

STORAGE NAME: H1667a.ep

DATE: April 15, 1997

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

BILL #: HB1667

RELATING TO: Limerock mining

SPONSOR(S): Representative Villalobos

STATUTE(S) AFFECTED: Creates ss. 373.4139; 373.4415; 378.4115; and, amends s. 373.4149

COMPANION BILL(S): SB2428 Senator Diaz-Balart and Senator Kirkpatrick

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

- (1) ENVIRONMENTAL PROTECTION YEAS 8 NAYS 0
- (2) FINANCE AND TAXATION
- (3) GENERAL GOVERNMENT APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

HB 1667 imposes a fee for each ton of limerock and sand sold from within the Dade County Lake Belt. Proceeds from the fee, minus administrative costs, will be disbursed by Dade County in coordination with the appropriate agencies for mitigation activities to offset the impact of mining activities on fish and wildlife habitats. The Department of Revenue (DOR) is assigned the responsibility of collecting, administering, and enforcing the fee. Dade County is directed to coordinate with the Department of Environmental Protection (DEP) to achieve delegation of the DEP's permitting authority over limerock mining activities in Dade County.

The fiscal impact of the bill is indeterminate because the amount of the fee is unspecified.

The bill provides an effective date of October 1, 1997.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Dade County supplies more than half of the construction grade rock and sand used throughout Florida. Most of the rock is mined in a narrow strip of land located between the urban areas and the conservation areas of the county. The Dade County Lake Belt produces about 35-40 million tons of rock annually, transforming about 300 acres of melaleuca-infested wetlands into lakes 80 feet deep, surrounded by manmade wetlands.

In 1984, the Florida Legislature passed the Henderson Wetlands Act which expanded the wetland regulatory jurisdiction for dredge and fill activities in the state. The Lake Belt mining is so important economically, it was exempted from state wetlands jurisdiction for a period of ten years. This exemption has since been extended until October, 1997. While these lands have been exempt from state permitting, they have continued to be regulated by both Dade County and the U.S. Army Corps of Engineers (Corps).

In 1992, pursuant to ch. 92-132, Laws of Florida, the Legislature established the Northwest Dade County Freshwater Lake Plan Implementation Committee (committee), which expires January 1, 1999. It's members include: the chair of the South Florida Water Management District (SFWMD); the policy director of Environmental Growth and Management in the Office of the Governor; the secretary of the DEP; the director of the Division of Resource Management or it's successor division within the DEP; the secretary of the Department of Community Affairs; the director of the Department of Environmental Resource Management (DERM) of Dade County; the Director of Planning in Dade County; single representatives from the Friends of the Everglades, Florida Audubon Society, Florida Chapter of the Sierra Club; and four representatives from the limestone mining industry. The committee was created as a public and private partnership to develop a plan for the design and implementation of a freshwater lake system in northwest Dade County. It was to develop a plan to enhance the water supply for Dade County and the Everglades. The committee's report and recommendations were submitted in February, 1997.

In it's report, the committee made several recommendations for legislative and regulatory revisions. The report made specific recommendations concerning:

- ▶ streamlining the permitting process for rockmining within the Lake Belt;
- ▶ identifying areas for mining, mitigation, and additional analysis;
- ▶ establishing a dedicated finding mechanism for mitigation;
- ▶ authorizing government - industry land exchanges; and,
- ▶ authorizing state agencies to enter into agreements to implement the plan.

B. EFFECT OF PROPOSED CHANGES:

HB 1667 places an unspecified fee on each ton of limerock and sand extracted. The fee will be assessed for each ton of limerock and sand sold, in raw or processed form, from within the Dade County Lake Belt effective January 1, 1998, and will be adjusted by the percentage change in the average of the Consumer Price Index each year beginning on July 1, 1999. The fee will be stated separately on the invoice to the purchaser. It shall be paid on or before the 20th day of the month following the calendar month in which the sale occurs. Fees will be subject to all applicable taxes imposed by Part I of Chapter 212, F.S. The fee will be reported to the DOR, and minus administrative costs will be deposited into the Mitigation Trust Fund administered by the DERM. It will be the responsibility of the DOR to administer, collect and enforce the fee.

Fees collected will be used to conduct mitigation activities chosen to offset the impact to fish and wildlife habitats as a result of mining activities in the Dade County Lake Belt. Mitigation activities may include purchase, enhancement, restoration, and management of wetlands and uplands. Structural modifications to the existing drainage system that will enhance the hydrology of the Dade County Lake Belt Area will also be allowed. Expenditures will be approved by an interagency committee, the committee will be comprised of representatives from DERM, DEP, SFWMD, and the Game and Fresh Water Fish Commission (GFWFC). Additional members can be added at the discretion of the committee.

The name of the Northwest Dade County Freshwater Lake Plan will effectively be changed to Dade County Lake Belt Plan. Likewise, it changes the name of the Northwest Dade County Freshwater Lake Plan Implementation Committee to the Dade County Lake Belt Plan Implementation Committee, which will include previous members as well as the director of the Office of Tourism Trade, and Economic Development of the Office of the Governor, the executive director of the Game and Freshwater Fish Commission, and a representative from nonmining private landowners within the Dade County Lake Belt Area. The committee has the authority to appoint other ex officio members, as needed, by a majority vote. Members have the authority to designate in writing an alternate member, who in their absence may participate and vote in the meetings of the committee.

