

1
2 An act relating to environmental protection;
3 amending s. 373.4137, F.S.; requiring ongoing
4 annual submissions, to the Department of
5 Environmental Protection and water management
6 districts, by the Department of Transportation
7 of its adopted work program and inventory of
8 impacted habitats; authorizing inclusion of
9 habitat impacts of future transportation
10 projects; providing activities associated with
11 development of mitigation plans; requiring
12 water management districts to consult with
13 entities operating mitigation banks when
14 developing mitigation plans; providing that a
15 water management district's preliminary
16 approval of a mitigation plan does not
17 constitute a decision affecting substantial
18 interests; requiring mitigation plans to
19 include certain information; authorizing
20 exclusion of certain projects from the
21 environmental impact inventory; extending
22 certain mitigation funding through fiscal year
23 2004-2005; authorizing amendment of annual
24 mitigation plans for certain purposes;
25 providing for uses of funds not directed to
26 implement mitigation plans; deleting obsolete
27 provisions relating to a report; amending s.
28 338.223, F.S.; requiring environmental
29 feasibility review prior to advance
30 right-of-way purchases for a proposed turnpike
31 project; providing exceptions for hardship and

1 protective purchases; amending s. 86 of ch.
2 93-213, Laws of Florida; deleting a scheduled
3 repayment of funds previously appropriated for
4 startup costs of the National Pollutant
5 Discharge Elimination System program; creating
6 s. 373.4139, F.S.; providing legislative
7 findings and intent with respect to a
8 mitigation plan for the Dade County Lake Belt
9 Area to offset the impact of mining activities;
10 imposing a fee on the commercial extraction of
11 limerock and sand from the Dade County Lake
12 Belt Area; requiring the proceeds of the
13 mitigation fee to be paid to the Department of
14 Revenue; providing for transfer of proceeds of
15 the mitigation fee to the South Florida Water
16 Management District and deposited into the Lake
17 Belt Mitigation Trust Fund; providing for the
18 Department of Revenue to administer the
19 collection of the fee; authorizing the
20 department to adopt rules; providing for an
21 annual adjustment of the fee rate after a
22 specified date; specifying purposes for which
23 the proceeds of the mitigation fee may be used;
24 requiring that expenditures be approved by an
25 interagency committee; providing for membership
26 of the committee; providing that payment of the
27 fee satisfies certain requirements for
28 mitigation; providing for suspension of
29 imposition of the fee under certain
30 circumstances; requiring the interagency
31 committee to submit certain reports; amending

1 s. 373.4149, F.S.; providing additional
2 requirements for the Dade County Lake Belt
3 Plan; extending the term of the Dade County
4 Lake Belt Plan Implementation Committee;
5 deleting a requirement that the Department of
6 Environmental Protection develop a mitigation
7 plan to offset loss of wetlands due to rock
8 mining; excluding certain property from the
9 Dade County Lake Belt Area; amending s.
10 373.421, F.S.; providing that certain
11 delineations of wetlands shall be accepted as
12 formal determinations or as part of a permit
13 issued under Part IV of ch. 373, F.S.;
14 providing for the adoption of rules; amending
15 s. 373.139, F.S.; allowing the disbursement of
16 certain district funds or assets in eminent
17 domain proceedings under certain circumstances
18 for a specified period; providing standing to
19 sue for certain persons; providing a
20 declaration that the Kissimmee River Project is
21 in the public interest and for a public
22 purpose; authorizing certain eminent domain
23 proceedings; amending s. 337.19, F.S.;
24 authorizing suits to be brought against the
25 department for the breach of an expressed
26 provision or an implied covenant; providing
27 that liability may not be based on an oral
28 modification of a written contract; providing
29 severability; providing an effective date.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Section 373.4137, Florida Statutes, is
2 amended to read:

3 373.4137 Mitigation requirements.--

4 (1) The Legislature finds that environmental
5 mitigation for the impact of transportation projects proposed
6 by the Department of Transportation can be more effectively
7 achieved by regional, long-range mitigation planning rather
8 than on a project-by-project basis. It is the intent of the
9 Legislature that mitigation to offset the adverse effects of
10 these transportation projects be funded by the Department of
11 Transportation and be carried out by the Department of
12 Environmental Protection and the water management districts,
13 including the use of mitigation banks established pursuant to
14 this part.

