

By Senators Diaz-Balart and Kirkpatrick

37-905-98

1                                   A bill to be entitled  
2           An act relating to environmental mitigation;  
3           providing legislative findings and intent with  
4           respect to a mitigation plan for the Dade  
5           County Lake Belt Area to offset the impact of  
6           mining activities; imposing a fee on the  
7           commercial extraction of limerock and sand from  
8           the Dade County Lake Belt Area; requiring the  
9           proceeds of the fee to be paid to the  
10          Department of Revenue; providing for transfer  
11          of the fee to the Mitigation Trust Fund  
12          administered by the Miami-Dade County  
13          Department of Environmental Resource  
14          Management; providing for the Department of  
15          Revenue to administer the collection of the  
16          fee; authorizing the department to adopt rules;  
17          providing for an annual adjustment of the fee  
18          rate after a specified date; specifying  
19          purposes for which the proceeds of the fee may  
20          be used; requiring that expenditures from the  
21          trust fund be approved by an interagency  
22          committee; providing for membership of the  
23          committee; providing that payment of the fee  
24          satisfies certain requirements for mitigation;  
25          providing for suspension of imposition of the  
26          fee under certain circumstances; providing an  
27          effective date.  
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29   Be It Enacted by the Legislature of the State of Florida:  
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1           Section 1. Dade County Lake Belt Mitigation Plan;  
2 mitigation for mining activities within the Dade County Lake  
3 Belt.--

4           (1) The Legislature finds that the impact of mining  
5 within the Dade County Lake Belt Area are offset by a  
6 mitigation plan that is designated the "Lake Belt Mitigation  
7 Plan." The per-ton fee assessed on limestone sold from the  
8 Dade County Lake Belt Area shall be used for acquiring  
9 environmentally sensitive lands and for restoration,  
10 maintenance, and other environmental purposes. Further, the  
11 Legislature finds that the public benefit of a sustainable  
12 supply of limestone construction materials for public and  
13 private projects requires a coordinated approach to permitting  
14 activities on wetlands within the Dade County Lake Belt in  
15 order to provide the certainty necessary to encourage  
16 substantial and continued investment in the limestone  
17 processing plant and equipment required to efficiently extract  
18 the limestone resource. It is the intent of the Legislature  
19 that the Lake Belt Mitigation Plan satisfy all local, state,  
20 and federal requirements for mining activity within the Dade  
21 County Lake Belt Area.

22           (2) To provide for the mitigation of wetland resources  
23 lost to mining activities within the Dade County Lake Belt  
24 Area, effective January 1, 1999, a fee is imposed on each ton  
25 of limerock and sand extracted by any person who engages in  
26 the business of extracting limerock or sand from within the  
27 Dade County Lake Belt Area. The fee is at the rate of 4.41  
28 cents for each ton of limerock and sand sold from within the  
29 Dade County Lake Belt Area in raw, processed, or manufactured  
30 form, including, but not limited to, sized aggregate, cement,  
31 concrete, and concrete products. Any limerock or sand that is

1 used within the mine from which the limerock or sand is  
2 extracted is exempt from the fee. The amount of the fee  
3 imposed under this section must be stated separately on the  
4 invoice provided to the purchaser. The proceeds of the fee  
5 must be paid to the Department of Revenue on or before the  
6 20th day of the month following the calendar month in which  
7 the sale occurs. The fee is subject to all applicable taxes  
8 imposed by part I of chapter 212, Florida Statutes.

9 (3) The fee imposed by this section must be reported  
10 to the Department of Revenue. Payment of the fee must be  
11 accompanied by a form prescribed by the Department of Revenue.  
12 The proceeds of the fee, less administrative costs, must be  
13 transferred by the Department of Revenue into the Mitigation  
14 Trust Fund administered by the Miami-Dade County Department of  
15 Environmental Resource Management. As used in this section,  
16 the term "proceeds of the fee" means all funds collected and  
17 received by the Department of Revenue under this section,  
18 including interest and penalties on delinquent fees. The  
19 amount deducted for administrative costs may not exceed 3  
20 percent of the total revenues collected under this section and  
21 may equal only those administrative costs reasonably  
22 attributable to the fee.

