

By Representative Villalobos

1                                   A bill to be entitled  
2           An act relating to limerock mining; amending s.  
3           373.4149, F.S., relating to the Miami-Dade  
4           County Lake Belt Plan; providing legislative  
5           intent; revising description of land included  
6           in the Miami-Dade County Lake Belt Area;  
7           providing for local land use jurisdiction and  
8           for land use compatibility within the Lake Belt  
9           Area; requiring certain notice of mining  
10          activities; revising membership of the  
11          Miami-Dade County Lake Belt Plan Implementation  
12          Committee; providing additional requirements  
13          for Phase II of the Lake Belt Plan; extending  
14          the existence of the implementation committee;  
15          deleting requirement for development of a  
16          comprehensive mitigation plan; creating s.  
17          373.41492, F.S.; imposing a mitigation fee on  
18          commercial extraction of limerock and sand from  
19          the Lake Belt Area; providing an exemption;  
20          providing procedures for collection, report,  
21          and disposition of fees; providing for  
22          enforcement and penalties; providing duties and  
23          authority of the Department of Revenue;  
24          providing for rules; providing for annual  
25          indexed fee increases after a specified date;  
26          providing purpose of fees for wetlands  
27          mitigation and specifying uses; requiring  
28          approval of expenditures by an interagency  
29          committee; providing membership of the  
30          committee; providing that payment of the fee  
31          satisfies certain mitigation requirements;

1 providing for suspension of the fee under  
2 certain circumstances; requiring interagency  
3 committee reports to the South Florida Water  
4 Management District and the Legislature;  
5 amending ss. 373.4415 and 378.4115, F.S.;  
6 correcting references to conform to the  
7 county's name change; providing severability;  
8 providing an effective date.

9  
10 Be It Enacted by the Legislature of the State of Florida:

11  
12 Section 1. Section 373.4149, Florida Statutes, is  
13 amended to read:

14 373.4149 Miami-Dade ~~Dade~~ County Lake Belt Plan.--

15 (1) The Legislature hereby accepts and adopts the  
16 recommendations contained in the Phase I Lake Belt Report and  
17 Plan, known as the "Miami-Dade ~~Dade~~ County Lake Plan," dated  
18 February 1997 and submitted by the Miami-Dade ~~Dade~~ County Lake  
19 Belt Plan Implementation Committee. By adoption of the  
20 Miami-Dade County Lake Plan it is not the intent of the  
21 Legislature to preempt or preclude local comprehensive plans  
22 or zoning in regards to other uses within the Miami-Dade  
23 County Lake Belt Area.

24 (2)(a) The Legislature recognizes that deposits of  
25 limestone and sand suitable for production of construction  
26 aggregates, cement, and road base materials are located in  
27 limited areas of the state.

28 (b) The Legislature recognizes that the deposit of  
29 limestone available in South Florida is limited due to  
30 urbanization to the east and the Everglades to the west.

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1           (3) The Miami-Dade ~~Dade~~ County Lake Belt Area is that  
2 area bounded by the Florida Turnpike to the east, the  
3 Miami-Dade-Broward ~~Dade-Broward~~ County line to the north,  
4 Krome Avenue to the west and Tamiami Trail to the south  
5 together with the land south of Tamiami Trail ~~in sections 5,~~  
6 ~~6, 7, 8, 17, and 18, Township 54 South, Range 39 East, and in~~  
7 ~~sections 11, 12, 13, 14, 23, 24, 25, 26, 35, and 36, Township~~  
8 ~~54 South, Range 38 East-, less those portions of the west~~  
9 ~~one-half of section 3 and sections 10, 11 except the east~~  
10 ~~one-half of the northeast one-quarter, 13, 14 and 24 lying~~  
11 ~~north of the Miami Canal, in Township 52 South, Range 39 East,~~  
12 ~~section 36, and the east one-half of Sections 24, 25 and 35,~~  
13 ~~Township 54 South, Range 38 East, and Government Lots 1 and 2,~~  
14 ~~lying between Township 53 South and 54 South, Range 39 East~~  
15 ~~and that portion of sections 1 and 2, Township 54 South, Range~~  
16 ~~39 East, lying North of Tamiami Trail. The identification of~~  
17 ~~the Miami-Dade County Lake Belt Area shall not preempt local~~  
18 ~~land use jurisdiction or the use of land for other purposes by~~  
19 ~~private land owners; provided, however, local comprehensive~~  
20 ~~plans, zoning regulations, development regulations, and other~~  
21 ~~local regulations shall accommodate limestone mining~~  
22 ~~activities and related operations, such as lake excavation,~~  
23 ~~including use of explosives, rock processing, cement, concrete~~  
24 ~~and asphalt products manufacturing, and ancillary activities,~~  
25 ~~within the rock mining supported and allowable areas of the~~  
26 ~~Miami-Dade County Lake Plan adopted by subsection (1). Land~~  
27 ~~uses allowed in the vicinity of limestone operations located~~  
28 ~~within the rock mining supported and allowable areas shall be~~  
29 ~~compatible with rock mining activities. Appropriate public~~  
30 ~~notice of the location of active limestone mining activities~~  
31 ~~shall be provided by local government.~~

