

CHAPTER 2019-110

Committee Substitute for House Bill No. 521

An act relating to wetland mitigation; amending s. 373.4135, F.S.; providing legislative intent; authorizing a local government to allow permittee-responsible mitigation on lands purchased and owned by a local government for conservation purposes under certain circumstances; requiring such mitigation to meet specified requirements; providing an exception to provisions prohibiting a governmental entity from creating or providing mitigation for a project other than its own unless certain conditions are met; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 373.4135, Florida Statutes, is amended to read:

373.4135 Mitigation banks and offsite regional mitigation.—

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

(b) The Legislature recognizes the importance of mitigation banks as an appropriate and allowable mitigation alternative to permittee-responsible mitigation. However, the Legislature also recognizes that certain timing and geographical constraints could result in the unavailability of mitigation bank credits for a certain project upon completion of the project's application. If state and federal mitigation credits are not available to offset the adverse impacts of a project, a local government may allow permittee-responsible mitigation consisting of the restoration or enhancement of lands purchased and owned by a local government for conservation purposes, and such mitigation must conform to the permitting requirements of s. 373.4136. Except when a local government has allowed a public or private mitigation project to be created on land it has purchased for conservation purposes pursuant to this paragraph ~~Notwithstanding the provisions of this section,~~ a governmental entity may not create or provide mitigation for a project other

than its own unless the governmental entity uses land that was not previously purchased for conservation and unless the governmental entity provides the same financial assurances as required for mitigation banks permitted under s. 373.4136. This paragraph does not apply to:

1. Mitigation banks permitted before December 31, 2011, under s. 373.4136;
2. Offsite regional mitigation areas established before December 31, 2011, under subsection (6) or, when credits are not available at a mitigation bank permitted under s. 373.4136, mitigation areas created by a local government which were awarded mitigation credits pursuant to the uniform mitigation assessment method as provided in chapter 62-345, Florida Administrative Code, under a permit issued before December 31, 2011;
3. Mitigation for transportation projects under ss. 373.4137 and 373.4139;
4. Mitigation for impacts from mining activities under s. 373.41492;
5. Mitigation provided for single-family lots or homeowners under subsection (7);
6. Entities authorized in chapter 98-492, Laws of Florida;
7. Mitigation provided for electric utility impacts certified under part II of chapter 403; or
8. Mitigation provided on sovereign submerged lands under subsection (6).

Section 2. This act shall take effect July 1, 2019.

Approved by the Governor June 18, 2019.

Filed in Office Secretary of State June 18, 2019.