

**By** the Committee on Environment and Natural Resources; and Senator Truenow

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A bill to be entitled

An act relating to stormwater treatment; amending s. 373.019, F.S.; defining the terms "compensating stormwater treatment" and "total land area"; amending s. 373.4134, F.S.; revising legislative findings; requiring compensating stormwater treatment to comply with certain provisions unless certain circumstances exist; authorizing entities to apply for a water quality enhancement area provisional permit under certain circumstances; requiring the Department of Environmental Protection to issue such provisional permit if certain criteria are met; requiring the department to allow the use of enhancement credits from a water quality enhancement area established under a provisional permit; requiring a water management district issuing an environmental resource permit to certain applicants to allow such applicants to use enhancement credits under certain circumstances; authorizing the department to modify a water quality enhancement area provisional permit after the adoption of certain rules; requiring the department and water management districts to recognize any enhancement credit used from a water quality enhancement area established pursuant to a provisional permit; amending s. 373.414, F.S.; clarifying the types of mitigation measures for compensating stormwater treatment which the department or a water management district governing board must consider under certain circumstances; authorizing mitigation

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30 measures or enhancement credits intended to address  
31 certain impacts to be generated by third parties and  
32 sold and transferred to environmental resource permit  
33 applicants pursuant to specified provisions;  
34 requiring, beginning on a specified date, that public  
35 landowners direct private entities to cease certain  
36 activities upon a certain determination by the  
37 department; providing applicability; authorizing a  
38 public landowner to allow a private entity to resume  
39 compensatory stormwater treatment activities on public  
40 lands upon a certain final agency action determination  
41 by the department or final determination of a water  
42 management district; amending ss. 373.036, 373.250,  
43 373.421, 403.813, and 556.102, F.S.; conforming cross-  
44 references; reenacting s. 373.4136(6) (d), F.S.,  
45 relating to establishment and operation of mitigation  
46 banks, to incorporate the amendment made to s.  
47 373.414, F.S., in a reference thereto; providing an  
48 effective date.

49

50 Be It Enacted by the Legislature of the State of Florida:

51

52 Section 1. Present subsections (4) through (21) and (22)  
53 through (28) of section 373.019, Florida Statutes, are  
54 redesignated as subsections (5) through (22) and (24) through  
55 (30), respectively, and new subsections (4) and (23) are added  
56 to that section, to read:

57 373.019 Definitions.—When appearing in this chapter or in  
58 any rule, regulation, or order adopted pursuant thereto, the

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59 term:

60       (4) “Compensating stormwater treatment” means a method of  
61 stormwater treatment for discharges from more than two parcels,  
62 implemented in accordance with the conditions established in s.  
63 373.4134.64       (23) “Total land area” means land holdings under common  
65 ownership which are contiguous, or land holdings served by  
66 common surface water management facilities.67       Section 2. Present paragraphs (d) through (g) of subsection  
68 (3) of section 373.4134, Florida Statutes, are redesignated as  
69 paragraphs (e) through (h), respectively, a new paragraph (d) is  
70 added to that subsection, and paragraph (e) of subsection (1)  
71 and subsection (9) of that section are amended, to read:

72       373.4134 Water quality enhancement areas.—

73       (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds  
74 that:75       (e) Water quality enhancement areas that provide water  
76 quality enhancement credits to applicants seeking permits under  
77 ss. 373.403-373.443 and to governmental entities seeking to meet  
78 an assigned basin management action plan allocation or  
79 reasonable assurance plan under s. 403.067 are considered an  
80 appropriate and permittable option. The use of an enhancement  
81 credit as specified herein transfers the legal responsibility  
82 for complying with the applicable regulatory water quality  
83 treatment requirement from the purchaser and user of such  
84 enhancement credit to the generator of such enhancement credit.  
85 The transfer of legal responsibility for complying with  
86 applicable regulatory water quality treatment requirements does  
87 not occur outside of the use of enhancement credits.