1           (4) The Miami-Dade ~~Dade~~ County Lake Belt Plan  
2 Implementation Committee shall be appointed by the governing  
3 board of the South Florida Water Management District to  
4 develop a strategy for the design and implementation of the  
5 Miami-Dade ~~Dade~~ County Lake Belt Plan. The committee shall  
6 consist of the chair of the governing board of the South  
7 Florida Water Management District, who shall serve as chair of  
8 the committee, the policy director of Environmental and Growth  
9 Management in the office of the Governor, the secretary of the  
10 Department of Environmental Protection, the director of the  
11 Division of Resource Management or its successor division  
12 within the Department of Environmental Protection, the  
13 director of the Office of Tourism, Trade, and Economic  
14 Development within the office of the Governor, the secretary  
15 of the Department of Community Affairs, the executive director  
16 of the Game and Freshwater Fish Commission, the director of  
17 the Department of Environmental Resource Management of  
18 Miami-Dade ~~Dade~~ County, the director of the Miami-Dade ~~Dade~~  
19 County Water and Sewer Department, the Director of Planning in  
20 Miami-Dade ~~Dade~~ County, a representative of the Friends of the  
21 Everglades, a representative of the Florida Audubon Society, a  
22 representative of the Florida chapter of the Sierra Club, four  
23 representatives ~~a representative~~ of the nonmining private  
24 landowners within the Miami-Dade ~~Dade~~ County Lake Belt Area,  
25 and four representatives from the limestone mining industry to  
26 be appointed by the governing board of the South Florida Water  
27 Management District. Two ex officio seats on the committee  
28 will be filled by one member of the Florida House of  
29 Representatives to be selected by the Speaker of the House of  
30 Representatives from among representatives whose districts, or  
31 some portion of whose districts, are included within the

1 geographical scope of the committee as described in subsection  
2 (3), and one member of the Florida Senate to be selected by  
3 the President of the Senate from among senators whose  
4 districts, or some portion of whose districts, are included  
5 within the geographical scope of the committee as described in  
6 subsection (3). The committee may appoint other ex officio  
7 members, as needed, by a majority vote of all committee  
8 members. A committee member may designate in writing an  
9 alternate member who, in the member's absence, may participate  
10 and vote in committee meetings.

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

13 (a) Include a detailed master plan to further  
14 implementation;

15 (b) Consider the feasibility of a common mitigation  
16 plan for nonrock mining uses, including a nonrock mining  
17 mitigation fee. Any mitigation fee shall be for the limited  
18 purpose of offsetting the loss of wetland functions and values  
19 and not as a revenue source for other purposes.

20 (c)~~(b)~~ Further address compatible land uses,  
21 opportunities, and potential conflicts;

22 (d)~~(c)~~ Provide for additional wellfield protection;

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

26 (f)~~(e)~~ Secure additional funding sources; ~~and~~

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

29 (h) Analyze the hydrological impacts resulting from  
30 the future mining included in the Lake Belt Plan and recommend  
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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 Miami-Dade ~~Dade~~  
19 County Lake Belt Area together with the final reports on all  
20 studies, the final recommendations of the committee, the  
21 status of implementation of Phase I recommendations and other  
22 relevant information, and the committee's recommendation for  
23 legislative and regulatory revisions.

24 (7) The committee shall report to the governing board  
25 of the South Florida Water Management District semiannually.

26 (8) In carrying out its work, the committee shall  
27 solicit comments from scientific and economic advisors and  
28 governmental, public, and private interests. The committee  
29 shall provide meeting notes, reports, and the strategy  
30 document in a timely manner for public comment.

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1           (9) The committee is authorized to seek from the  
2 agencies or entities represented on the committee any grants  
3 or funds necessary to enable it to carry out its charge.