15 (2) Environmental impact inventories for
16 transportation projects proposed by the Department of
17 Transportation shall be developed as follows:

18 (a) Each June 1 ~~Beginning July 1996~~, the Department of
19 Transportation shall submit ~~annually~~ to the Department of
20 Environmental Protection and the water management districts a
21 copy of its adopted work program and an inventory of habitats
22 addressed in the rules adopted pursuant to this part and s.
23 404 of the Clean Water Act, 33 U.S.C. s. 1344, which may be
24 impacted by its plan of construction for transportation
25 projects in the next ~~first~~ 3 years of the adopted work
26 program. The Department of Transportation may also include in
27 its inventory the habitat impacts of any future transportation
28 project identified in the adopted work program. ~~For the July~~
29 ~~1996 submittal~~, The inventory may exclude those projects which
30 have received permits pursuant to this part and s. 404 of the
31 Clean Water Act, 33 U.S.C. s. 1344, projects for which

1 mitigation planning or design has commenced, or projects for
2 which mitigation has been implemented in anticipation of
3 future permitting needs.

4 (b) The environmental impact inventory shall include a
5 description of these habitat impacts, including their
6 location, acreage, and type; state water quality
7 classification of impacted wetlands and other surface waters;
8 any other state or regional designations for these habitats;
9 and a survey of threatened species, endangered species, and
10 species of special concern affected by the proposed project.

11 (3) To fund the mitigation plan for the projected
12 impacts identified in the inventory described in subsection
13 (2), ~~beginning July 1, 1997,~~ the Department of Transportation
14 shall identify funds quarterly in an escrow account within the
15 State Transportation Trust Fund established by the Department
16 of Transportation for the benefit of the Department of
17 Environmental Protection. Any interest earnings from the
18 escrow account shall be returned to the Department of
19 Transportation. The Department of Environmental Protection
20 shall request a transfer of funds from the escrow account to
21 the Ecosystem Management and Restoration Trust Fund no sooner
22 than 30 days prior to the date the funds are needed to pay for
23 activities contained in the mitigation programs. The amount
24 transferred each year by the Department of Transportation
25 shall correspond to a cost per acre of \$75,000 multiplied by
26 the projected acres of impact identified in the inventory
27 described in subsection (2) within the water management
28 district for that year. The water management district may
29 draw from the trust fund no sooner than 30 days prior to the
30 date funds are needed to pay for activities associated with
31 development or implementation of the mitigation plan described

1 in subsection (4). Activities associated with the development
2 of the mitigation plan include, but are not limited to,
3 design, engineering, production, and staff support.Each July
4 1, ~~beginning in 1998,~~the cost per acre shall be adjusted by
5 the percentage change in the average of the Consumer Price
6 Index issued by the United States Department of Labor for the
7 most recent 12-month period ending September 30, compared to
8 the base year average, which is the average for the 12-month
9 period ending September 30, 1996. At the end of each year,
10 the projected acreage of impact shall be reconciled with the
11 acreage of impact of projects as permitted pursuant to this
12 part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, and
13 the following year's transfer of funds shall be adjusted
14 accordingly to reflect the overtransfer or undertransfer of
15 funds from the preceding year. The Department of Environmental
16 Protection is authorized to transfer such funds from the
17 Ecosystem Management and Restoration Trust Fund to the water
18 management districts to carry out the mitigation programs.