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## 88 (3) WATER QUALITY ENHANCEMENT AREAS.—

89 (d) Compensating stormwater treatment must comply with this  
90 section unless:91 1. The treatment and discharging parcels are owned,  
92 operated, and maintained by the same entity; or93 2. The area providing compensating stormwater treatment  
94 receives stormwater discharge directly from parcels within the  
95 total land area and treats the discharge before such discharge  
96 flows off the parcel on which the compensating stormwater  
97 treatment occurs.98 (9) RULES.—The department shall adopt rules to implement  
99 this section. Pending the adoption of rules to implement this  
100 section, entities may apply for a water quality enhancement area  
101 provisional permit. The department must issue a water quality  
102 enhancement area provisional permit in response to such  
103 application if the applicant meets the statutory criteria of  
104 this section. The department shall allow the use of such  
105 enhancement credits from a water quality enhancement area  
106 established under a provisional permit as provided in this  
107 section and subject to compliance with s. 373.4134.108 Notwithstanding any other provision of law or rule, a water  
109 management district issuing an environmental resource permit to  
110 applicants seeking to satisfy environmental resource permit  
111 performance standards must allow such applicants to use  
112 enhancement credits if the department has issued a provisional  
113 permit for the water quality enhancement area from which the  
114 enhancement credits are generated. After the department adopts  
115 rules to implement this section, the department may modify an  
116 issued water quality enhancement area provisional permit to

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117 conform such permit to such adopted rules. Any enhancement  
118 credit used from a water quality enhancement area established  
119 pursuant to a provisional permit must continue to be recognized  
120 by the department and water management districts without change,  
121 regardless of whether the provisional permit is subsequently  
122 modified to conform to the adopted ~~This section may not be~~  
123 ~~implemented until the department adopts such rules.~~

124 Section 3. Paragraph (b) of subsection (1) of section  
125 373.414, Florida Statutes, is amended to read:

126 373.414 Additional criteria for activities in surface  
127 waters and wetlands.—

128 (1) As part of an applicant's demonstration that an  
129 activity regulated under this part will not be harmful to the  
130 water resources or will not be inconsistent with the overall  
131 objectives of the district, the governing board or the  
132 department shall require the applicant to provide reasonable  
133 assurance that state water quality standards applicable to  
134 waters as defined in s. 403.031 will not be violated and  
135 reasonable assurance that such activity in, on, or over surface  
136 waters or wetlands, as delineated in s. 373.421(1), is not  
137 contrary to the public interest. However, if such an activity  
138 significantly degrades or is within an Outstanding Florida  
139 Water, as provided by department rule, the applicant must  
140 provide reasonable assurance that the proposed activity will be  
141 clearly in the public interest.

142 (b) If the applicant is unable to otherwise meet the  
143 criteria set forth in this subsection, the governing board or  
144 the department, in deciding to grant or deny a permit, must  
145 consider measures proposed by or acceptable to the applicant to

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146 mitigate adverse effects that may be caused by the regulated  
147 activity. Such measures may include, but are not limited to,  
148 onsite mitigation, offsite mitigation, offsite regional  
149 mitigation, and the purchase of mitigation credits from  
150 mitigation banks permitted under s. 373.4136. It is the  
151 responsibility of the applicant to choose the form of  
152 mitigation. The mitigation must offset the adverse effects  
153 caused by the regulated activity.

