

## ENROLLED

HB 1039, Engrossed 2

2006 Legislature

1 A bill to be entitled

2 An act relating to the planned east coast buffer water  
3 resources management plan of the South Florida Water  
4 Management District; amending s. 373.4149, F.S.; revising  
5 the geographic boundaries of the Miami-Dade County Lake  
6 Belt Area; amending s. 373.41492, F.S.; revising the  
7 geographic boundaries for mining areas subject to  
8 mitigation fees under the Miami-Dade County Lake Belt  
9 Mitigation Plan; providing for mitigation fee increases  
10 and imposing a water treatment plant upgrade fee;  
11 authorizing proceeds of mitigation fees to be allocated to  
12 the South Florida Water Management District and Miami-Dade  
13 County for specific purposes; authorizing the proceeds of  
14 the water treatment plant upgrade fee to be used for  
15 updating a water treatment plant near the Lake Belt Area;  
16 revising the reporting requirements for the interagency  
17 committee; designating the Site 1 Impoundment project of  
18 the Comprehensive Everglades Restoration Plan sponsored by  
19 the South Florida Water Management District as the Fran  
20 Reich Preserve; directing the South Florida Water  
21 Management District to erect suitable markers; providing  
22 an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26 Section 1. Subsection (3) of section 373.4149, Florida  
27 Statutes, is amended to read:

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28 373.4149 Miami-Dade County Lake Belt Plan.--

29 (3) The Miami-Dade County Lake Belt Area is that area  
30 bounded by the Ronald Reagan Turnpike to the east, the Miami-  
31 Dade-Broward County line to the north, Krome Avenue to the west  
32 and Tamiami Trail to the south together with the land south of  
33 Tamiami Trail in sections 5, 6, 7, 8, 17, and 18, Township 54  
34 South, Range 39 East, sections 24, 25, and 36, Township 54  
35 South, Range 38 East, less those portions of section 3, Township  
36 52 South, Range 39 East south of Krome Avenue and west of U.S.  
37 Highway 27, ~~section 10, except the west one half, section 11,~~  
38 ~~except the northeast one quarter and the east one half of the~~  
39 ~~northwest one quarter, and tracts 38 through 41, and tracts 49~~  
40 ~~through 64 inclusive, section 13, except tracts 17 through 35~~  
41 ~~and tracts 46 through 48, of Florida Fruit Lands Company~~  
42 ~~Subdivision No. 1 according to the plat thereof as recorded in~~  
43 ~~plat book 2, page 17, public records of Miami Dade County, and~~  
44 ~~section 14, except the west three quarters, Township 52 South,~~  
45 ~~Range 39 East, lying north of the Miami Canal, and less sections~~  
46 35 and 36 and the east one-half of sections 24 and 25, Township  
47 53 South, Range 39 East and Government Lots 1 and 2, lying  
48 between Townships 53 and 54 South, Range 39 East and those  
49 portions of sections 1 and 2, Township 54 South, Range 39 East,  
50 lying north of Tamiami Trail.

51 Section 2. Subsections (2), (3), (4), (5), (6), and (7)  
52 and paragraph (b) of subsection (9) of section 373.41492,  
53 Florida Statutes, are amended to read:

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54 373.41492 Miami-Dade County Lake Belt Mitigation Plan;  
55 mitigation for mining activities within the Miami-Dade County  
56 Lake Belt.--

57 (2) To provide for the mitigation of wetland resources  
58 lost to mining activities within the Miami-Dade County Lake Belt  
59 Plan, effective October 1, 1999, a mitigation fee is imposed on  
60 each ton of limerock and sand extracted by any person who  
61 engages in the business of extracting limerock or sand from  
62 within the Miami-Dade County Lake Belt Area ~~and sections 10, 11,~~  
63 ~~13, 14, Township 52 South, Range 39 East, and the east one-half~~  
64 of sections 24 and 25 and all of sections 35 and 36, Township  
65 53 South, Range 39 East. The mitigation fee is imposed at the  
66 rate of 5 cents for each ton of limerock and sand sold from  
67 within the properties where the fee applies in raw, processed,  
68 or manufactured form, including, but not limited to, sized  
69 aggregate, asphalt, cement, concrete, and other limerock and  
70 concrete products. The mitigation fee imposed by this subsection  
71 for each ton of limerock and sand sold shall be 12 cents per ton  
72 beginning January 1, 2007, 18 cents per ton beginning January 1,  
73 2008, and 24 cents per ton beginning January 1, 2009. To upgrade  
74 a water treatment plant that treats water coming from the  
75 Northwest Wellfield in Miami-Dade County, a water treatment  
76 plant upgrade fee is imposed within the same Lake Belt Area  
77 subject to the mitigation fee and upon the same kind of mined  
78 limerock and sand subject to the mitigation fee. The water  
79 treatment plant upgrade fee imposed by this subsection for each  
80 ton of limerock and sand sold shall be 15 cents per ton

