

FLORIDA HOUSE OF REPRESENTATIVES

BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: [CS/HB 673](#)

TITLE: Release of Conservation Easements

SPONSOR(S): Duggan

Committee References

[Natural Resources & Disasters](#)

15 Y, 2 N, As CS

COMPANION BILL: [SB 938](#) (McClain)

LINKED BILLS: None

RELATED BILLS: None



[Civil Justice & Claims](#)



[State Affairs](#)

SUMMARY

Effect of the Bill:

The bill directs water management districts (WMDs) to release conservation easements upon application by the fee simple owner of a parcel of land subject to a conservation easement if that land meets certain requirements. The bill provides that upon the release of the conservation easement, the ad valorem taxes on the property must be based on the just value of the property, and the property may be used for development. If the property will be developed, the bill specifies that the property owner assumes responsibility for any requirements, including compliance with all local ordinances and seeking approval for modification of any permits issued on the condition of the conservation easement. The bill also specifies that the provisions do not apply to conservation easements in residential developments or proprietary conservation easements held by the WMD.

Fiscal or Economic Impact:

WMDs may experience a negative fiscal impact from the loss of the value of conservation easements.

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ANALYSIS

EFFECT OF THE BILL:

The bill requires a water management district (WMD) to release a [conservation easement](#), upon application by the fee simple owner of a parcel of land that is subject to a conservation easement, if the following conditions are met:

- The land subject to the easement is less than 15 acres and is bordered on three or more sides by impervious surfaces;
- Any undeveloped adjacent parcels of land are less than 15 acres and bordered on three or more sides by impervious surfaces;
- The land contains no historical, architectural, archaeological, or cultural significance; and
- The applicant has secured sufficient one-time [mitigation credits](#) using the [uniform mitigation assessment method](#) from a [mitigation bank](#) in Florida to offset the loss of wetlands located on the land subject to the conservation easement. (Section 1)

The bill provides that upon the release of the conservation easement, the ad valorem taxes on the property must be based on the just value of the property, and authorizes such property to be used for development that is consistent with the zoning designation of the adjacent lands. The bill further specifies that should development occur on the property, the property owner will assume responsibility for any requirements, including stormwater requirements; comply with all local ordinances, including those relating to stormwater management; and seek district approval for modifying any permits, including stormwater permits, upon which the conservation easement was a condition. (Section 1)

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The bill also specifies that the provisions do not apply to conservation easements in residential developments or proprietary conservation easements held by the WMD and defines a “proprietary conservation easement” as a conservation easement that was not acquired as a condition for a permit. (Section [1](#))

The bill takes effect July 1, 2026. (Section [2](#))

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Conservation Easements

A conservation easement is a legal agreement that provides a perpetual, undivided interest in property to protect natural, scenic, or open space values of real property.¹ A water management district (WMD) may hold a conservation easement through donation or sale of property to that district.² Developers may also propose a conservation easement to offset environmental impacts from development and conservation easements may be a required component of a mitigation plan for a permit issued by a WMD.³ To protect wetlands or to offset impacts from permitted construction projects, the wetlands that remain on a permitted property, along with natural areas bordering them, often are placed in a conservation easement.⁴ Frequently, these easements are on or behind future home lots.⁵

Regulation of Activities in Wetlands

The Clean Water Act (CWA) is the primary federal law that regulates water pollution in the United States and it prohibits the discharge of any pollutant into waters of the United States (WOTUS).⁶ The discharge of dredged or fill material into WOTUS, including wetlands, is regulated by a program established in Section 404 of the CWA.⁷

The Department of Environmental Protection (DEP) regulates surface water flows via the Environmental Resource Permit (ERP) Program, a permitting process that addresses and regulates impacts to the landscape including clearing, grading, construction of structures and filling and dredging, whether the work occurs in uplands, wetlands or other surface waters.⁸ An ERP permit may be issued by DEP, a WMD, or a local government to which DEP delegated ERP permitting authority.⁹ ERPs are designed to prevent flooding, protect wetlands and other surface waters, and protect Florida's water quality from stormwater pollution.¹⁰

DEP's Submerged Lands and Environmental Resources Coordination Program is responsible for the consistent implementation of both the State 404 Program and the ERP Program.¹¹ Both programs require avoidance and minimization measures to reduce impacts to wetlands and any remaining adverse impacts to be offset by mitigation.

¹ Department of Environmental Protection, [Conservation Easements](#) (last visited Jan. 26, 2026). A perpetual easement is specific to a parcel, meaning that even if the land is exchanged and there is a new owner, the conservation easement agreement remains. See St. Johns River WMD (SJRWMD), [Conservation Easements](#) (last visited Jan. 26, 2026).