4           ~~(10) The Department of Environmental Protection, in~~  
5 ~~conjunction with the South Florida Water Management District~~  
6 ~~and the Dade County Department of Environmental Resources~~  
7 ~~Management, is directed to develop a comprehensive mitigation~~  
8 ~~plan for the Dade County Lake Belt Plan, subject to approval~~  
9 ~~by the Legislature, which offsets the loss of wetland~~  
10 ~~functions and values resulting from rock mining in~~  
11 ~~mining-supported and allowable areas.~~

12           (10)~~(11)~~ The secretary of the Department of  
13 Environmental Protection, the secretary of the Department of  
14 Community Affairs, the secretary of the Department of  
15 Transportation, the Commissioner of Agriculture, the executive  
16 director of the Game and Freshwater Fish Commission, and the  
17 executive director of the South Florida Water Management  
18 District may enter into agreements with landowners,  
19 developers, businesses, industries, individuals, and  
20 governmental agencies as necessary to effectuate the  
21 provisions of this section.

22           (11)~~(12)~~(a) All agencies of the state shall review the  
23 status of their landholdings within the boundaries of the  
24 Miami-Dade ~~Dade~~ County Lake Belt. Those lands for which no  
25 present or future use is identified must be made available,  
26 together with other suitable lands, to the committee for its  
27 use in carrying out the objectives of this act.

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

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1           Section 2. Section 373.41492, Florida Statutes, is  
2 created to read:

3           373.41492 Miami-Dade County Lake Belt Mitigation Plan;  
4 mitigation for mining activities within the Miami-Dade County  
5 Lake Belt.--

6           (1) The Legislature finds that the impact of mining  
7 within the rock mining supported and allowable areas of the  
8 Miami-Dade County Lake Plan adopted by s. 373.4149(1) can best  
9 be offset by a mitigation plan that is designated the "Lake  
10 Belt Mitigation Plan." The per-ton mitigation fee assessed on  
11 limestone sold from the Miami-Dade County Lake Belt Area shall  
12 be used for acquiring environmentally sensitive lands and for  
13 restoration, maintenance, and other environmental purposes. It  
14 is the intent of the Legislature that the per-ton mitigation  
15 fee shall not be a revenue source for purposes other than  
16 enumerated herein. Further, the Legislature finds that the  
17 public benefit of a sustainable supply of limestone  
18 construction materials for public and private projects  
19 requires a coordinated approach to permitting activities on  
20 wetlands within the Miami-Dade County Lake Belt Area in order  
21 to provide the certainty necessary to encourage substantial  
22 and continued investment in the limestone processing plant and  
23 equipment required to efficiently extract the limestone  
24 resource. It is the intent of the Legislature that the Lake  
25 Belt Mitigation Plan satisfy all local, state, and federal  
26 requirements for mining activity within the Miami-Dade County  
27 Lake Belt Area.

28           (2) To provide for the mitigation of wetland resources  
29 lost to mining activities within the Miami-Dade County Lake  
30 Belt Area, effective October 1, 1999, a mitigation fee is  
31 imposed on each ton of limerock and sand extracted by any



1 person who engages in the business of extracting limerock or  
2 sand from within the Miami-Dade County Lake Belt Area. The  
3 mitigation fee is at the rate of 5 cents for each ton of  
4 limerock and sand sold from within the Miami-Dade County Lake  
5 Belt Area in raw, processed, or manufactured form, including,  
6 but not limited to, sized aggregate, asphalt, cement,  
7 concrete, and other limerock and concrete products. Any  
8 limerock or sand that is used within the mine from which the  
9 limerock or sand is extracted is exempt from the fee. The  
10 amount of the mitigation fee imposed under this section must  
11 be stated separately on the invoice provided to the purchaser  
12 of the limerock product from the limerock miner, or its  
13 subsidiary or affiliate, for which the mitigation fee applies.  
14 The limerock miner, or its subsidiary or affiliate, who sells  
15 the limerock product shall collect the mitigation fee and  
16 forward the proceeds of the fee to the Department of Revenue  
17 on or before the 20th day of the month following the calendar  
18 month in which the sale occurs.

19 (3) The mitigation fee imposed by this section must be  
20 reported to the Department of Revenue. Payment of the  
21 mitigation fee must be accompanied by a form prescribed by the  
22 Department of Revenue. The proceeds of the fee, less  
23 administrative costs, must be transferred by the Department of  
24 Revenue to the South Florida Water Management District and  
25 deposited into the Lake Belt Mitigation Trust Fund. As used in  
26 this section, the term "proceeds of the fee" means all funds  
27 collected and received by the Department of Revenue under this  
28 section, including interest and penalties on delinquent  
29 mitigation fees. The amount deducted for administrative costs  
30 may not exceed 3 percent of the total revenues collected under  
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1 this section and may equal only those administrative costs  
2 reasonably attributable to the mitigation fee.

