

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: SB 2406

INTRODUCER: Senator Bennett

SUBJECT: Aggregate mining

DATE: April 2, 2008

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Branning	Kiger	EP	Unfavorable
2.			CA	
3.			GA	
4.				
5.				
6.				

I. Summary:

This bill provides that a county or municipality cannot enact or enforce any ordinance, resolution, regulation, rule, policy, or other action that prohibits or prevents the construction or operation of a limestone mine on lands zoned for such mining as of a certain date. Provides that certain limerock environmental resource permitting and reclamation applications are eligible for expedited permitting.

This bill amends s. 378.412, F.S.

II. Present Situation:

Construction Aggregate Materials

Construction aggregates provide the basic materials needed for concrete, asphalt, and road base. In Florida, approximately 143 million tons of crushed stone, limestone, dolomite, limerock, shell rock, and high-quality sand were used as construction aggregate in 2007. Most, about 120 million tons, was mined in Florida; however, about 13 million tons were imported and 10 million tons of recycled aggregates were used. Housing and commercial construction account for approximately 86 million tons and roads and other infrastructure used about 42 million tons. The Florida Department of Transportation (FDOT) is the largest single user of construction aggregates, accounting for about 10 percent of the supply.

Aggregate materials are located in various natural deposits around the state. Geologic conditions and other issues affect decisions in mine planning; these issues include the quality of the rock; thickness of overburden; water table levels, and sinkhole conditions. The most economically advantageous deposits of aggregate materials is located in 79 square miles in Northwest Miami-

Dade County known as the Lake Belt. The Lake Belt is distinct in that it has been identified as the highest concentration of the highest quality aggregate indigenous to Florida. Approximately 55 million tons of aggregate were expected to be mined in the Lake Belt last year; however, in July 2007, several of the permits used by the mining companies in the Lake Belt were vacated by a federal judge, leading to the closure of some mines. According to FDOT, long-term shutdown of all the Lake Belt mines could result in the loss of 288,000 jobs statewide, and a \$28.6 billion decrease in the state's economic output. FDOT further estimates the long-term availability of indigenous aggregate, even without closure of the Lake Belt mines, is insufficient to maintain current consumption rates beyond a 5 to 10 year period.

Location of Aggregate Mines

In Florida, aggregate materials are obtained through "surface mining" where the overburden soil is removed from the layer above the limestone rock deposit, exposing the resource. The economic viability of a mine is largely determined by the thickness of the overburden that must be removed to reach the mineable limestone. The thicker the overburden is, the more it costs to remove. In south Florida, the limestone bedrock is covered with a thin layer of overburden characterized by a few feet of organic muck, clay, and sand. In central and north Florida the overburden is thicker and in some areas, the limestone suitable for aggregates are too far below the surface to be removed by strip mining methods.

Sand mining is undertaken across the state in many small pits and excavations. High-quality sand is mined for the most part in Putnam, Lake, Glades and Polk Counties. The quality is related to the abundance of coarse sand grains that can be blended and used as the fine aggregates component of the coarse to fine gradation required for many engineering uses.

Another factor affecting the location of aggregate mines is the cost associated with transportation of the mined material. Being a high-volume high-weight commodity, the cost of aggregate materials is most influenced by the haul distance from the mine to the construction jobsite. Trucking is the principal mode used to transport aggregate materials in the state. Trucking costs are dependent upon diesel fuel costs and whether the trucks must return empty or have back haul loads. Rail transportation plays a key role in the movement of aggregate materials within and to the state. Approximately 4,000, 100-ton hopper cars are used to transfer materials from mines to storage depots around the state. Florida also imports between four and five million tons of construction aggregate materials into the state annually, mostly through the facilities at the Port of Tampa, Port Manatee, Port Canaveral, and the Port of Jacksonville. Smaller quantities of primarily high end construction aggregate materials are handled on an intermittent basis by ship and barge through other ports.

Mine planning and permitting

A number of issues are likely to be addressed when a mining company applies for governmental permits for new mines or mine expansions. Consideration of environmental impacts is necessary since mines operate in and around aquifers, over groundwater recharge areas, and ultimately change the topography of the land. Mines require permits or other approvals addressing stormwater management, industrial wastewater management, impacts to wetlands and other surface waters, impacts to listed species, air pollution, storage and handling of petroleum products, and the reclamation of disturbed land. Water use permits are needed from the state water management districts and federal wetlands permits are required from the U.S. Army Corps

of Engineers. The Department of Environmental Protection (DEP), Bureau of Mine Reclamation, is the lead agency addressing water resources pursuant to the Environmental Resource Permit (ERP) program. DEP coordinates wetland reviews with the Florida Fish and Wildlife Conservation Commission concerning Florida listed species and their habitats. DEP also coordinates wetland reviews with the Division of Historic Resources, Department of State, concerning significant historic and archeological resources. The ERP review will also consider the requirements of the separate mine reclamation program.

