

Bill No. CS for SB 1426

Amendment No. ____

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Diaz-Balart moved the following amendment to amendment (092662):

Senate Amendment (with title amendment)

On page 2, between lines 7 and 8,

insert:

Section 2. Section 373.4139, Florida Statutes, is created to read:

373.4139 Dade County Lake Belt Mitigation Plan; mitigation for mining activities within the Dade County Lake Belt.--

(1) The Legislature finds that the impact of mining within the Dade County Lake Belt Area can best be offset by a mitigation plan that is designated the "Lake Belt Mitigation Plan." The per-ton mitigation fee assessed on limestone sold from the Dade County Lake Belt Area shall be used for acquiring environmentally sensitive lands and for restoration, maintenance, and other environmental purposes. Further, the Legislature finds that the public benefit of a sustainable supply of limestone construction materials for public and

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1 private projects requires a coordinated approach to permitting
2 activities on wetlands within the Dade County Lake Belt in
3 order to provide the certainty necessary to encourage
4 substantial and continued investment in the limestone
5 processing plant and equipment required to efficiently extract
6 the limestone resource. It is the intent of the Legislature
7 that the Lake Belt Mitigation Plan satisfy all local, state,
8 and federal requirements for mining activity within the Dade
9 County Lake Belt Area.

10 (2) To provide for the mitigation of wetland resources
11 lost to mining activities within the Dade County Lake Belt
12 Area, effective October 1, 1998, a mitigation fee is imposed
13 on each ton of limerock and sand extracted by any person who
14 engages in the business of extracting limerock or sand from
15 within the Dade County Lake Belt Area. The mitigation fee is
16 at the rate of 5 cents for each ton of limerock and sand sold
17 from within the Dade County Lake Belt Area in raw, processed,
18 or manufactured form, including, but not limited to, sized
19 aggregate, asphalt, cement, concrete, and other limerock and
20 concrete products. Any limerock or sand that is used within
21 the mine from which the limerock or sand is extracted is
22 exempt from the fee. The amount of the mitigation fee imposed
23 under this section must be stated separately on the invoice
24 provided to the purchaser of the limerock product from the
25 limerock miner, or its subsidiary or affiliate, for which the
26 mitigation fee applies. The limerock miner, or its subsidiary
27 or affiliate, who sells the limerock product shall collect the
28 mitigation fee and forward the proceeds of the fee to the
29 Department of Revenue on or before the 20th day of the month
30 following the calendar month in which the sale occurs.

31 (3) The mitigation fee imposed by this section must be

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1 reported to the Department of Revenue. Payment of the
2 mitigation fee must be accompanied by a form prescribed by the
3 Department of Revenue. The proceeds of the fee, less
4 administrative costs, must be transferred by the Department of
5 Revenue to the South Florida Water Management District and
6 deposited into the Lake Belt Mitigation Trust Fund. As used in
7 this section, the term "proceeds of the fee" means all funds
8 collected and received by the Department of Revenue under this
9 section, including interest and penalties on delinquent
10 mitigation fees. The amount deducted for administrative costs
11 may not exceed 3 percent of the total revenues collected under
12 this section and may equal only those administrative costs
13 reasonably attributable to the mitigation fee.

14 (4)(a) The Department of Revenue shall administer,
15 collect, and enforce the mitigation fee authorized under this
16 section in accordance with the procedures used to administer,
17 collect, and enforce the general sales tax imposed under
18 chapter 212. The provisions of chapter 212, with respect to
19 the authority of the Department of Revenue to audit and make
20 assessments, the keeping of books and records, and the
21 interest and penalties imposed on delinquent fees apply to
22 this section. The fee may not be included in computing
23 estimated taxes under s. 212.11, and the dealer's credit for
24 collecting taxes or fees provided for in s. 212.12, does not
25 apply to the mitigation fee imposed by this section.

26 (b) In administering this section, the Department of
27 Revenue may employ persons and incur expenses for which funds
28 are appropriated by the Legislature. The Department of Revenue
29 shall adopt rules and prescribe and publish forms necessary to
30 administer this section. The Department of Revenue shall
31 establish audit procedures and may assess delinquent fees.

