

STORAGE NAME: h1073.ep
DATE: March 13, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ENVIRONMENTAL PROTECTION
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1073

RELATING TO: Land reclamation

SPONSOR(S): Representative Wiles, Thrasher, and others

STATUTE(S) AFFECTED: s. 378.601, F.S.

COMPANION BILL(S): SB 584 by Senator Kirkpatrick

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) ENVIRONMENTAL PROTECTION
- (2)
- (3)
- (4)
- (5)

I. SUMMARY:

HB 1073 creates an exemption from the development of regional impact review (DRI) for heavy mineral mining operations that annually mine less than 500 acres and whose consumption of water is 3 million gallons per day or less.

The bill would take effect upon becoming law.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Heavy minerals are defined by s. 378.403, F.S., as “resources found in conjunction with sand deposits...and includes an admixture of such resources as zircon, staurolite, and titanium minerals..”

Clay and Putnam counties contain deposits of heavy mineral sands which are found in a limited number of areas worldwide. Presently, there are only three mines in the United States producing heavy mineral sands, and two of the operations are located in Florida. Other producers of heavy mineral sands are located in Australia, South Africa, China, and several other countries.

Florida currently has only two heavy mineral mining companies: RGC Mineral Sands, Inc. and DuPont. Dupont’s operations are confined to Baker, Bradford, Clay and Duval counties and RGC’s are confined to Clay and Putnam counties.

The principal heavy minerals mined are ilmenite, leucoxene, rutile, and zircon. Heavy mineral sands-derived products, particularly those containing titanium dioxide and zirconium, are in high demand in the pigment, aerospace, medical, foundry and other industrial fields.

Section 380.04, F.S., defines “development” as “the carrying out of any activity or mining operation...” The section further states that the commencement of mining activities shall also be considered development.

Section 380.06, F.S., defines the term “development of regional impact” to mean “any “development which, because of its character, magnitude, or location, would have substantial effect upon the health safety, or welfare of citizens of more than one county.”

Pursuant to these statutory guidelines solid mineral mining operations which annually impact an aggregate area greater than 100 acres, or whose proposed consumption of water would exceed 3 million gallons are by rule (Chapter 28-24.019, Florida Administrative Code (F.A.C.)) presumed to be DRI’s and subject to review as such.

While the initial DRI review is based on rule standards determinations relating to substantial deviations to an approved DRI are based upon a statutory threshold. Section 380.06(19), F.S., requires a further full review of a DRI for any changes which individually or cumulatively with other changes would increase the annual acreage mined by the greater of five percent or 10 acres, increase the average daily water consumption by the greater of five percent or 300,000 gallons, or increase the size of the mine by the lesser of five percent or 750 acres.

In addition to the DRI review these heavy mineral mining operations are required to be permitted under Part IV, Chapter 373, F.S., “Management and Storage of Surface Waters” and s. 378.901, F.S., “Life-of-the-Mine Permit.”

B. EFFECT OF PROPOSED CHANGES:

The proposed bill would exempt from DRI review heavy mineral mining operations with impacts of less than 500 acres annually and whose proposed consumption of water is 3 million gallons per day or less. The mines would still be required to obtain mine reclamation and environmental resource permits and approvals from the DEP.

The reclamation and resource permit reviews are site and activity specific. An exemption from DRI reviews would eliminate existing overlaps in reviewing these impacts. However, the exemption would eliminate current reviews of growth management related issues such as transportation impacts, concurrency issues, upland habitat questions, and archeological resources. Additional information on specific issues that would no longer be reviewed has been requested from the Department of Community Affairs.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No specific authority is effected. However, the bill would remove the requirements that heavy mineral mines that meet specified criteria must undergo a DRI review.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No

(3) any entitlement to a government service or benefit?

No

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

None

(2) what is the cost of such responsibility at the new level/agency?

None

(3) how is the new agency accountable to the people governed?

NA

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No

b. Does the bill require or authorize an increase in any fees?

No

c. Does the bill reduce total taxes, both rates and revenues?

No

d. Does the bill reduce total fees, both rates and revenues?

The exemption from DRI fees for these mines would decrease revenues received by the Northeast Regional Planning Council. The Council estimates that DRI fees generated by these operations are between \$30,000 and \$40,000 per review.

e. Does the bill authorize any fee or tax increase by any local government?

No

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

NA

- (2) Who makes the decisions?

NA

- (3) Are private alternatives permitted?

NA

- (4) Are families required to participate in a program?

NA

- (5) Are families penalized for not participating in a program?

NA

- b. Does the bill directly affect the legal rights and obligations between family members?

NA

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

NA

(2) service providers?

NA

(3) government employees/agencies?

NA

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 378.601, F.S., to provide an exemption for specific heavy mineral mining operations from the DRI review.

Section 2: Provides that the act shall take effect upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The exemption from DRI fees for these mines would decrease revenues received by the Northeast Regional Planning Council. The Council estimates that DRI fees generated by these operations are between \$30,000 and \$40,000 per review.

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

The exemption from DRI review would provide a savings to those mining operations that would qualify.

3. Effects on Competition, Private Enterprise and Employment Markets:

Representatives of the mining operators indicate that this bill would extend the operations of current mines by some 10 to 20 years. Industry information indicates that the mines currently have 5 to 8 years left. Figures provided by RGC indicate that their operation currently employs 150 individuals.

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties or municipalities.

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V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

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Wayne S. Kiger

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