154 1. The department or water management districts may accept  
155 the donation of money as mitigation only where the donation is  
156 specified for use in a duly noticed environmental creation,  
157 preservation, enhancement, or restoration project, endorsed by  
158 the department or the governing board of the water management  
159 district, which offsets the impacts of the activity permitted  
160 under this part. However, this subsection does not apply to  
161 projects undertaken pursuant to s. 373.4137 or chapter 378.  
162 Where a permit is required under this part to implement any  
163 project endorsed by the department or a water management  
164 district, all necessary permits must be have been issued before  
165 ~~prior to~~ the acceptance of any cash donation. After the  
166 effective date of this act, when money is donated to either the  
167 department or a water management district to offset impacts  
168 authorized by a permit under this part, the department or the  
169 water management district shall accept only a donation that  
170 represents the full cost to the department or water management  
171 district of undertaking the project that is intended to mitigate  
172 the adverse impacts. The full cost shall include all direct and  
173 indirect costs, as applicable, such as those for land  
174 acquisition, land restoration or enhancement, perpetual land

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175 management, and general overhead consisting of costs such as  
176 staff time, building, and vehicles. The department or the water  
177 management district may use a multiplier or percentage to add to  
178 other direct or indirect costs to estimate general overhead.  
179 Mitigation credit for such a donation may be given only to the  
180 extent that the donation covers the full cost to the agency of  
181 undertaking the project intended to mitigate the adverse  
182 impacts. However, nothing herein may be construed to prevent the  
183 department or a water management district from accepting a  
184 donation representing a portion of a larger project, provided  
185 that the donation covers the full cost of that portion and  
186 mitigation credit is given only for that portion. The department  
187 or water management district may deviate from the full cost  
188 requirements of this subparagraph to resolve a proceeding  
189 brought pursuant to chapter 70 or a claim for inverse  
190 condemnation. ~~Nothing~~ in This section may not be construed to  
191 require the owner of a private mitigation bank, permitted under  
192 s. 373.4136, to include the full cost of a mitigation credit in  
193 the price of the credit to a purchaser of such ~~said~~ credit.

194 2. The department and each water management district shall  
195 report by March 1 of each year, as part of the consolidated  
196 annual report required by s. 373.036(7), all cash donations  
197 accepted under subparagraph 1. during the preceding water  
198 management district fiscal year for wetland mitigation purposes.  
199 The report must exclude those contributions pursuant to s.  
200 373.4137. The report must include a description of the endorsed  
201 mitigation projects and, except for projects governed by s.  
202 373.4135(6), must address, as applicable, success criteria,  
203 project implementation status and timeframe, monitoring, long-

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204 term management, provisions for preservation, and full cost  
205 accounting.

206 3. If the applicant is unable to meet water quality  
207 standards because existing ambient water quality does not meet  
208 standards, the governing board or the department must consider  
209 mitigation measures, such as compensating stormwater treatment,  
210 proposed by or acceptable to the applicant that cause net  
211 improvement of the water quality in the receiving body of water  
212 for those parameters which do not meet standards. Mitigation  
213 measures or enhancement credits intended to address water  
214 quality impacts regulated under ss. 373.403-373.443 may be  
215 generated by third parties and sold and transferred to  
216 environmental resource permit applicants only as authorized  
217 under s. 373.4134.

218 4. Beginning July 1, 2026, if a public landowner authorizes  
219 or enters into an agreement with a private entity to construct,  
220 modify, or operate stormwater management systems or other  
221 features on public lands so that the private entity can provide  
222 offsite compensatory treatment for third-party water quality  
223 impacts or stormwater discharge, and if the department or a  
224 water management district employing the criteria in paragraph  
225 (a) determines by final agency action that the use of such  
226 public lands for such compensatory stormwater treatment is  
227 contrary to the public interest, the public landowner must  
228 direct the private entity to cease operation of the offsite  
229 compensatory treatment activities identified in the final order  
230 of the department or water management district. The requirement  
231 to cease such activities does not apply to other compensatory  
232 treatment activities governed by the agreement between the

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233 public landowner and the private entity which are not covered by  
234 the final order of the department or water management district.  
235 The public landowner may allow the private entity to resume such  
236 compensatory stormwater treatment activities on such public  
237 lands upon a subsequent final agency action determination by the  
238 department or final determination of a water management district  
239 that the use of such public lands for such compensatory  
240 treatment is no longer contrary to the public interest under the  
241 criteria of paragraph (a).