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1 (5) Beginning January 1, 2000, and each January 1
2 thereafter, the per-ton mitigation fee shall be increased by
3 1.9 percentage points, plus a cost growth index. The cost
4 growth index shall be the percentage change in the weighted
5 average of the Employment Cost Index for All Civilian Workers
6 (ecu 10001I), issued by the United States Department of Labor
7 for the most recent 12-month period ending on September 30,
8 and the percentage change in the Producer Price Index for All
9 Commodities (WPU 00000000), issued by the United States
10 Department of Labor for the most recent 12-month period ending
11 on September 30, compared to the weighted average of these
12 indices for the previous year. The weighted average shall be
13 calculated as 0.6 times the percentage change in the
14 Employment Cost Index for All Civilian Workers (ecu 10001I),
15 plus 0.4 times the percentage change in the Producer Price
16 Index for All Commodities (WPU 00000000). If either index is
17 discontinued, it shall be replaced by its successor index, as
18 identified by the United States Department of Labor.

19 (6)(a) The proceeds of the mitigation fee must be used
20 to conduct mitigation activities that are appropriate to
21 offset the loss of the value and functions of wetlands as a
22 result of mining activities in the Dade County Lake Belt Area
23 and must be used in a manner consistent with the
24 recommendations contained in the reports submitted to the
25 Legislature by the Dade County Lake Belt Plan Implementation
26 Committee and adopted under s. 373.4149. Such mitigation may
27 include the purchase, enhancement, restoration, and management
28 of wetlands and uplands, the purchase of mitigation credit
29 from a permitted mitigation bank, and any structural
30 modifications to the existing drainage system to enhance the
31 hydrology of the Dade County Lake Belt Area. Funds may also be

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1 used to reimburse other funding sources, including the Save
2 Our Rivers Land Acquisition Program and the Internal
3 Improvement Trust Fund, for the purchase of lands that were
4 acquired in areas appropriate for mitigation due to rock
5 mining and to reimburse governmental agencies that exchanged
6 land under s. 373.4149, for mitigation due to rock mining.

7 (b) Expenditures must be approved by an interagency
8 committee that consists of representatives from each of the
9 following: the Miami-Dade County Department of Environmental
10 Resource Management, the Department of Environmental
11 Protection, the South Florida Water Management District, and
12 the Game and Fresh Water Fish Commission. In addition, the
13 limerock mining industry shall select a representative to
14 serve as a nonvoting member of the interagency committee. At
15 the discretion of the committee, additional members may be
16 added to represent federal regulatory, environmental, and fish
17 and wildlife agencies.

18 (7) Payment of the fee imposed by this section
19 satisfies the mitigation requirements imposed under sections
20 373.403-373.439, Florida Statutes, and any applicable county
21 ordinance for loss of the value and functions of the wetlands
22 mined. In addition, it is the intent of the Legislature that
23 the payment of the mitigation fee imposed by this section
24 satisfy all federal mitigation requirements for the wetlands
25 mined.

26 (8) If a general permit by the United States Army
27 Corps of Engineers, or an appropriate long-term permit for
28 mining, consistent with the Dade County Lake Belt Plan, this
29 section, and s. 378.4115, 373.4149, and 373.4415, is not
30 issued on or before September 30, 2000, the fee imposed by
31 this section is suspended until reenacted by the Legislature.

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1 (9)(a) The interagency committee established in this
2 section shall annually prepare and submit to the governing
3 board of the South Florida Water Management District a report
4 evaluating the mitigation costs and revenues generated by the
5 mitigation fee.

6 (b) No sooner than January 31, 2010, and no more
7 frequently than every 10 years thereafter, the interagency
8 committee shall submit to the Legislature a report
9 recommending any needed adjustments to the mitigation fee to
10 ensure that the revenue generated reflects the actual costs of
11 the mitigation.

12 Section 3. Subsections (5), (6), (10), (11), and (12)
13 of section 373.4149, Florida Statutes, are amended to read:

14 373.4149 Dade County Lake Belt Plan.--

15 (5) The committee shall develop Phase II of the Lake
16 Belt Plan which shall:

17 (a) Include a detailed master plan to further
18 implementation;

19 (b) Further address compatible land uses,
20 opportunities, and potential conflicts;

21 (c) Provide for additional wellfield protection;

22 (d) Provide measures to prevent the reclassification
23 of the Northwest Dade County wells as groundwater under the
24 direct influence of surface water;~~i-~~

25 (e) Secure additional funding sources; ~~and~~

26 (f) Consider the need to establish a land authority;
27 ~~and-~~

28 (g) Analyze the hydrological impacts resulting from
29 the future mining included in the Lake Belt Plan and recommend
30 appropriate mitigation measures, if needed, to be incorporated
31 into the Lake Belt Mitigation Plan.