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81 beginning on January 1, 2007, and the collection of this fee  
82 shall cease once the total amount of proceeds collected for this  
83 fee reaches the amount of the actual moneys necessary to design  
84 and construct the water treatment plant upgrade, as determined  
85 in an open, public solicitation process. Any limerock or sand  
86 that is used within the mine from which the limerock or sand is  
87 extracted is exempt from the fees fee. The amount of the  
88 mitigation fee and the water treatment plant upgrade fee imposed  
89 under this section must be stated separately on the invoice  
90 provided to the purchaser of the limerock or sand product from  
91 the limerock or sand miner, or its subsidiary or affiliate, for  
92 which the ~~mitigation~~ fee or fees apply ~~applies~~. The limerock or  
93 sand miner, or its subsidiary or affiliate, who sells the  
94 limerock or sand product shall collect the mitigation fee and  
95 the water treatment plant upgrade fee and forward the proceeds  
96 of the fees fee to the Department of Revenue on or before the  
97 20th day of the month following the calendar month in which the  
98 sale occurs.

99 (3) The mitigation fee and the water treatment plant  
100 upgrade fee imposed by this section must be reported to the  
101 Department of Revenue. Payment of the mitigation and the water  
102 treatment plant upgrade fees fee must be accompanied by a form  
103 prescribed by the Department of Revenue. The proceeds of the  
104 mitigation fee, less administrative costs, must be transferred  
105 by the Department of Revenue to the South Florida Water  
106 Management District and deposited into the Lake Belt Mitigation  
107 Trust Fund. The proceeds of the treatment plant upgrade fee,

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108 | less administrative costs, must be transferred by the Department  
 109 | of Revenue to a trust fund established by Miami-Dade County, for  
 110 | the sole purpose authorized by paragraph (6) (a). As used in this  
 111 | section, the term "proceeds of the fee" means all funds  
 112 | collected and received by the Department of Revenue under this  
 113 | section, including interest and penalties on delinquent  
 114 | ~~mitigation~~ fees. The amount deducted for administrative costs  
 115 | may not exceed 3 percent of the total revenues collected under  
 116 | this section and may equal only those administrative costs  
 117 | reasonably attributable to the fees ~~mitigation~~ fee.

118 |       (4) (a) The Department of Revenue shall administer,  
 119 | collect, and enforce the mitigation and treatment plant upgrade  
 120 | fees ~~fee~~ authorized under this section in accordance with the  
 121 | procedures used to administer, collect, and enforce the general  
 122 | sales tax imposed under chapter 212. The provisions of chapter  
 123 | 212 with respect to the authority of the Department of Revenue  
 124 | to audit and make assessments, the keeping of books and records,  
 125 | and the interest and penalties imposed on delinquent fees apply  
 126 | to this section. The fees ~~fee~~ may not be included in computing  
 127 | estimated taxes under s. 212.11, and the dealer's credit for  
 128 | collecting taxes or fees provided for in s. 212.12 does not  
 129 | apply to the fees ~~mitigation~~ fee imposed by this section.