242 5. If mitigation requirements imposed by a local government  
243 for surface water and wetland impacts of an activity regulated  
244 under this part cannot be reconciled with mitigation  
245 requirements approved under a permit for the same activity  
246 issued under this part, including application of the uniform  
247 wetland mitigation assessment method adopted pursuant to  
248 subsection (18), the mitigation requirements for surface water  
249 and wetland impacts are controlled by the permit issued under  
250 this part.

251 Section 4. Paragraph (d) of subsection (1) of section  
252 373.036, Florida Statutes, is amended to read:

253 373.036 Florida water plan; district water management  
254 plans.—

255 (1) FLORIDA WATER PLAN.—In cooperation with the water  
256 management districts, regional water supply authorities, and  
257 others, the department shall develop the Florida water plan. The  
258 Florida water plan shall include, but not be limited to:

259 (d) Goals, objectives, and guidance for the development and  
260 review of programs, rules, and plans relating to water  
261 resources, based on statutory policies and directives. The state

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262 water policy rule, renamed the water resource implementation  
263 rule pursuant to s. 373.019(27) ~~s. 373.019(25)~~, shall serve as  
264 this part of the plan. Amendments or additions to this part of  
265 the Florida water plan shall be adopted by the department as  
266 part of the water resource implementation rule. In accordance  
267 with s. 373.114, the department shall review rules of the water  
268 management districts for consistency with this rule. Amendments  
269 to the water resource implementation rule must be adopted by the  
270 secretary of the department and be submitted to the President of  
271 the Senate and the Speaker of the House of Representatives  
272 within 7 days after publication in the Florida Administrative  
273 Register. Amendments do ~~shall~~ not become effective until the  
274 conclusion of the next regular session of the Legislature  
275 following their adoption.

276 Section 5. Paragraph (a) of subsection (5) of section  
277 373.250, Florida Statutes, is amended to read:

278 373.250 Reuse of reclaimed water.—

279 (5)(a) No later than October 1, 2012, the department shall  
280 initiate rulemaking to adopt revisions to the water resource  
281 implementation rule, as defined in s. 373.019(27) ~~s.~~  
282 ~~373.019(25)~~, which shall include:

283 1. Criteria for the use of a proposed impact offset derived  
284 from the use of reclaimed water when a water management district  
285 evaluates an application for a consumptive use permit. As used  
286 in this subparagraph, the term "impact offset" means the use of  
287 reclaimed water to reduce or eliminate a harmful impact that has  
288 occurred or would otherwise occur as a result of other surface  
289 water or groundwater withdrawals.

290 2. Criteria for the use of substitution credits where a

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291 water management district has adopted rules establishing  
292 withdrawal limits from a specified water resource within a  
293 defined geographic area. As used in this subparagraph, the term  
294 "substitution credit" means the use of reclaimed water to  
295 replace all or a portion of an existing permitted use of  
296 resource-limited surface water or groundwater, allowing a  
297 different user or use to initiate a withdrawal or increase its  
298 withdrawal from the same resource-limited surface water or  
299 groundwater source provided that the withdrawal creates no net  
300 adverse impact on the limited water resource or creates a net  
301 positive impact if required by water management district rule as  
302 part of a strategy to protect or recover a water resource.

303 Section 6. Subsection (1) of section 373.421, Florida  
304 Statutes, is amended to read:

305 373.421 Delineation methods; formal determinations.—

306 (1) The Environmental Regulation Commission shall adopt a  
307 unified statewide methodology for the delineation of the extent  
308 of wetlands as defined in s. 373.019(29) ~~s. 373.019(27)~~. This  
309 methodology shall consider regional differences in the types of  
310 soils and vegetation that may serve as indicators of the extent  
311 of wetlands. This methodology shall also include provisions for  
312 determining the extent of surface waters other than wetlands for  
313 the purposes of regulation under s. 373.414. This methodology  
314 does ~~shall~~ not become effective until ratified by the  
315 Legislature. Subsequent to legislative ratification, the wetland  
316 definition in s. 373.019(29) ~~s. 373.019(27)~~ and the adopted  
317 wetland methodology shall be binding on the department, the  
318 water management districts, local governments, and any other  
319 governmental entities. Upon ratification of such wetland

