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CS/HB 521

2019 Legislature

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2 An act relating to wetland mitigation; amending s.
3 373.4135, F.S.; providing legislative intent;
4 authorizing a local government to allow permittee-
5 responsible mitigation on lands purchased and owned by
6 a local government for conservation purposes under
7 certain circumstances; requiring such mitigation to
8 meet specified requirements; providing an exception to
9 provisions prohibiting a governmental entity from
10 creating or providing mitigation for a project other
11 than its own unless certain conditions are met;
12 providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Paragraph (b) of subsection (1) of section
17 373.4135, Florida Statutes, is amended to read:

18 373.4135 Mitigation banks and offsite regional
19 mitigation.—

20 (1) The Legislature finds that the adverse impacts of
21 activities regulated under this part may be offset by the
22 creation, maintenance, and use of mitigation banks and offsite
23 regional mitigation. Mitigation banks and offsite regional
24 mitigation can enhance the certainty of mitigation and provide
25 ecological value due to the improved likelihood of environmental

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26 | success associated with their proper construction, maintenance,
27 | and management. Therefore, the department and the water
28 | management districts are directed to participate in and
29 | encourage the establishment of private and public mitigation
30 | banks and offsite regional mitigation. Mitigation banks and
31 | offsite regional mitigation should emphasize the restoration and
32 | enhancement of degraded ecosystems and the preservation of
33 | uplands and wetlands as intact ecosystems rather than alteration
34 | of landscapes to create wetlands. This is best accomplished
35 | through restoration of ecological communities that were
36 | historically present.

37 | (b) The Legislature recognizes the importance of
38 | mitigation banks as an appropriate and allowable mitigation
39 | alternative to permittee-responsible mitigation. However, the
40 | Legislature also recognizes that certain timing and geographical
41 | constraints could result in the unavailability of mitigation
42 | bank credits for a certain project upon completion of the
43 | project's application. If state and federal mitigation credits
44 | are not available to offset the adverse impacts of a project, a
45 | local government may allow permittee-responsible mitigation
46 | consisting of the restoration or enhancement of lands purchased
47 | and owned by a local government for conservation purposes, and
48 | such mitigation must conform to the permitting requirements of
49 | s. 373.4136. Except when a local government has allowed a public
50 | or private mitigation project to be created on land it has

ENROLLED

CS/HB 521

2019 Legislature

51 purchased for conservation purposes pursuant to this paragraph
 52 ~~Notwithstanding the provisions of this section,~~ a governmental
 53 entity may not create or provide mitigation for a project other
 54 than its own unless the governmental entity uses land that was
 55 not previously purchased for conservation and unless the
 56 governmental entity provides the same financial assurances as
 57 required for mitigation banks permitted under s. 373.4136. This
 58 paragraph does not apply to:

59 1. Mitigation banks permitted before December 31, 2011,
 60 under s. 373.4136;

61 2. Offsite regional mitigation areas established before
 62 December 31, 2011, under subsection (6) or, when credits are not
 63 available at a mitigation bank permitted under s. 373.4136,
 64 mitigation areas created by a local government which were
 65 awarded mitigation credits pursuant to the uniform mitigation
 66 assessment method as provided in chapter 62-345, Florida
 67 Administrative Code, under a permit issued before December 31,
 68 2011;

69 3. Mitigation for transportation projects under ss.
 70 373.4137 and 373.4139;

71 4. Mitigation for impacts from mining activities under s.
 72 373.41492;

73 5. Mitigation provided for single-family lots or
 74 homeowners under subsection (7);

75 6. Entities authorized in chapter 98-492, Laws of Florida;

ENROLLED

CS/HB 521

2019 Legislature

76 | 7. Mitigation provided for electric utility impacts
77 | certified under part II of chapter 403; or

78 | 8. Mitigation provided on sovereign submerged lands under
79 | subsection (6).

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