

Bill No. CS for SB 486

Barcode 540094

CHAMBER ACTION

Senate

House

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The Committee on General Government Appropriations (Lawson) recommended the following amendment:

**Senate Amendment (with title amendment)**

On page 9, line 21, through page 11, line 4, delete those lines

and insert:

Section 3. Subsection (19) is added to section 373.414, Florida Statutes, to read:

373.414 Additional criteria for activities in surface waters and wetlands.--

(19)(a) Financial responsibility for wetlands mitigation required by a permit issued pursuant to part IV for activities associated with the extraction of phosphate are subject to approval by the department as part of permit application review. Financial responsibility for permitted activities which will occur over a period of three years or less of mining operations must be provided to the department prior to the commencement of mining operations and shall be in an amount equal to 110 percent of the estimated mitigation

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1 costs for wetlands affected under the permit. For permitted  
 2 activities which will occur over a period of more than three  
 3 years of mining operations, the initial financial  
 4 responsibility demonstration shall be in an amount equal to  
 5 110 percent of the estimated mitigation costs for wetlands  
 6 affected in the first three years of operation under the  
 7 permit; each year thereafter the financial responsibility  
 8 demonstration shall be updated, including to provide an amount  
 9 equal to 110 percent of the estimated mitigation costs for the  
 10 next year of operations under the permit for which financial  
 11 responsibility has not already been demonstrated and to  
 12 release portions of the financial responsibility mechanisms in  
 13 accordance with applicable rules.

14 (b) The mechanisms for providing financial  
 15 responsibility pursuant to the permit shall, at the discretion  
 16 of the applicant, include the following:

17 1. Cash or cash equivalent deposited in an escrow  
 18 account.

19 2. Irrevocable letter of credit.

20 3. Performance bond.

21 4. Trust fund agreement.

22 5. Guarantee bond.

23 6. Insurance certificate.

24 7. A demonstration that the applicant meets the  
 25 financial test and corporate guarantee requirements set forth  
 26 in 40 C.F.R. s. 264.143(f).

27 8. A demonstration that the applicant meets the self  
 28 bonding provision set forth in 30 C.F.R. s. 800.23. The form  
 29 and content of all financial responsibility mechanisms shall  
 30 be approved by the department. When using an irrevocable  
 31 letter of credit, performance bond, or guarantee bond, all

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1 payments made thereunder shall be deposited into a stand-by  
 2 trust fund established contemporaneously with the posting of  
 3 the financial assurance instrument. All trust fund agreements  
 4 and standby trust fund agreements shall provide that  
 5 distributions therefrom will be made only at the request of  
 6 the department and that the trustees of such funds shall be  
 7 either a national banking institution or a state regulated  
 8 trust company.

9       (c) The provisions of this subsection shall not apply  
 10 to any wetlands mitigation that is required pursuant to a  
 11 permit or permits initially issued by the department or  
 12 district prior to January 1, 2005.

13       (d) Nothing provided herein supersedes or modifies the  
 14 financial responsibility requirements of s. 378.209.

15       Section 4. Subsection (4) of section 10 of chapter  
 16 2003-423, Laws of Florida, is amended to read:

17       Section 10. (1) The Department of Environmental  
 18 Protection, in consultation with the Southwest Florida Water  
 19 Management District, shall study cumulative impacts of changes  
 20 in landform and hydrology in the Peace River Basin. The study  
 21 shall evaluate cumulative impacts of activities conducted in  
 22 the Peace River Basin prior to state regulation, or pursuant  
 23 to an exemption, a permit, or a reclamation plan, on water  
 24 resources of the basin, including surface waters,  
 25 groundwaters, fisheries, aquatic and estuarine habitat, and  
 26 water supplies. The study must also include an evaluation of  
 27 the effectiveness of existing regulatory programs in avoiding,  
 28 minimizing, mitigating, or compensating for cumulative impacts  
 29 or water resources of the basin. In addition, the study shall  
 30 evaluate the environmental benefits, legal issues, and  
 31 economic impacts of limiting activities, including mining

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1 activities, on waters and environmentally sensitive areas  
2 around waterbodies by establishing a buffer within the  
3 100-year floodplain of major perennial streams within the  
4 Peace River Basin, including the Peace River, Horse Creek, and  
5 the Myakka River. The study shall also recommend ways in which  
6 any buffer areas recommended as prohibited areas can be  
7 considered as mitigation under applicable permitting programs.

8           (2) Upon completion of the study, the department shall  
9 prepare and adopt a resource management plan for the Peace  
10 River Basin to minimize any identified existing and future  
11 adverse cumulative impacts to water resources of the basin,  
12 including surface waters, groundwaters, wetlands, fisheries,  
13 aquatic and estuarine habitat, and water supplies. The plan  
14 must identify regulatory and nonregulatory actions necessary  
15 to minimize existing and future adverse cumulative impacts  
16 identified in the study and, where appropriate, must also  
17 recommend statutory changes to improve regulatory programs to  
18 minimize identified cumulative impacts to water resources of  
19 the basin.

20           (3) Rulemaking authority is granted to the Department  
21 of Environmental Protection and the Southwest Florida Water  
22 Management District to implement the regulatory  
23 recommendations identified in the study or the resource  
24 management plan.

25           (4) The resource management plan shall be submitted to  
26 the Governor, the President of the Senate, and the Speaker of  
27 the House of Representatives no later than January 31, 2007  
28 ~~July 1, 2005.~~

29           (5) The department may use up to \$750,000 from the  
30 Nonmandatory Land Reclamation Trust Fund to prepare the study  
31 and plan required in this section.

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1           (6) The department may establish a technical advisory  
2 committee to assist the department in developing a plan of  
3 study, reviewing interim findings, and reviewing final  
4 recommendations. The technical advisory committee may include  
5 representatives from the following interests in the Peace  
6 River Basin: industrial, mining, agriculture, development,  
7 environmental, fishing, regional water supply, regional  
8 planning council, and local government.

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10 (Redesignate subsequent sections.)

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13 ===== T I T L E   A M E N D M E N T =====

14 And the title is amended as follows:

15           On page 1, line 13, after the semicolon

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17 insert:

18           extending the due date of the Peace River Basin  
19           study;

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