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320 methodology, the Legislature preempts the authority of any water  
321 management district, state or regional agency, or local  
322 government to define wetlands or develop a delineation  
323 methodology to implement the definition and determines that the  
324 exclusive definition and delineation methodology for wetlands  
325 shall be that established pursuant to s. 373.019(29) s.  
326 ~~373.019(27)~~ and this section. Upon such legislative  
327 ratification, any existing wetlands definition or wetland  
328 delineation methodology shall be superseded by the wetland  
329 definition and delineation methodology established pursuant to  
330 this chapter. Subsequent to legislative ratification, a  
331 delineation of the extent of a surface water or wetland by the  
332 department or a water management district, pursuant to a formal  
333 determination under subsection (2), or pursuant to a permit  
334 issued under this part in which the delineation was field-  
335 verified by the permitting agency and specifically approved in  
336 the permit, shall be binding on all other governmental entities  
337 for the duration of the formal determination or permit. All  
338 existing rules and methodologies of the department, the water  
339 management districts, and local governments, regarding surface  
340 water or wetland definition and delineation shall remain in full  
341 force and effect until the common methodology rule becomes  
342 effective. However, this may shall not be construed to limit any  
343 power of the department, the water management districts, and  
344 local governments to amend or adopt a surface water or wetland  
345 definition or delineation methodology until the common  
346 methodology rule becomes effective.

347 Section 7. Paragraphs (r) and (u) of subsection (1) of  
348 section 403.813, Florida Statutes, are amended to read:

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349        403.813 Permits issued at district centers; exceptions.—  
350        (1) A permit is not required under this chapter, chapter  
351 373, chapter 61-691, Laws of Florida, or chapter 25214 or  
352 chapter 25270, 1949, Laws of Florida, and a local government may  
353 not require a person claiming this exception to provide further  
354 department verification, for activities associated with the  
355 following types of projects; however, except as otherwise  
356 provided in this subsection, this subsection does not relieve an  
357 applicant from any requirement to obtain permission to use or  
358 occupy lands owned by the Board of Trustees of the Internal  
359 Improvement Trust Fund or a water management district in its  
360 governmental or proprietary capacity or from complying with  
361 applicable local pollution control programs authorized under  
362 this chapter or other requirements of county and municipal  
363 governments:

364        (r) The removal of aquatic plants, the removal of tussocks,  
365 the associated replanting of indigenous aquatic plants, and the  
366 associated removal from lakes of organic detrital material when  
367 such planting or removal is performed and authorized by permit  
368 or exemption granted under s. 369.20 or s. 369.25, provided  
369 that:

370        1. Organic detrital material that exists on the surface of  
371 natural mineral substrate shall be allowed to be removed to a  
372 depth of 3 feet or to the natural mineral substrate, whichever  
373 is less;

374        2. All material removed pursuant to this paragraph shall be  
375 placed on a self-contained, upland spoil site which will prevent  
376 the escape of the spoil material into waters in the state except  
377 when spoil material is permitted to be used to create wildlife

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378 islands in freshwater bodies of the state when a governmental  
379 entity is permitted pursuant to s. 369.20 to create such islands  
380 as a part of a restoration or enhancement project;

381 3. All activities are performed in a manner consistent with  
382 state water quality standards; and

383 4. Activities under this exemption are not conducted in  
384 wetland areas, as defined in s. 373.019(29) ~~s. 373.019(27)~~,  
385 which are supported by a natural soil as shown in applicable  
386 United States Department of Agriculture county soil surveys,  
387 except when a governmental entity is permitted pursuant to s.  
388 369.20 to conduct such activities as a part of a restoration or  
389 enhancement project.