19 (4) Prior to December 1 of each year ~~31, 1996,~~ each
20 water management district, in consultation with the Department
21 of Environmental Protection, the United States Army Corps of
22 Engineers, ~~and~~ other appropriate federal, state, and local
23 governments, and entities operating mitigation banks which
24 have obtained a permit pursuant to s. 373.4136, shall develop
25 a plan for the primary purpose of complying with the
26 mitigation requirements adopted pursuant to this part and 33
27 U.S.C. s. 1344. This plan shall also address significant
28 aquatic and exotic plant problems within wetlands and other
29 surface waters. In developing such plans, the districts shall
30 utilize sound ecosystem management practices to address
31 significant water resource needs and shall focus on activities

1 of the department and the water management districts, such as
2 surface water improvement and management projects and lands
3 identified for potential acquisition or restoration, to the
4 extent such activities comply with the mitigation requirements
5 adopted under this part and 33 U.S.C. s. 1344. In determining
6 the activities to be included in such plans, the districts
7 shall also consider the purchase of credits from public or
8 private mitigation banks permitted under this part and shall
9 include such purchase as a part of the mitigation plan when
10 such purchase would offset the impact of the transportation
11 project, provide equal benefits to the water resources than
12 other mitigation options being considered, and provide the
13 most cost-effective mitigation option. The mitigation plan
14 shall be preliminarily approved by the water management
15 district governing board and shall be submitted to the
16 secretary of the Department of Environmental Protection for
17 review and final approval. The preliminary approval by the
18 water management district governing board does not constitute
19 a decision that affects substantial interests as provided by
20 s. 120.569. At least 30 days prior to preliminary approval,
21 the water management district shall provide a copy of the
22 draft mitigation plan to any person who has requested a copy.

23 (a) Each mitigation plan shall include a brief
24 explanation of why a mitigation bank was or was not chosen as
25 a mitigation option for each transportation project addressed
26 in the plan, including an estimation and description of
27 identifiable costs of the mitigation bank and nonmitigation
28 bank option to the extent practicable.

29 (b)~~(a)~~ If the Department of Environmental Protection
30 and water management districts are unable to identify
31 mitigation that would offset the impacts of a project included

1 in the inventory, either due to the nature of the impact or
2 the amount of funds available, that project shall not be
3 addressed in the mitigation plan and the project shall not be
4 subject to the provisions of this section.

5 ~~(c)(b)~~ Specific projects may be excluded from the
6 environmental impact inventory and the mitigation plan and
7 shall not be subject to this section upon the agreement of the
8 Department of Transportation, the Department of Environmental
9 Protection, and the appropriate water management district that
10 the inclusion of such projects would hamper the efficiency or
11 timeliness of the mitigation planning and permitting process.

12 ~~(d)(c)~~ Those transportation projects that are proposed
13 to commence in fiscal year 1996-1997 shall not be addressed in
14 the mitigation plan, and the provisions of subsection (7)
15 shall not apply to these projects. The Department of
16 Transportation may enter into interagency agreements with the
17 Department of Environmental Protection or any water management
18 district to perform mitigation planning and implementation for
19 these projects.

20 (e) Surface water improvement and management or
21 aquatic or exotic plant control projects undertaken using the
22 \$12 million advance transferred from the Department of
23 Transportation to the Department of Environmental Protection
24 in fiscal year 1996-1997 shall remain available for mitigation
25 until the \$12 million is fully credited up to and including
26 fiscal year 2004-2005. When these projects are used as
27 mitigation, the \$12 million advance shall be reduced by
28 \$75,000 per acre of impact mitigated. For any fiscal year
29 through and including fiscal year 2004-2005, to the extent the
30 cost of developing and implementing the mitigation plans is
31 less than the amount transferred from the Department of

1 Transportation to the Department of Environmental Protection
2 pursuant to subsection (3), the difference shall be credited
3 towards the \$12 million advance.

