15 acres and similarly bordered on three or more sides by
impervious surfaces;



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3. The land contains no historical, architectural,
archeological, or cultural significance; and

4. Before the release of the conservation easement, the
applicant must have secured sufficient mitigation credits using
the uniform mitigation assessment method from a mitigation bank
located in this state to offset the loss of wetlands located on
the land subject to the conservation easement.

(b) Upon the water management district's release of the
conservation easement, the ad valorem taxes on the property
shall be based on the just value of the property, and the
property may be used for development consistent with the zoning
designation of the adjacent lands.

Section 3. This act shall take effect July 1, 2025.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to mitigation banks; amending s.
373.4136, F.S.; revising the schedule for credit
release upon issuance of a mitigation bank credit
permit; authorizing a mitigation bank applicant to
propose an alternative credit release schedule and
requiring the Department of Environmental Protection
or water management district to consider such credit
release schedule; revising the consequences of the
establishment of a mitigation bank service area;
revising the projects or activities eligible to use



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credits released from a mitigation bank for certain purposes; authorizing a project applicant to receive a one-time use of certain credits in certain circumstances; providing requirements for a permit applicant if the number of released credits within a mitigation service area only partially offsets certain impacts; requiring the department and water management districts to apply a proximity factor in a specified manner to make a certain determination; specifying that the use of certain multipliers meets certain requirements; requiring the department or water management district to contact certain mitigation banks within a specified number of days after receiving a certain request from the applicant; providing a presumption if a mitigation bank does not respond in a certain number of days; requiring the department or water management district to make certain determinations upon receipt of an accounting from mitigation banks; authorizing only the permit applicant to rely on such determination for a specified timeframe and for specified purposes; requiring the department or water management district to submit specified annual reports including certain information to the Legislature; amending s. 704.06, F.S.; requiring certain water management districts, upon application by the owner of a parcel subject to a conservation easement, to release the conservation easement if specified conditions are met, including obtaining sufficient mitigation credits from a



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301 mitigation bank; providing for the valuation of the
302 property upon such release; specifying that land
303 released from the conservation easement may be used
304 for development consistent with certain zoning;
305 providing an effective date.