23 (4)(a) The Department of Revenue shall administer,  
24 collect, and enforce the fee authorized under this section in  
25 accordance with the procedures used to administer, collect,  
26 and enforce the general sales tax imposed under chapter 212,  
27 Florida Statutes. The provisions of chapter 212, Florida  
28 Statutes, with respect to the authority of the Department of  
29 Revenue to audit and make assessments, the keeping of books  
30 and records, and the interest and penalties imposed on  
31 delinquent fees apply to this section. The fee may not be

1 included in computing estimated taxes under section 212.11,  
2 Florida Statutes, and the dealer's credit for collecting taxes  
3 or fees provided for in section 212.12, Florida Statutes, does  
4 not apply to the fee imposed by this section.

5 (b) In administering this section, the Department of  
6 Revenue may employ persons and incur expenses for which funds  
7 are appropriated by the Legislature. The Department of Revenue  
8 shall adopt rules and prescribe and publish forms necessary to  
9 administer this section. The Department of Revenue shall  
10 establish audit procedures and may assess delinquent fees.

11 (5) Beginning July 1, 2000, and each July 1  
12 thereafter, the per-ton fee shall be adjusted by the  
13 percentage change in the average of the Consumer Price Index  
14 issued by the United States Department of Labor for the most  
15 recent 12-month period ending on September 30, and the  
16 percentage change in the Producer's Price Index for Net Output  
17 of Crushed and Broken Stone, South Atlantic Region, issued by  
18 the United States Department of Labor for the most recent  
19 12-month period ending on September 30, compared to the  
20 average of these indexes for the base year, which is the  
21 12-month period ending on September 30, 1999.

22 (6)(a) The proceeds of the fee must be used to conduct  
23 mitigation activities that are appropriate to offset the loss  
24 of the value and functions of wetlands as a result of mining  
25 activities in the Dade County Lake Belt Area and must be used  
26 in a manner consistent with the recommendations contained in  
27 the reports submitted to the Legislature by the Dade County  
28 Lake Belt Plan Implementation Committee and adopted under  
29 section 373.4149, Florida Statutes. Such mitigation may  
30 include the purchase, enhancement, restoration, and management  
31 of wetlands and uplands and may also include structural

1 modifications to the existing drainage system to enhance the  
2 hydrology of the Dade County Lake Belt Area. Funds may also be  
3 used to reimburse other funding sources, including the Save  
4 Our Rivers Land Acquisition Program and the Internal  
5 Improvement Trust Fund, for the purchase of lands that were  
6 acquired in areas appropriate for mitigation due to rock  
7 mining and to reimburse governmental agencies that exchanged  
8 land under section 373.4149, Florida Statutes, for mitigation  
9 due to rock mining.

10 (b) Expenditures from the Mitigation Trust Fund must  
11 be approved by an interagency committee that consists of  
12 representatives from the Miami-Dade County Department of  
13 Environmental Resource Management, the Department of  
14 Environmental Protection, the South Florida Water Management  
15 District, the Game and Fresh Water Fish Commission, and, at  
16 the discretion of the committee, additional members who  
17 represent federal regulatory, environmental, and fish and  
18 wildlife agencies and representatives of the limestone  
19 industry.

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

27 (8) If a general permit by the United States Army  
28 Corps of Engineers, or an appropriate long-term permit for  
29 mining, issued on or before September 30, 2000, is  
30 inconsistent with the Dade County Lake Belt Plan, this  
31 section, and sections 378.4115, 373.4149, and 373.4415,

1 Florida Statutes, the fee imposed by this section is suspended  
2 until reenacted by the Legislature.

3 Section 2. This act shall take effect July 1, 1998.  
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6 SENATE SUMMARY

7 Imposes a fee on the commercial extraction of limerock  
8 and sand from the Dade County Lake Belt Area of 4.41  
9 cents per ton. Requires that proceeds of the fee be  
10 deposited into the Mitigation Trust Fund administered by  
11 the Miami-Dade County Department of Environmental  
12 Resource Management and used to mitigate the impact of  
13 mining activities in the Dade County Lake Belt Area.  
14 Requires that the Department of Revenue administer the  
15 collection of the fee. Provides for an annual adjustment  
16 of the fee beginning July 1, 2000. Requires that  
17 expenditures from the trust fund be approved by an  
18 interagency committee. Provides that payment of the fee  
19 satisfies certain requirements for mitigation. Provides  
20 for imposition of the fee to be suspended if certain  
21 inconsistent permits are issued. (See bill for details.)  
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