4 ~~(d) On July 1, 1996, the Department of Transportation~~
5 ~~shall transfer to the Department of Environmental Protection~~
6 ~~\$12 million from the State Transportation Trust Fund for the~~
7 ~~purposes of the surface water improvement management program~~
8 ~~and to address statewide aquatic and exotic plant problems~~
9 ~~within wetlands and other surface waters. Such funds shall be~~
10 ~~considered an advance upon funds that the Department of~~
11 ~~Transportation would provide for statewide mitigation during~~
12 ~~the 1997-1998, 1998-1999, and 1999-2000 fiscal years. This~~
13 ~~use of mitigation funds for surface water improvement~~
14 ~~management projects or aquatic and exotic plant control may be~~
15 ~~utilized as mitigation for transportation projects to the~~
16 ~~extent that it complies with the mitigation requirements~~
17 ~~adopted pursuant to this part and 33 U.S.C. s. 1344. To the~~
18 ~~extent that such activities result in mitigation credit for~~
19 ~~projects permitted in fiscal year 1996-1997, all or part of~~
20 ~~the \$12 million funding for surface water improvement~~
21 ~~management projects or aquatic and exotic plant control in~~
22 ~~fiscal year 1996-1997 shall be drawn from Department of~~
23 ~~Transportation mitigation funding for fiscal year 1996-1997~~
24 ~~rather than from mitigation funding for fiscal years~~
25 ~~1997-1998, 1998-1999, and 1999-2000, in an amount equal to the~~
26 ~~cost per acre of impact described in subsection (3), times the~~
27 ~~acreage of impact that is mitigated by such plant control~~
28 ~~activities. Any part of the \$12 million that does not result~~
29 ~~in mitigation credit for projects permitted in fiscal year~~
30 ~~1996-1997 shall remain available for mitigation credit during~~
31 ~~fiscal years 1997-1998, 1998-1999, or 1999-2000.~~

1 (5) The water management district shall be responsible
2 for ensuring that mitigation requirements pursuant to 33
3 U.S.C. s. 1344 are met for the impacts identified in the
4 inventory described in subsection (2), by implementation of
5 the approved plan described in subsection (4) to the extent
6 funding is provided ~~as funded~~ by the Department of
7 Transportation. During the federal permitting process, the
8 water management district may deviate from the approved
9 mitigation plan in order to comply with federal permitting
10 requirements.

11 (6) The mitigation plan shall be updated annually to
12 reflect the most current Department of Transportation work
13 program, and may be amended throughout the year to anticipate
14 schedule changes or additional projects which may arise. Each
15 update and amendment of the mitigation plan shall be submitted
16 to the secretary of the Department of Environmental Protection
17 for approval ~~as described in subsection (4)~~. However, such
18 approval shall not be applicable to a deviation as described
19 in subsection (5).

20 (7) Upon approval by the secretary of the Department
21 of Environmental Protection, the mitigation plan shall be
22 deemed to satisfy the mitigation requirements under this part
23 and any other mitigation requirements imposed by local,
24 regional, and state agencies for impacts identified in the
25 inventory described in subsection (2). The approval of the
26 secretary shall authorize the activities proposed in the
27 mitigation plan, and no other state, regional, or local permit
28 or approval shall be necessary.

29 (8) This section shall not be construed to eliminate
30 the need for the Department of Transportation to comply with
31 the requirement to implement practicable design modifications,

1 including realignment of transportation projects, to reduce or
2 eliminate the impacts of its transportation projects on
3 wetlands and other surface waters as required by rules adopted
4 pursuant to this part, or to diminish the authority under this
5 part to regulate other impacts, including water quantity or
6 water quality impacts, or impacts regulated under this part
7 that are not identified in the inventory described in
8 subsection (2).

9 (9) The recommended mitigation plan shall be annually
10 submitted to the Executive Office of the Governor and the
11 Legislature through the legislative budget request of the
12 Department of Environmental Protection in accordance with
13 chapter 216. Any funds not directed to implement the
14 mitigation plan should, to the greatest extent possible, be
15 directed to fund aquatic and exotic plant problems within the
16 wetlands and other surface waters.

17 ~~(10) By December 1, 1997, the Department of~~
18 ~~Environmental Protection, in consultation with the water~~
19 ~~management districts, shall submit a report to the Governor,~~
20 ~~the President of the Senate, and the Speaker of the House of~~
21 ~~Representatives describing the implementation of this section,~~
22 ~~including the use of public and private mitigation banks and~~
23 ~~other types of mitigation approved in the mitigation plan.~~
24 ~~The report shall also recommend any amendments to this section~~
25 ~~necessary to improve the process for developing and~~
26 ~~implementing mitigation plans for the Department of~~
27 ~~Transportation. The report shall also include a specific~~
28 ~~section on how private and public mitigation banks are~~
29 ~~utilized within the mitigation plans.~~