3 (4)(a) The Department of Revenue shall administer,  
4 collect, and enforce the mitigation fee authorized under this  
5 section in accordance with the procedures used to administer,  
6 collect, and enforce the general sales tax imposed under  
7 chapter 212. The provisions of chapter 212 with respect to the  
8 authority of the Department of Revenue to audit and make  
9 assessments, the keeping of books and records, and the  
10 interest and penalties imposed on delinquent fees apply to  
11 this section. The fee may not be included in computing  
12 estimated taxes under s. 212.11, and the dealer's credit for  
13 collecting taxes or fees provided for in s. 212.12 does not  
14 apply to the mitigation fee imposed by this section.

15 (b) In administering this section, the Department of  
16 Revenue may employ persons and incur expenses for which funds  
17 are appropriated by the Legislature. The Department of Revenue  
18 shall adopt rules and prescribe and publish forms necessary to  
19 administer this section. The Department of Revenue shall  
20 establish audit procedures and may assess delinquent fees.

21 (5) Beginning January 1, 2001, and each January 1  
22 thereafter, the per-ton mitigation fee shall be increased by  
23 2.0 percentage points, plus a cost growth index. The cost  
24 growth index shall be the percentage change in the weighted  
25 average of the Employment Cost Index for All Civilian Workers  
26 (ecu 10001I), issued by the United States Department of Labor  
27 for the most recent 12-month period ending on September 30,  
28 and the percentage change in the Producer Price Index for All  
29 Commodities (WPU 00000000), issued by the United States  
30 Department of Labor for the most recent 12-month period ending  
31 on September 30, compared to the weighted average of these

1 indices for the previous year. The weighted average shall be  
2 calculated as 0.6 times the percentage change in the  
3 Employment Cost Index for All Civilian Workers (ecu 10001I),  
4 plus 0.4 times the percentage change in the Producer Price  
5 Index for All Commodities (WPU 00000000). If either index is  
6 discontinued, it shall be replaced by its successor index, as  
7 identified by the United States Department of Labor.

8 (6)(a) The proceeds of the mitigation fee must be used  
9 to conduct mitigation activities that are appropriate to  
10 offset the loss of the value and functions of wetlands as a  
11 result of mining activities in the Miami-Dade County Lake Belt  
12 Area and must be used in a manner consistent with the  
13 recommendations contained in the reports submitted to the  
14 Legislature by the Miami-Dade County Lake Belt Plan  
15 Implementation Committee and adopted under s. 373.4149. Such  
16 mitigation may include the purchase, enhancement, restoration,  
17 and management of wetlands and uplands, the purchase of  
18 mitigation credit from a permitted mitigation bank, and any  
19 structural modifications to the existing drainage system to  
20 enhance the hydrology of the Miami-Dade County Lake Belt Area.  
21 Funds may also be used to reimburse other funding sources,  
22 including the Save Our Rivers Land Acquisition Program and the  
23 Internal Improvement Trust Fund, for the purchase of lands  
24 that were acquired in areas appropriate for mitigation due to  
25 rock mining and to reimburse governmental agencies that  
26 exchanged land under s. 373.4149 for mitigation due to  
27 rockmining.

28 (b) Expenditures must be approved by an interagency  
29 consists of representatives from each of the following: the  
30 Miami-Dade County Department of Environmental Resource  
31 Management, the Department of Environmental Protection, the

1 South Florida Water Management District, and the Game and  
2 Fresh Water Fish Commission. In addition, the limerock mining  
3 industry shall select a representative to serve as a nonvoting  
4 member of the interagency committee. At the discretion of the  
5 committee, additional members may be added to represent  
6 federal regulatory, environmental, and fish and wildlife  
7 agencies.

8 (7) Payment of the fee imposed by this section  
9 satisfies the mitigation requirements imposed under ss.  
10 373.403-373.439 and any applicable county ordinance for loss  
11 of the value and functions from mining of the wetlands  
12 identified as rockmining supported and allowable areas of the  
13 Miami-Dade County Lake Plan adopted by s. 373.4149(1). In  
14 addition, it is the intent of the Legislature that the payment  
15 of the mitigation fee imposed by this section satisfy all  
16 federal mitigation requirements for the wetlands mined.

17 (8) If a general permit by the United States Army  
18 Corps of Engineers, or an appropriate long-term permit for  
19 mining, consistent with the Miami-Dade County Lake Belt Plan,  
20 this section, and ss. 373.4149, 373.4415, and 378.4115 is not  
21 issued on or before September 30, 2000, the fee imposed by  
22 this section is suspended until revived by the Legislature.