130 |       (b) In administering this section, the Department of  
 131 | Revenue may employ persons and incur expenses for which funds  
 132 | are appropriated by the Legislature. The Department of Revenue  
 133 | shall adopt rules and prescribe and publish forms necessary to

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

136 (5) Beginning January 1, 2010 ~~2001~~, and each January 1  
137 thereafter, the per-ton mitigation fee shall be increased by 2.1  
138 percentage points, plus a cost growth index. The cost growth  
139 index shall be the percentage change in the weighted average of  
140 the Employment Cost Index for All Civilian Workers (ecu 10001I),  
141 issued by the United States Department of Labor for the most  
142 recent 12-month period ending on September 30, and the  
143 percentage change in the Producer Price Index for All  
144 Commodities (WPU 00000000), issued by the United States  
145 Department of Labor for the most recent 12-month period ending  
146 on September 30, compared to the weighted average of these  
147 indices for the previous year. The weighted average shall be  
148 calculated as 0.6 times the percentage change in the Employment  
149 Cost Index for All Civilian Workers (ecu 10001I), plus 0.4 times  
150 the percentage change in the Producer Price Index for All  
151 Commodities (WPU 00000000). If either index is discontinued, it  
152 shall be replaced by its successor index, as identified by the  
153 United States Department of Labor.

154 (6) (a) The proceeds of the mitigation fee must be used to  
155 conduct mitigation activities that are appropriate to offset the  
156 loss of the value and functions of wetlands as a result of  
157 mining activities and must be used in a manner consistent with  
158 the recommendations contained in the reports submitted to the  
159 Legislature by the Miami-Dade County Lake Belt Plan  
160 Implementation Committee and adopted under s. 373.4149. Such

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161 mitigation may include the purchase, enhancement, restoration,  
 162 and management of wetlands and uplands, the purchase of  
 163 mitigation credit from a permitted mitigation bank, and any  
 164 structural modifications to the existing drainage system to  
 165 enhance the hydrology of the Miami-Dade County Lake Belt Area.  
 166 Funds may also be used to reimburse other funding sources,  
 167 including the Save Our Rivers Land Acquisition Program, and the  
 168 Internal Improvement Trust Fund, the South Florida Water  
 169 Management District, and Miami-Dade County, for the purchase of  
 170 lands that were acquired in areas appropriate for mitigation due  
 171 to rock mining and to reimburse governmental agencies that  
 172 exchanged land under s. 373.4149 for mitigation due to rock  
 173 mining ~~rockmining~~. The proceeds of the water treatment plant  
 174 upgrade fee shall be used solely to upgrade a water treatment  
 175 plant that treats water coming from the Northwest Wellfield in  
 176 Miami-Dade County. As used in this section, the terms "upgrade a  
 177 water treatment plant" or "treatment plant upgrade" means those  
 178 works necessary to treat or filter a surface water source or  
 179 supply or both.

180 (b) Expenditures of the mitigation fee must be approved by  
 181 an interagency committee consisting of representatives from each  
 182 of the following: the Miami-Dade County Department of  
 183 Environmental Resource Management, the Department of  
 184 Environmental Protection, the South Florida Water Management  
 185 District, and the Fish and Wildlife Conservation Commission. In  
 186 addition, the limerock mining industry shall select a  
 187 representative to serve as a nonvoting member of the interagency

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188 committee. At the discretion of the committee, additional  
 189 members may be added to represent federal regulatory,  
 190 environmental, and fish and wildlife agencies.

191 (7) Payment of the mitigation fee imposed by this section  
 192 satisfies the mitigation requirements imposed under ss. 373.403-  
 193 373.439 and any applicable county ordinance for loss of the  
 194 value and functions from mining of the wetlands identified as  
 195 rock mining ~~rock mining~~ supported and allowable areas of the  
 196 Miami-Dade County Lake Plan adopted by s. 373.4149(1). In  
 197 addition, it is the intent of the Legislature that the payment  
 198 of the mitigation fee imposed by this section satisfy all  
 199 federal mitigation requirements for the wetlands mined.

200 (9)

201 (b) No sooner than January 31, 2010, and no more  
 202 frequently than every 5 ~~10~~ years thereafter, the interagency  
 203 committee shall submit to the Legislature a report recommending  
 204 any needed adjustments to the mitigation fee to ensure that the  
 205 revenue generated reflects the actual costs of the mitigation.

206 Section 3. Fran Reich Preserve designated; South Florida  
 207 Water Management District to erect suitable markers.--

208 (1) The Site 1 Impoundment project of the Comprehensive  
 209 Everglades Restoration Plan sponsored by the South Florida Water  
 210 Management District is designated the "Fran Reich Preserve."

211 (2) The South Florida Water Management District is  
 212 directed to erect suitable markers designating the Fran Reich  
 213 Preserve as described in subsection (1).

214 Section 4. This act shall take effect January 1, 2007.