30 Section 2. Paragraph (b) of subsection (2) of section
31 338.223, Florida Statutes, is amended to read:

1 338.223 Proposed turnpike projects.--
2 (2)
3 (b) In accordance with the legislative intent
4 expressed in s. 337.273, and after the requirements of
5 paragraph (1)(c) have been met,the department may acquire
6 lands and property before making a final determination of the
7 economic feasibility of a project. The requirements of
8 paragraph (1)(c) shall not apply to hardship and protective
9 purchases of advance right-of-way by the department.The cost
10 of advance acquisition of right-of-way may be paid from bonds
11 issued under s. 337.276 or from turnpike revenues. For
12 purposes of this paragraph, the term "hardship purchase" means
13 purchase from a property owner of a residential dwelling of
14 not more than four units who is at a disadvantage due to
15 health impairment, job loss, or significant loss of rental
16 income. For purposes of this paragraph, the term "protective
17 purchase" means a purchase to limit development, building, or
18 other intensification of land uses within the area
19 right-of-way needed for transportation facilities. The
20 department shall give written notice to the Department of
21 Environmental Protection 30 days prior to final agency
22 acceptance as set forth in s. 119.07(3)(n), which notice shall
23 allow the Department of Environmental Protection to comment.
24 Hardship and protective purchases of right-of-way shall not
25 influence the environmental feasibility of the project,
26 including the decision relative to the need to construct the
27 project or the selection of a specific location. Costs to
28 acquire and dispose of property acquired as hardship and
29 protective purchases are considered costs of doing business
30 for the department and shall not be considered in the
31 determination of environmental feasibility for the project.

1 Section 3. Section 86 of chapter 93-213, Laws of
2 Florida, is amended to read:

3 Section 86. The Department of Environmental Regulation
4 is authorized 54 career service positions for administering
5 the state NPDES program. Twenty-five career service positions
6 are authorized for startup of the program beginning July 1,
7 1993, and the remaining 29 career service positions beginning
8 January 1, 1994. The state NPDES program staffing shall start
9 July 1, 1993, with completion targeted for 6 months following
10 United States Environmental Protection Agency authorization to
11 administer the National Pollutant Discharge Elimination System
12 program. Implementation of positions is subject to review and
13 final approval by the secretary of the Department of
14 Environmental Regulation. The sum of \$3.2 million is hereby
15 appropriated from the Pollution Recovery Trust Fund to cover
16 program startup costs. ~~Such funds are to be repaid from a~~
17 ~~fund the Legislature deems appropriate, no later than July 1,~~
18 ~~2000.~~

19 Section 4. Section 373.4139, Florida Statutes, is
20 created to read:

21 373.4139 Dade County Lake Belt Mitigation Plan;
22 mitigation for mining activities within the Dade County Lake
23 Belt.--

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

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

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

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

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

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

1 administer this section. The Department of Revenue shall
2 establish audit procedures and may assess delinquent fees.

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

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

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

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 the wetlands
24 mined. In addition, it is the intent of the Legislature that
25 the payment of the mitigation fee imposed by this section
26 satisfy all federal mitigation requirements for the wetlands
27 mined.

28 (8) If a general permit by the United States Army
29 Corps of Engineers, or an appropriate long-term permit for
30 mining, consistent with the Dade County Lake Belt Plan, this
31 section, and s. 378.4115, 373.4149, and 373.4415, is not

1 issued on or before September 30, 2000, the fee imposed by
2 this section is suspended until reenacted by the Legislature.

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

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

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

16 373.4149 Dade County Lake Belt Plan.--

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

19 (a) Include a detailed master plan to further
20 implementation;

21 (b) Further address compatible land uses,
22 opportunities, and potential conflicts;

23 (c) Provide for additional wellfield protection;

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

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

28 (f) Consider the need to establish a land authority;
29 ~~and-~~

30 (g) Analyze the hydrological impacts resulting from
31 the future mining included in the Lake Belt Plan and recommend

1 appropriate mitigation measures, if needed, to be incorporated
2 into the Lake Belt Mitigation Plan.