² St. Johns River WMD (SJRWMD), [Conservation Easements](#) (last visited Jan. 26, 2026).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ 33 U.S.C. § 1362(12). “The term ‘navigable waters’ means the waters of the United States, including the territorial seas.” 33 U.S.C. §1362(7).

⁷ EPA, *Section 404 of the Clean Water Act, Permit Program under CWA Section 404*, <https://www.epa.gov/cwa-404/permit-program-under-cwa-section-404> (last visited Jan. 26, 2026).

⁸ DEP, *Environmental Resource Permitting Online Help*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/environmental-resource-0> (last visited Jan. 26, 2026).

⁹ *Id.*

¹⁰ *Id.*

¹¹ DEP, *Submerged Lands and Environmental Resources Coordination Program*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination> (last visited Jan. 26, 2026).

Mitigation

Mitigation is used to offset adverse impacts to surface waters resulting from the construction activities allowed by an ERP.¹² When evaluating a proposed project for permitting, DEP or a WMD must consider whether the project is in the public interest.¹³ If a project is contrary to the public interest or cannot be considered as clearly in the public interest, an applicant may still be granted a permit if the applicant proposes mitigation for such activities.¹⁴

Mitigation usually consists of wetlands restoration, enhancement, creation, preservation, or a combination thereof and is accomplished by providing onsite mitigation, offsite mitigation, or purchasing mitigation credits from permitted mitigation banks.¹⁵ The ecological benefits of mitigation should compensate for the functional loss resulting from the activities permitted under the ERP.¹⁶

Mitigation Banking

Mitigation banking is a practice in which a public agency or private entity (banker) conducts an environmental enhancement and preservation project to provide mitigation for unavoidable environmental impacts within a defined region referred to as a mitigation service area.¹⁷ The bank is the site itself, and the currency sold by the banker to the ERP applicant is a credit.¹⁸ A mitigation bank can be established and operated in phases if each phase independently meets the requirements for the establishment and operation of a mitigation bank.¹⁹ Mitigation banks are authorized by a state permit, which is issued by either a WMD or DEP depending on the location of the bank and the activity it mitigates, and by the United States Army Corps of Engineers (USACE).²⁰

The [uniform mitigation assessment method](#) (UMAM) provides a standardized procedure for assessing the ecological functions provided by surface waters, the amount that those functions are reduced by a proposed impact, and the amount of mitigation necessary to offset that loss.²¹ The UMAM evaluates functions by considering an ecological community's current condition, hydrologic connection, uniqueness, location, fish and wildlife utilization, time lag, and mitigation risk.²² The UMAM is also used to determine the degree of improvement in ecological value of proposed mitigation bank activities.²³

To obtain a mitigation bank permit, the applicant must provide reasonable assurance that the mitigation bank will:

- Improve ecological conditions of the regional watershed;
- Provide viable and sustainable ecological and hydrological functions for the proposed mitigation service area;
- Be effectively managed in perpetuity;
- Not destroy areas with high ecological value;
- Achieve mitigation success; and
- Be adjacent to lands that will not adversely affect the long-term viability of the mitigation bank due to unsuitable land uses or conditions.²⁴

¹² Environmental Protection Agency, [Wetlands Compensatory Mitigation](#) (last visited Jan. 26, 2026).

¹³ [S. 373.414\(1\), F.S.](#); see [s. 373.414\(1\)\(a\), F.S.](#), for the criteria DEP or WMDs must consider when determining if something is contrary to the public interest or clearly in the public interest.

¹⁴ [S. 373.414\(1\)\(b\), F.S.](#)

¹⁵ *Id.*; [s. 373.4135, F.S.](#)

¹⁶ DEP, [Mitigation](#) (last visited Jan. 26, 2026).

¹⁷ DEP, [Mitigation and Mitigation Banking](#) (last visited Jan. 26, 2026).

¹⁸ DEP, [Mitigation Bank Program Overview](#) (last visited Jan. 26, 2026). A "mitigation bank" is a project permitted under [s. 373.4136, F.S.](#), undertaken to provide for the withdrawal of mitigation credits. See [s. 373.403\(19\), F.S.](#) A "mitigation credit" means a standard unit of measure that represents the increase in ecological value resulting from restoration, enhancement, preservation, or creation activities. See [s. 372.4136\(20\), F.S.](#)

¹⁹ [S. 373.4136\(2\), F.S.](#)

²⁰ DEP, [Mitigation and Mitigation Banking](#) (last visited Jan. 26, 2026).