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1 (6) The committee shall remain in effect until January
2 1, 2002 ~~2001~~, and shall meet as deemed necessary by the chair.
3 The committee shall monitor and direct progress toward
4 developing and implementing the plan. The committee shall
5 submit progress reports to the governing board of the South
6 Florida Water Management District and the Legislature by
7 December 31 of each year. These reports shall include a
8 summary of the activities of the committee, updates on all
9 ongoing studies, any other relevant information gathered
10 during the calendar year, and the committee recommendations
11 for legislative and regulatory revisions. The committee shall
12 submit a Phase II report and plan to the governing board of
13 the South Florida Water Management District and the
14 Legislature by December 31, 2000, to supplement the Phase I
15 report submitted on February 28, 1997. The Phase II report
16 must include the detailed master plan for the Dade County Lake
17 Belt Area together with the final reports on all studies, the
18 final recommendations of the committee, the status of
19 implementation of Phase I recommendations and other relevant
20 information, and the committee's recommendation for
21 legislative and regulatory revisions.

22 ~~(10) The Department of Environmental Protection, in~~
23 ~~conjunction with the South Florida Water Management District~~
24 ~~and the Dade County Department of Environmental Resources~~
25 ~~Management, is directed to develop a comprehensive mitigation~~
26 ~~plan for the Dade County Lake Belt Plan, subject to approval~~
27 ~~by the Legislature, which offsets the loss of wetland~~
28 ~~functions and values resulting from rock mining in~~
29 ~~mining supported and allowable areas.~~

30 (10)~~(11)~~ The secretary of the Department of
31 Environmental Protection, the secretary of the Department of

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1 Community Affairs, the secretary of the Department of
 2 Transportation, the Commissioner of Agriculture, the executive
 3 director of the Game and Freshwater Fish Commission, and the
 4 executive director of the South Florida Water Management
 5 District may enter into agreements with landowners,
 6 developers, businesses, industries, individuals, and
 7 governmental agencies as necessary to effectuate the
 8 provisions of this section.

9 (11)~~(12)~~(a) All agencies of the state shall review the
 10 status of their landholdings within the boundaries of the Dade
 11 County Lake Belt. Those lands for which no present or future
 12 use is identified must be made available, together with other
 13 suitable lands, to the committee for its use in carrying out
 14 the objectives of this act.

15 (b) It is the intent of the Legislature that lands
 16 provided to the committee be used for land exchanges to
 17 further the objectives of this act.

18 Section 4. Section 36, Township 53 South, Range 39
 19 East, is excluded from the geographical area described as the
 20 Dade County Lake Belt Area and delineated in 373.4149(3),
 21 Florida Statutes. Land uses in this excluded area shall be
 22 compatible with the Dade County Lake Belt Plan.

23
 24 (Redesignate subsequent sections.)

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 26
 27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 On page 2, line 22, after the semicolon,
 30
 31 insert:

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1 creating s. 373.4139, F.S.; providing
2 legislative findings and intent with respect to
3 a mitigation plan for the Dade County Lake Belt
4 Area to offset the impact of mining activities;
5 imposing a fee on the commercial extraction of
6 limerock and sand from the Dade County Lake
7 Belt Area; requiring the proceeds of the
8 mitigation fee to be paid to the Department of
9 Revenue; providing for transfer of proceeds of
10 the mitigation fee to the South Florida Water
11 Management District and deposited into the Lake
12 Belt Mitigation Trust Fund; providing for the
13 Department of Revenue to administer the
14 collection of the fee; authorizing the
15 department to adopt rules; providing for an
16 annual adjustment of the fee rate after a
17 specified date; specifying purposes for which
18 the proceeds of the mitigation fee may be used;
19 requiring that expenditures be approved by an
20 interagency committee; providing for membership
21 of the committee; providing that payment of the
22 fee satisfies certain requirements for
23 mitigation; providing for suspension of
24 imposition of the fee under certain
25 circumstances; requiring the interagency
26 committee to submit certain reports; amending
27 s. 373.4149, F.S.; providing additional
28 requirements for the Dade County Lake Belt
29 Plan; extending the term of the Dade County
30 Lake Belt Plan Implementation Committee;
31 deleting a requirement that the Department of

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1 Environmental Protection develop a mitigation
2 plan to offset loss of wetlands due to rock
3 mining; excluding certain property from the
4 Dade County Lake Belt Area;
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