390  
391 The department may not adopt implementing rules for this  
392 paragraph, notwithstanding any other provision of law.

393 (u) Notwithstanding any provision to the contrary in this  
394 subsection, a permit or other authorization under chapter 253,  
395 chapter 369, chapter 373, or this chapter is not required for an  
396 individual residential property owner for the removal of organic  
397 detrital material from freshwater rivers or lakes that have a  
398 natural sand or rocky substrate and that are not aquatic  
399 preserves or for the associated removal and replanting of  
400 aquatic vegetation for the purpose of environmental enhancement,  
401 providing that:

402 1. No activities under this exemption are conducted in  
403 wetland areas, as defined in s. 373.019(29) ~~s. 373.019(27)~~,  
404 which are supported by a natural soil as shown in applicable  
405 United States Department of Agriculture county soil surveys.

406 2. No filling or peat mining is allowed.

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407       3. No removal of native wetland trees, including, but not  
408 limited to, ash, bay, cypress, gum, maple, or tupelo, occurs.

409       4. When removing organic detrital material, no portion of  
410 the underlying natural mineral substrate or rocky substrate is  
411 removed.

412       5. Removed organic detrital material and plant material is  
413 placed on an upland spoil site which will not cause water  
414 quality violations.

415       6. All activities are conducted in such a manner, and with  
416 appropriate turbidity controls, so as to prevent any water  
417 quality violations outside the immediate work area.

418       7. Replanting with a variety of aquatic plants native to  
419 the state shall occur in a minimum of 25 percent of the  
420 preexisting vegetated areas where organic detrital material is  
421 removed, except for areas where the material is removed to bare  
422 rocky substrate; however, an area may be maintained clear of  
423 vegetation as an access corridor. The access corridor width may  
424 not exceed 50 percent of the property owner's frontage or 50  
425 feet, whichever is less, and may be a sufficient length  
426 waterward to create a corridor to allow access for a boat or  
427 swimmer to reach open water. Replanting must be at a minimum  
428 density of 2 feet on center and be completed within 90 days  
429 after removal of existing aquatic vegetation, except that under  
430 dewatered conditions replanting must be completed within 90 days  
431 after reflooding. The area to be replanted must extend waterward  
432 from the ordinary high water line to a point where normal water  
433 depth would be 3 feet or the preexisting vegetation line,  
434 whichever is less. Individuals are required to make a reasonable  
435 effort to maintain planting density for a period of 6 months

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436 after replanting is complete, and the plants, including  
437 naturally recruited native aquatic plants, must be allowed to  
438 expand and fill in the revegetation area. Native aquatic plants  
439 to be used for revegetation must be salvaged from the  
440 enhancement project site or obtained from an aquatic plant  
441 nursery regulated by the Department of Agriculture and Consumer  
442 Services. Plants that are not native to the state may not be  
443 used for replanting.

444 8. No activity occurs any farther than 100 feet waterward  
445 of the ordinary high water line, and all activities must be  
446 designed and conducted in a manner that will not unreasonably  
447 restrict or infringe upon the riparian rights of adjacent upland  
448 riparian owners.

449 9. The person seeking this exemption notifies the  
450 applicable department district office in writing at least 30  
451 days before commencing work and allows the department to conduct  
452 a preconstruction site inspection. Notice must include an  
453 organic-detrital-material removal and disposal plan and, if  
454 applicable, a vegetation-removal and revegetation plan.

455 10. The department is provided written certification of  
456 compliance with the terms and conditions of this paragraph  
457 within 30 days after completion of any activity occurring under  
458 this exemption.