²¹ DEP, [Uniform Mitigation Assessment Method \(UMAM\)](#) (last visited Jan. 26, 2026).

²² *Id.*

²³ *Id.*

²⁴ [S. 373.4136\(1\), F.S.](#); Rule 62-342.400, F.A.C.

The applicant must also provide reasonable assurances that:

- Any surface water management system that will be constructed, altered, operated, maintained, abandoned, or removed within a mitigation bank will meet the requirements of part IV of ch. 373, F.S., which regulates management and storage of surface waters, and adopted rules;
- The applicant has sufficient legal or equitable interest in the property to ensure perpetual protection and management of the land within a mitigation bank; and
- The applicant can meet the financial responsibility requirements prescribed for mitigation banks.²⁵

An applicant applying for a permit to establish a mitigation bank must provide documentation of financial responsibility and financial assurance mechanisms for the construction and implementation of the bank, and the perpetual management and maintenance of the bank.²⁶ This can be achieved by obtaining a surety or performance bond, irrevocable letter of credit, or insurance policy. The banker must demonstrate continuous fiscal responsibility until all of the permit conditions are completely satisfied and approved for release by DEP.²⁷ Further, the financial responsibility mechanisms must guarantee that the banker will perform all of its obligations under the permit.²⁸

Mitigation Credits

DEP or the local WMD determines the number of potential credits permitted for the bank and the credit required for ERPs and then awards the credits to the proposed mitigation bank, or a phase of such bank.²⁹ A banker may apply to modify the mitigation bank permit to obtain additional mitigation credits.³⁰ Once DEP or a WMD has approved the total number of credits for a mitigation bank, the credits must be released in a schedule as prescribed in the mitigation banking permit.³¹ This release can include a portion of credits released for sale or use prior to a mitigation bank meeting all of the performance criteria specified in the mitigation bank permit.³² The release schedule for a specific mitigation bank or phase must 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.³³

Mitigation Service Areas

DEP and WMDs are responsible for establishing mitigation service areas for each mitigation bank permit.³⁴ A mitigation service area is the geographic area within which mitigation credits from a mitigation bank can be purchased.³⁵ When determining the boundaries for a mitigation service area, DEP or a WMD must consider certain factors and must use regional watersheds to guide the establishment of such areas.³⁶ Generally, mitigation credits may only be withdrawn and used to offset adverse impacts in the mitigation service area.³⁷ However, if an applicant for an ERP is required to engage in mitigation activities, and meets the cumulative impact requirements for impacts on surface waters and wetlands within the same drainage basin, the following exceptions apply, which allow an applicant to obtain one-time use of credits from outside their mitigation service area:

- Projects with adverse impacts partially located within the mitigation service area.
- Linear projects, such as roadways, transmission lines, distribution lines, pipelines, railways, or seaports.

²⁵ *Id.*; see also Rule 62-342.700, F.A.C.

²⁶ Rule 62-342.700(3), F.A.C.

²⁷ *Id.*

²⁸ *Id.*

²⁹ [S. 373.4136\(4\), F.S.](#)

³⁰ *Id.*

³¹ [S. 373.4136\(5\), F.S.](#)

³² [S. 373.4136\(5\)\(a\), F.S.](#)

³³ [S. 373.4136\(5\)\(b\), F.S.](#)

³⁴ [S. 373.4136\(6\), F.S.](#)

³⁵ [S. 373.403\(21\), F.S.](#)

³⁶ See ss. 373.4136(6)(a) and [373.4136\(6\)\(b\), F.S.](#) A “watershed” means the land area that contributes to the flow of water into a receiving body of water. See [S. 373.403\(12\), F.S.](#)

³⁷ [S. 373.4136\(6\), F.S.](#)

- Projects with a total adverse impact of less than one acre in size.³⁸

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Natural Resources & Disasters Subcommittee	15 Y, 2 N, As CS	1/28/2026	Skinner	Jones
THE CHANGES ADOPTED BY THE COMMITTEE:	<ul style="list-style-type: none"> • Required property owners of land released from a conservation easement and subsequently developed to assume responsibility for any requirements, comply with all local ordinances, and seek district approval for modification of any permits conditional on the conservation easement, not only those related to stormwater. • Defined “proprietary conservation easement” for purposes of the bill. 			
Civil Justice & Claims Subcommittee				
State Affairs Committee				

THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.

³⁸ [S. 373.4136\(6\)\(d\), F.S.](#)