The committee will submit a phase II report to the SFWMD and the Legislature by December 31, 2001. The report is to include a detailed master plan for the Dade County Lake Belt Area, the final results of all studies, Phase II recommendations, and the status of the implementation of the Phase I recommendations.

The Secretary of the DEP, the Secretary of Community Affairs, the Secretary of Transportation, the Commissioner of Agriculture, the executive director of the GFWFC, and the executive director of the SFWMD, have the authority to enter into agreements with landowners, developers, businesses, industries, individuals, and governmental agencies as necessary to effectuate the provisions of s. 373.4149, F.S.

Agencies are directed to review the status of their holdings within the boundaries of the Dade County Lake Belt. Those lands within the boundaries for which no present or future use is identified, will be available, together with other suitable lands, to the

committee for it's use in carrying out the objectives of this act. Lands provided to the committee are to be used for land exchanges to further the objectives of this act.

Dade County is directed to coordinate with the DEP to achieve delegation from the DEP to the DERM for implementing the permitting program under ss 373.403 - 373.439, F.S., for limerock mining activities within the Dade County Lake Belt area, by October 1, 1997. In addition, The DERM is encouraged to seek a general permit under s. 404 of the Clean Water Act for limerock mining activities from the United States Army Corps of Engineers and to pursue delegation for the implementation of the general permit.

In addition, the bill directs Dade County by October 1, 1997, to achieve a certification from the DEP to the Dade County DERM to implement the reclamation program under ss. 378.401 - 378.503, F.S., for limerock mining activities in the Dade County Lake Belt area.

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?

This bill requires DEP to delegate it's limerock permitting responsibilities to Dade County for activities within the county.

(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?

Not applicable.

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

Not applicable.

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

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

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

There will be an unspecified fee placed on limerock and sand mining within the Dade County Lake Belt Area.

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

No.

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

No.

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?

Not applicable.

- (2) Who makes the decisions?

Not applicable.

- (3) Are private alternatives permitted?

Not applicable.

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

Not applicable.

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

Not applicable.

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

No.

- 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?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION RESEARCH:

Section 1: Creates s. 373.4139, F.S. providing for the mitigation of wetland resources by imposing an unspecified fee on all limerock and sand mined within the Dade County Lake Belt.

Section 2: Amends s. 373.4149, to change the name of the Northwest Dade County Freshwater Lake Plan to the Dade County Lake Belt Plan; to require the committee to submit a Phase II report; and to require all state agencies to review the status of their land holdings within the area and to determine what lands can be made available to the committee for carrying out the objectives of this act.

Section 3: Creates s. 373.4415, F.S., directs DEP to delegate the permitting program to the Dade County; and directs Dade County to work with the United States Army Corps of Engineers to establish a general permit under s. 404 of the Clean Water Act and to seek delegation from the United States Army Corps of Engineers for the implementation of any such permit.

Section 4: Creates s. 378.4115, F.S., directing DEP and Dade County to coordinate to achieve a certification from the department to the Dade County DERM to implement the reclamation program under ss. 378.401 - 378.503 for limerock mining activities.

Section 5: Provides that the act shall take effect October 1, 1997.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. **Non-recurring Effects:**

None

2. **Recurring Effects:**

The DOR will be charged with enforcing, administrating, and collecting the fee and the bill provides for the department to withhold up to 3% of collections to cover their administrative costs.

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:

Proceeds from the fee, less administrative costs, will be transferred to the Mitigation Trust Fund administered by Dade County DERM. This amount is indeterminate because the amount of the fee is not specified in the bill.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Indeterminate impact associated with the fee placed upon anyone engaged in the business of extracting sand or limerock within the Dade County Lake Belt. The amount of the fee is not specified in the bill.

2. Direct Private Sector Benefits:

None.

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

None.

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 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.

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

The bill does not reduce the percentage of sales tax shared with counties and municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 15, 1997, the Committee on Environmental Protection heard and passed unanimously HB 1667, one strike everything amendment was adopted. The amendment provides several changes:

The fee on limerock and sand will be set at \$4.41 cents for each ton of limerock and sand mined from the Dade County Lake Belt. The fee becomes effective October 1, 1998.

The fee will continue to be adjusted on a yearly basis, the adjustment will now be based on the average of the percentage change of the Consumer Price Index and the percentage change in the Producers Price Index for Net Output of Crushed and Broken Stone.

Fish and wildlife habitats has been changed to wetland values and functions.

The fee can be suspended in the event a U.S. Army Corps of Engineers General Permit is not issued consistent with the Lake Belt Plan.

Phase I is accepted by the Legislature, and the recommendations by Phase I are adopted.

Phase II will be developed, it will include: a master plan for further implementation and further address compatible lands; analysis of additional wellfield protection; secure additional funding sources; and, consider the need to establish a land authority.

The Plan Implementation Committee will submit progress reports to the governing board of the South Florida Water Management District and the Legislature by December 31 of each year. The report shall include a summary of the activities of the committee, updates on all

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ongoing studies, any other relevant information gathered during the calendar year, and the committee recommendations for legislative and regulatory revisions.

The section directing the South Florida Water Management District to oversee studies to determine evapotranspiration rates for melaleuca forest and prairie in the lakebelt area is removed.

The reclamation program shall maximize the efficient mining of limestone and the littoral area surrounding the lake excavations shall be a maximum of 100 feet average in width.

VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Legislative Research Director:

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