459 Section 8. Subsection (6) of section 556.102, Florida  
460 Statutes, is amended to read:

461 556.102 Definitions.—As used in this act:

462 (6) "Excavate" or "excavation" means any manmade cut,  
463 cavity, trench, or depression in the earth's surface, formed by  
464 removal of earth, intended to change the grade or level of land,

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465 or intended to penetrate or disturb the surface of the earth,  
466 including land beneath the waters of the state, as defined in s.  
467 373.019(24) ~~s. 373.019(22)~~, and the term includes pipe bursting  
468 and directional drilling or boring from one point to another  
469 point beneath the surface of the earth, or other trenchless  
470 technologies.

471 Section 9. For the purpose of incorporating the amendment  
472 made by this act to section 373.414, Florida Statutes, in a  
473 reference thereto, paragraph (d) of subsection (6) of section  
474 373.4136, Florida Statutes, is reenacted to read:

475 373.4136 Establishment and operation of mitigation banks.—

476 (6) MITIGATION SERVICE AREA.—The department or water  
477 management district shall establish a mitigation service area  
478 for each mitigation bank permit. The department or water  
479 management district shall notify and consider comments received  
480 on the proposed mitigation service area from each local  
481 government within the proposed mitigation service area. Except  
482 as provided in this section, mitigation credits may be withdrawn  
483 and used only to offset adverse impacts in the mitigation  
484 service area. The boundaries of the mitigation service area  
485 shall depend upon the geographic area where the mitigation bank  
486 could reasonably be expected to offset adverse impacts.

487 Mitigation service areas may overlap, and mitigation service  
488 areas for two or more mitigation banks may be approved for a  
489 regional watershed.

490 (d) If the provisions of s. 373.414(1)(b) and (8) are met  
491 and an insufficient number or type of credits from banks whose  
492 permitted service area overlays in whole or in part the regional  
493 watershed in which the impacts occur, the permit applicant is

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494 entitled to a one-time use of credits released from a mitigation  
495 bank outside the mitigation bank service area to offset impacts  
496 pursuant to s. 373.414(1)(b), as established by the procedure in  
497 paragraph (f). The department or water management district must  
498 have determined that the mitigation service area lacked the  
499 appropriate credit type. Priority must be given to mitigation  
500 banks whose permitted service area fully includes the impacted  
501 site. If the number of released credits within a mitigation  
502 service area only partially offsets the impacts associated with  
503 a proposed project in the mitigation service area, the permit  
504 applicant may only use out-of-service-area credits to account  
505 for the difference between the released credits available in the  
506 mitigation bank service area and the credits required to offset  
507 the impacts associated with the proposed project. In  
508 implementing this subsection, the department and water  
509 management districts shall apply a proximity factor to determine  
510 adequate compensatory mitigation as follows:

511 1. A 1.0 multiplier shall be applied for use of in-kind  
512 credits within the service area.

513 2. A 1.0 multiplier shall be applied for use of in-kind and  
514 out-of-service-area credits when the service area overlays part  
515 of the same regional watershed as the proposed impacts only  
516 after credit deficiency has been established by the procedure  
517 set forth in paragraph (f).

518 3. A 1.2 multiplier shall be applied for use of in-kind and  
519 out-of-service-area credits located within a regional watershed  
520 immediately adjacent to the regional watershed overlain by a  
521 bank service area in which proposed impacts are located only  
522 after credit deficiency has been established by the procedure

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523 set forth in paragraph (f).

524 4. When in-kind credits are not available to offset impacts  
525 in the regional watershed immediately adjacent to the regional  
526 watershed overlain by a mitigation bank service area in which  
527 the proposed impacts are located, an additional 0.25 multiplier  
528 shall be applied for each additional regional watershed boundary  
529 crossed only after credit deficiency has been established by the  
530 procedure set forth in paragraph (f).

531 5. An additional 0.50 multiplier shall be applied after any  
532 multipliers required in subparagraphs 1.-4., if the mitigation  
533 used to offset impacts entails out-of-kind replacement.

534 Section 10. This act shall take effect July 1, 2026.