

HB 1321

2004

1                                   A bill to be entitled  
 2           An act relating to phosphate mining restoration,  
 3           reclamation, and cleanup; amending s. 211.3103, F.S.;  
 4           providing for an additional alternative distribution of  
 5           certain phosphate severance tax revenues to the  
 6           Nonmandatory Land Reclamation Trust Fund for certain  
 7           purposes for certain fiscal years; providing an effective  
 8           date.

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

11  
 12           Section 1. Section 211.3103, Florida Statutes, as amended  
 13 by chapter 2003-423, Laws of Florida, is amended to read:

14           211.3103 Levy of tax on severance of phosphate rock; rate,  
 15 basis, and distribution of tax.--

16           (1) There is hereby levied an excise tax upon every person  
 17 engaging in the business of severing phosphate rock from the  
 18 soils or waters of this state for commercial use. The tax shall  
 19 be collected, administered, and enforced by the department.

20           ~~(2) Beginning July 1, 2003, the proceeds of all taxes,~~  
 21 ~~interest, and penalties imposed under this section shall be paid~~  
 22 ~~into the State Treasury as follows:~~

23           ~~(a) The first \$10 million in revenue collected from the~~  
 24 ~~tax during each fiscal year shall be paid to the credit of the~~  
 25 ~~Conservation and Recreation Lands Trust Fund.~~

26           ~~(b) The remaining revenues collected from the tax during~~  
 27 ~~that fiscal year, after the required payment under paragraph~~  
 28 ~~(a), shall be paid into the State Treasury as follows:~~

HB 1321

2004

29 ~~1. For payment to counties in proportion to the number of~~  
 30 ~~tons of phosphate rock produced from a phosphate rock matrix~~  
 31 ~~located within such political boundary, 18.75 percent. The~~  
 32 ~~department shall distribute this portion of the proceeds~~  
 33 ~~annually based on production information reported by the~~  
 34 ~~producers on the annual returns for the taxable year. Any such~~  
 35 ~~proceeds received by a county shall be used only for phosphate-~~  
 36 ~~related expenses.~~

37 ~~2. For payment to counties that have been designated a~~  
 38 ~~rural area of critical economic concern pursuant to s. 288.0656~~  
 39 ~~in proportion to the number of tons of phosphate rock produced~~  
 40 ~~from a phosphate rock matrix located within such political~~  
 41 ~~boundary, 15 percent. The department shall distribute this~~  
 42 ~~portion of the proceeds annually based on production information~~  
 43 ~~reported by the producers on the annual returns for the taxable~~  
 44 ~~year.~~

45 ~~3. To the credit of the Phosphate Research Trust Fund in~~  
 46 ~~the Department of Education, Division of Universities, 11.25~~  
 47 ~~percent.~~

48 ~~4. To the credit of the Minerals Trust Fund, 11.25~~  
 49 ~~percent.~~

50 ~~5. To the credit of the Nonmandatory Land Reclamation~~  
 51 ~~Trust Fund, 43.75 percent.~~

52 ~~(2)(3) Beginning July 1, 2004,~~ The proceeds of all taxes,  
 53 interest, and penalties imposed under this section shall be paid  
 54 into the State Treasury as follows:

55 (a) The first \$10 million in revenue collected from the  
 56 tax during each fiscal year shall be paid to the credit of the  
 57 Conservation and Recreation Lands Trust Fund.

HB 1321

2004

58 (b) From the revenues collected from the tax during that  
 59 fiscal year remaining after the required payment under paragraph  
 60 (a), the following amounts shall be deposited into the  
 61 Nonmandatory Land Reclamation Trust Fund to be used to close the  
 62 phosphogypsum stacks at Mulberry and Piney Point, as follows:

- 63 1. For fiscal year 2005-2006, \$10.2 million.
- 64 2. For fiscal year 2006-2007, \$12.2 million.
- 65 3. For fiscal year 2007-2008, \$6.2 million.
- 66 4. For fiscal year 2008-2009, \$3.0 million.
- 67 5. For fiscal year 2009-2010, \$2.0 million.
- 68 6. For fiscal year 2010-2011, \$1.3 million.
- 69 7. For fiscal year 2011-2012, \$1.1 million.

70 (c)(b) The remaining revenues collected from the tax  
 71 during that fiscal year, after the required payments ~~payment~~  
 72 under paragraphs ~~paragraph~~ (a) and (b), shall be paid into the  
 73 State Treasury as follows:

- 74 1. To the credit of the General Revenue Fund of the state,  
 75 40.1 percent.
- 76 2. For payment to counties in proportion to the number of  
 77 tons of phosphate rock produced from a phosphate rock matrix  
 78 located within such political boundary, 16.5 percent. The  
 79 department shall distribute this portion of the proceeds  
 80 annually based on production information reported by the  
 81 producers on the annual returns for the taxable year. Any such  
 82 proceeds received by a county shall be used only for phosphate-  
 83 related expenses.
- 84 3. For payment to counties that have been designated a  
 85 rural area of critical economic concern pursuant to s. 288.0656  
 86 in proportion to the number of tons of phosphate rock produced

HB 1321

2004

87 from a phosphate rock matrix located within such political  
88 boundary, 13 percent. The department shall distribute this  
89 portion of the proceeds annually based on production information  
90 reported by the producers on the annual returns for the taxable  
91 year. Payments under this subparagraph shall be made to the  
92 counties unless the Legislature by special act creates a local  
93 authority to promote and direct the economic development of the  
94 county. If such authority exists, payments shall be made to that  
95 authority.