23 (9)(a) The interagency committee established in this  
24 section shall annually prepare and submit to the governing  
25 board of the South Florida Water Management District a report  
26 evaluating the mitigation costs and revenues generated by the  
27 mitigation fee.

28 (b) No sooner than January 31, 2010, and no more  
29 frequently than every 10 years thereafter, the interagency  
30 committee shall submit to the Legislature a report  
31 recommending any needed adjustments to the mitigation fee to

1 ensure that the revenue generated reflects the actual costs of  
2 the mitigation.

3 Section 3. Section 373.4415, Florida Statutes, is  
4 amended to read:

5 373.4415 Role of Miami-Dade ~~Dade~~ County in processing  
6 permits for limerock mining in Miami-Dade ~~Dade~~ County Lake  
7 Belt.--The department and Miami-Dade ~~Dade~~ County shall  
8 cooperate to establish and fulfill reasonable requirements for  
9 the departmental delegation to the Miami-Dade ~~Dade~~ County  
10 Department of Environmental Resource Management of authority  
11 to implement the permitting program under ss. 373.403-373.439  
12 for limerock mining activities within the geographic area of  
13 the Miami-Dade ~~Dade~~ County Lake Belt which was recommended for  
14 mining in the report submitted to the Legislature in February  
15 1997 by the Miami-Dade ~~Dade~~ County Lake Belt Plan  
16 Implementation Committee under s. 373.4149. The delegation of  
17 authority must be consistent with s. 373.441 and chapter  
18 62-344, Florida Administrative Code. To further streamline  
19 permitting within the Miami-Dade ~~Dade~~ County Lake Belt, the  
20 department and Miami-Dade ~~Dade~~ County are encouraged to work  
21 with the United States Army Corps of Engineers to establish a  
22 general permit under s. 404 of the Clean Water Act for  
23 limerock mining activities within the geographic area of the  
24 Miami-Dade ~~Dade~~ County Lake Belt consistent with the report  
25 submitted in February 1997. Miami-Dade ~~Dade~~ County is further  
26 encouraged to seek delegation from the United States Army  
27 Corps of Engineers for the implementation of any such general  
28 permit. This section does not limit the authority of the  
29 department to delegate other responsibilities to Miami-Dade  
30 ~~Dade~~ County under this part.

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1           Section 4. Section 378.4115, Florida Statutes, is  
2 amended to read:

3           378.4115 County certification for limerock mining in  
4 the Miami-Dade ~~Dade~~ County Lake Belt.--The department and  
5 Miami-Dade ~~Dade~~ County shall cooperate to establish and  
6 fulfill reasonable requirements for the departmental  
7 certification of the Miami-Dade ~~Dade~~ County Department of  
8 Environmental Resource Management to implement the reclamation  
9 program under ss. 378.401-378.503 for limerock mining  
10 activities within the geographic area of the Miami-Dade ~~Dade~~  
11 County Lake Belt which was recommended for mining in the  
12 report submitted to the Legislature in February 1997 by the  
13 Miami-Dade ~~Dade~~ County Lake Belt Plan Implementation Committee  
14 under s. 373.4149. The delegation of implementing authority  
15 must be consistent with s. 378.411 and chapter 62C-36, Florida  
16 Administrative Code. Further, the reclamation program shall  
17 maximize the efficient mining of limestone and the littoral  
18 area surrounding the lake excavations shall not be required to  
19 be greater than 100 feet average in width.

20           Section 5. If any provision of this act or the  
21 application thereof to any person or circumstance is held  
22 invalid, the invalidity shall not affect other provisions or  
23 applications of the act which can be given effect without the  
24 invalid provision or application, and to this end the  
25 provision of this act are declared severable.

26           Section 6. This act shall take effect upon becoming a  
27 law.

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HOUSE SUMMARY

Excludes a described area from the Miami-Dade County Lake Belt Area. Provides for compatibility of land uses within the Lake Belt Area with limerock mining activities. Requires local government to provide public notice of the location of limerock mining activities. Increases the number of nonmining private landowner members of the Miami-Dade County Lake Belt Plan Implementation Committee and continues the committee's existence until January 1, 2002. Provides additional requirements for Phase II of the Lake Belt Plan. Imposes a wetlands mitigation fee on the commercial extraction of limerock and sand from the Miami-Dade County Lake Belt Area, to be collected, administered, and enforced by the Department of Revenue, for use in offsetting the effects of limerock mining within the Lake Belt Area by acquiring environmentally sensitive lands and for restoration, maintenance, and other environmental purposes. Provides for annual fee increases beginning January 1, 2001. Provides for suspension of the fee under certain circumstances. See bill for details.