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

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

1 ~~(10)~~⁽¹¹⁾ The secretary of the Department of
2 Environmental Protection, the secretary of the Department of
3 Community Affairs, the secretary of the Department of
4 Transportation, the Commissioner of Agriculture, the executive
5 director of the Game and Freshwater Fish Commission, and the
6 executive director of the South Florida Water Management
7 District may enter into agreements with landowners,
8 developers, businesses, industries, individuals, and
9 governmental agencies as necessary to effectuate the
10 provisions of this section.

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

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

20 Section 6. Section 36, Township 53 South, Range 39
21 East, is excluded from the geographical area described as the
22 Dade County Lake Belt Area and delineated in 373.4149(3),
23 Florida Statutes. Land uses in this excluded area shall be
24 compatible with the Dade County Lake Belt Plan.

25 Section 7. Subsection (8) is added to section 373.421,
26 Florida Statutes, to read:

27 373.421 Delineation methods; formal determinations.--

28 (8) Whenever the location of a wetland delineation,
29 approved or performed by the department or the district, is
30 certified pursuant to chapter 471 or chapter 472, the
31 delineation shall be accepted as a formal determination

1 pursuant to section 373.421(2) or shall be accepted as part of
2 a permit issued pursuant to this part.

3 Section 8. Subsections (8) and (9) are added to
4 section 373.139, Florida Statutes, to read:

5 (8) The Legislature declares that the Kissimmee River,
6 Florida Project as identified in the Project Cooperation
7 Agreement between the Department of the Army and the South
8 Florida Water Management District, dated March 22, 1994, and
9 the C-111 Project as identified in the Central and Southern
10 Florida Flood Control Project Real Estate Design Memorandum
11 Canal 111, South Dade County, Florida are in the public
12 interest, for a public purpose and are necessary for the
13 public health and welfare. The governing board of the district
14 is empowered and authorized to acquire fee title or easement
15 by eminent domain for the limited purpose of implementing the
16 Kissimmee River, Florida Project and the C-111 Project, more
17 fully described above, and the acquisition of real property,
18 including by eminent domain, for these objectives constitutes
19 a public purpose for which it is in the public interest to
20 expend public funds.

21 (9) Through July 1, 2000, the South Florida Water
22 Management District may disburse state or district funds to
23 any agency or department of the Federal Government in any
24 agreement or arrangement to take property or any interest
25 therein by eminent domain, pursuant to federal law, unless
26 such arrangement diminishes or deprives a person or entity of
27 any right, privilege, or compensation that they would
28 otherwise have if the property or interest was taken by
29 eminent domain under Florida law. This subsection shall not
30 apply to federal grant funds received by the state or
31 district.

1 Section 9. Subsection (1) of section 337.19, Florida
2 Statutes, is amended to read:

3 337.19 Suits by and against department; limitation of
4 actions; forum.--

5 (1) Suits at law and in equity may be brought and
6 maintained by and against the department on any contract claim
7 arising from the breach of an express provision or an implied
8 covenant of a written agreement or a written directive issued
9 by the department pursuant to the written agreement. In any
10 such suit, the department and the contractor shall have all of
11 the same rights, obligations, remedies, and defenses as a
12 private person under a like contract, except that no liability
13 may be based on an oral modification of the written contract
14 or written directive. However, this section shall not be
15 construed to in any way prohibit the department from limiting
16 its liability or damages through provisions in its contracts.
17 Notwithstanding anything to the contrary contained herein, no
18 employee or agent of the department may be held personally
19 liable to an extent greater than that provided under s. 768.28
20 ~~under contract for work done~~; provided, that no suit sounding
21 in tort shall be maintained against the department.

22 Section 10. If any provision of this act or the
23 application thereof to any person or circumstance is held
24 invalid, the invalidity shall not affect other provisions or
25 applications of the act which can be given effect without the
26 invalid provision or application, and to this end the
27 provisions of this act are declared severable.

28 Section 11. This act shall take effect upon becoming a
29 law.

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