96 4. To the credit of the Phosphate Research Trust Fund in  
97 the Division of Universities of the Department of Education, 9.3  
98 percent.

99 5. To the credit of the Minerals Trust Fund, 10.7 percent.

100 6. To the credit of the Nonmandatory Land Reclamation  
101 Trust Fund, 10.4 percent.

102 ~~(3)(4) Beginning July 1, 2003, and annually thereafter,~~  
103 The Department of Environmental Protection may use up to \$2  
104 million of the funds in the Nonmandatory Land Reclamation Trust  
105 Fund each year to purchase a surety bond or a policy of  
106 insurance, the proceeds of which would pay the cost of  
107 restoration, reclamation, and cleanup of any phosphogypsum stack  
108 system and phosphate mining activities in the event that an  
109 operator or permittee thereof has been subject to a final order  
110 of bankruptcy and all funds available therefrom are determined  
111 to be inadequate to accomplish such restoration, reclamation,  
112 and cleanup. This section does not imply that such operator or  
113 permittee is thereby relieved of its obligations or relieved of  
114 any liabilities pursuant to any other remedies at law,  
115 administrative remedies, statutory remedies, or remedies

HB 1321

2004

116 pursuant to bankruptcy law. The department shall adopt rules to  
 117 implement this subsection, including the purchase and oversight  
 118 of the bond or policy.

119 (4)(5) Funds distributed pursuant to subparagraph (2)(c)3.  
 120 ~~subparagraphs (2)(b)2. and (3)(b)3.~~ shall be used for:

121 (a) Planning, preparing, and financing of infrastructure  
 122 projects for job creation and capital investment, especially  
 123 those related to industrial and commercial sites. Infrastructure  
 124 investments may include the following public or public-private  
 125 partnership facilities: stormwater systems, telecommunications  
 126 facilities, roads or other remedies to transportation  
 127 impediments, nature-based tourism facilities, or other physical  
 128 requirements necessary to facilitate trade and economic  
 129 development activities.

130 (b) Maximizing the use of federal, local, and private  
 131 resources, including, but not limited to, those available under  
 132 the Small Cities Community Development Block Grant Program.

133 (c) Projects that improve inadequate infrastructure that  
 134 has resulted in regulatory action that prohibits economic or  
 135 community growth, if such projects are related to specific job  
 136 creation or job retention opportunities.

137 ~~(6) Beginning January 1, 2004, The tax rate shall be the~~  
 138 ~~base rate of \$1.62 per ton severed.~~

139 (5)(7) ~~Beginning January 1, 2005, and annually thereafter,~~  
 140 The tax rate each year shall be the base rate times the base  
 141 rate adjustment for the tax year as calculated by the department  
 142 in accordance with subsection (7)(9).

143 (6)(8) The excise tax levied by this section shall apply  
 144 to the total production of the producer during the taxable year,

HB 1321

2004

145 measured on the basis of bone-dry tons produced at the point of  
 146 severance.

147 ~~(7)(9)~~(a) ~~On or before March 30, 2004, and annually~~  
 148 ~~thereafter,~~ The department shall calculate each year the base  
 149 rate adjustment, if any, for phosphate rock based on the change  
 150 in the unadjusted annual producer price index for the prior  
 151 calendar year in relation to the unadjusted annual producer  
 152 price index for calendar year 1999.

153 (b) For the purposes of determining the base rate  
 154 adjustment for any year, the base rate adjustment shall be a  
 155 fraction, the numerator of which is the unadjusted annual  
 156 producer price index for the prior calendar year and the  
 157 denominator of which is the unadjusted annual producer price  
 158 index for calendar year 1999.

159 (c) The department shall provide the base rate, the base  
 160 rate adjustment, and the resulting tax rate to affected  
 161 producers by written notice on or before April 15 of the current  
 162 year.

163 (d) If the producer price index for chemical and  
 164 fertilizer mineral mining is substantially revised, the  
 165 department shall make appropriate adjustment in the method used  
 166 to compute the base rate adjustment under this subsection which  
 167 will produce results reasonably consistent with the result which  
 168 would have been obtained if the producer price index for  
 169 phosphate rock primary products had not been revised. However,  
 170 the tax rate shall not be less than \$1.56 per ton severed.

171 (e) In the event the producer price index for phosphate  
 172 rock primary products is discontinued, then a comparable index  
 173 shall be selected by the department and adopted by rule.

HB 1321

2004

174        (8)~~(10)~~ The excise tax levied on the severance of  
175 phosphate rock shall be in addition to any ad valorem taxes  
176 levied upon the separately assessed mineral interest in the real  
177 property upon which the site of severance is located, or any  
178 other tax, permit, or license fee imposed by the state or its  
179 political subdivisions.

180        (9)~~(11)~~ The tax levied by this section shall be collected  
181 in the manner prescribed in s. 211.33.

182        Section 2. This act shall take effect July 1, 2005.