Land use regulations must be addressed as well since mining operations often include industrial activities generating sights and sounds considered incompatible with residential neighborhoods or commercial areas. For example, a mine may use blasting to break and loosen the rock, use large draglines, excavators, dredges, as well as other machinery for sorting and grading the material. As with environmental permitting, a number of governmental entities are involved in land use approvals. The State Fire Marshal's Office licenses all blasters and users of explosives in the state and sets standards for blasting ground vibration and noise. The Department of Community Affairs (DCA) requires local government comprehensive planning establishing land use conditions for local development. DCA also coordinates the activities of the regional planning councils for reviews of Developments of Regional Impact (DRI). For construction aggregate mines, the threshold for a DRI review is annually mining more than 100 acres per year, or water consumption exceeding 3,000,000 gallons per day. Local land use ordinances control the siting of a mine through the zoning and land use process and the day-to-day activities of the mine through ordinances regulating factors such as noise, hours of operation, road impacts, and traffic safety. Often the most contentious issues at the local level are brought into the local governmental process by concerned neighbors to existing or proposed mines. Issues commonly arising in conflicts between mining and non-mining interests are described in a 2007 report prepared for DOT entitled "Strategic Aggregates Study: Sources, Constraints, and Economic Value of Limestone and Sand in Florida", specifically:

Roadways

Mining companies use trucks to haul limestone rock or other earth-based resources from mines. Larger operations may require from 900 to 1,000 trucks per day. Community leaders and residential neighbors commonly voice concerns about damage to roads, culverts, and bridges; added cost of maintenance, and safety hazards caused by increased numbers of industrial trucks on roads regularly used by family cars, school buses and emergency vehicles.

Quality of Life

Noise and "dirt" become issues. Mining equipment makes noise. Sorters and crushers raise the decibel levels and may generate a fine dust in processing. Truck engines and backup beepers add to the sound load for the individuals and families who live close to an active mine.

Property Values/Property Damage

Homeowners fear that the presence of mines within their area will diminish the value of their property, causing a de facto change in zoning from residential to industrial and corresponding losses. Separately, homeowners and others make claims of cracks and other physical damage to structures when mine blasting is involved at active mining

areas. The local residents, environmental organizations, and governmental agencies watch for potential damage to: domestic and municipal water supplies; fish and wildlife habitat loss; wetlands; historic and archaeology resources; and, air quality.

Decision-makers responsible for permitting the location of mines must weigh these issues with the effects of increased transportation costs, supply shortages, higher prices to the construction industry, and the potential loss of jobs in construction and other downstream industries.

Currently, pursuant to s. 337.0261(4), F.S., ERP permit applications and reclamation applications for limerock mines that are filed after March 1, 2007, are eligible for the expedited permitting processes contained in s. 403.973, F.S.¹ Challenges to state agency action in the expedited process is through the summary hearing, except that the administrative law judge's decision will be in the form of a recommended order and will not constitute the final action of the agency. Summary proceedings must be conducted within 30 days after a party files the motion for hearing.

III. Effect of Proposed Changes:

This bill amends s. 378.412, F.S., to provide that nothing in ss. 378.202-378.804, F.S.,² shall be deemed to preempt local ordinances that impose stricter reclamation standards, except that no county or municipality shall enact or enforce any ordinance, resolution, regulation, rule, policy, or other action that prohibits or prevents the construction or operation of a limestone mine on lands where mining is a permissible use or on lands zoned or classified as mining lands on or after March 1, 2007.

The bill further provides that due to the state's critical infrastructure needs and the potential shortfall in available construction aggregate materials, limerock environmental resource permitting and reclamation applications filed after March 1, 2007, are eligible for the expedited permitting process under s. 403.973, F.S. Challenges to state agency action in the expedited permitting process for establishment of a limerock mine are subject to the same requirements as challenges brought under s. 403.973(15)(a), F.S., except that, notwithstanding s. 120.574, F.S., summary proceedings must be conducted within 30 days after a party files the motion for summary hearing, regardless of whether the parties agree to the summary proceeding. Essentially, the effect of this bill is to duplicate the expedited permitting process under s. 337.0261(4), F.S., in s. 378.412, F.S.

The bill would take effect upon becoming a law.

¹ This section provides for an expedited permit process to encourage and facilitate the location and expansion of those types of economic development projects which offer job creation and high wages, strengthen and diversify the state's economy, and have been thoughtfully planned to take into consideration the protection of the state's environment.

² These sections deal with phosphate land reclamation, and other resource extraction reclamation such as limerock mining, mining of heavy minerals, and mining of Fuller's earth clay.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Limestone mining cannot be prohibited by a local ordinance or resolution if mining is permissible on lands zoned for mining on or after March 1, 2007.

C. Government Sector Impact:

The financial impact cannot be determined. Local governments would be prohibited from disallowing mining on lands that have been zone for mining as of a certain date.

VI. Technical Deficiencies:

The bill refers to “limerock” which is not defined by statute. “Limestone” is defined in s. 378.403(8), F.S.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
