



392884

TR.TR.05488

Proposed Committee Substitute by the Committee on Transportation

A bill to be entitled

An act relating to transportation; amending s. 337.0261, F.S.; providing definitions; providing legislative findings with respect to the need for construction aggregate materials; requiring a super majority vote by the local government decisionmaking body in order to deny approval of a construction aggregate materials mining site; providing for a final determination to be made by the Governor and Cabinet sitting as the Administration Commission if the local government does not approve or deny an application for construction aggregate materials mining activities after two meetings or 3 months; requiring that the Administration Commission determine whether the evidence supports approval; applying provisions of the Uniform Rules of Procedure to the proceedings; providing that the act does not limit challenges to or appeals of construction aggregate materials mining site approvals; providing an effective date.

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

Section 1. Subsections (1), (2), and (3) of section 337.0261, Florida Statutes, are amended to read:

337.0261 Construction aggregate materials.--

(1) DEFINITIONS.--As used in this section, the term:

(a) "Aggregate resource county" means a county within which sand and aggregate resources exist as enumerated in the Strategic Aggregates Review Task Force Final Report dated February 1, 2008.



392884

TR.TR.05488

30 (b) "Application for construction aggregate materials
31 mining site approval" includes any application submitted to a
32 local government within an aggregate resource county for approval
33 in connection with construction materials mining activities,
34 including, but not limited to, applications for conditional use
35 permits, variances, special exceptions, unusual uses, rezonings,
36 and any other changes in land use designation, without regard for
37 the manner in which such application is processed.

38 (c) "Construction aggregate materials" means crushed stone,
39 limestone, dolomite, limerock, shell rock, cemented coquina, sand
40 for use as a component of mortars, concrete, bituminous mixtures,
41 or underdrain filters, and other mined resources providing the
42 basic material for concrete, asphalt, and road base.

43 (d) "Construction materials mining activities" has the same
44 meaning as provided in s. 552.30(1).

45 (e) "Local government" and "local government decisionmaking
46 body" refers to all agencies, boards, commissions, councils,
47 panels, trusts, or other bodies of individuals associated with or
48 established by local governmental entities which have final
49 authority to consider and approve applications, regardless of
50 whether such consideration constitutes an initial review of the
51 application or part of an administrative appellate process
52 afforded by the local governmental entity.

53 (f) "State approvals for construction materials mining
54 activities" means, to the extent legally required, an
55 environmental resource permit and industrial waste permit issued
56 by the Department of Environmental Protection.

57 (2) LEGISLATIVE INTENT.--The Legislature finds that:

58 (a) There is a strategic and critical need for an available
59 supply of construction aggregate materials within the state and



392884

TR.TR.05488

60 that a disruption of the supply would cause a significant
61 detriment to the state's construction industry, transportation
62 system, and overall health, safety, and welfare.

63 (b) Construction aggregate materials are a finite natural
64 resource.

65 (c) Construction aggregate materials mining is an industry
66 of critical importance to the state and is therefore in the
67 public interest.

68 (d) There is a need for a reliable, predictable, and
69 sustainable supply of construction aggregate materials so that
70 public and private construction is maintained without
71 interruption.

72 (e) There are a limited number of aggregate resource
73 counties within the state where aggregate and sand resources
74 exist.

75 (3) LOCAL GOVERNMENT DECISIONMAKING.--

76 (a) A ~~Ne~~ local government may not ~~shall~~ approve or deny a
77 proposed land use zoning change, comprehensive plan amendment,
78 land use permit, ordinance, or order regarding construction
79 aggregate materials without considering any information provided
80 by the Department of Transportation regarding the effect such
81 change, amendment, permit decision, ordinance, or order would
82 have on the availability, transportation, and potential
83 extraction of construction aggregate materials on the local area,
84 the region, and the state. The failure of the Department of
85 Transportation to provide this information shall not be a basis
86 for delay or invalidation of the local government action. A ~~Ne~~
87 local government may not impose a moratorium, or combination of
88 moratoria, of more than 12 months' duration on the mining or
89 extraction of construction aggregate materials, commencing on the



392884

TR.TR.05488

90 date the vote was taken to impose the moratorium. January 1,
91 2007, shall serve as the commencement of the 12-month period for
92 moratoria already in place as of July 1, 2007.

93 (b) If an applicant has obtained state approvals for
94 construction materials mining activities within an aggregate
95 resource county, the local government decisionmaking body may
96 deny the application for such activities only pursuant to a super
97 majority vote consisting of a majority plus one of all members of
98 the local government decisionmaking body. Subject to local quorum
99 requirements, a local government decisionmaking body may approve
100 an application for construction materials mining activities by a
101 simple majority vote.

102 (c) If an application for construction aggregate materials
103 mining site approval is not approved or denied after
104 consideration of the application at two regularly scheduled
105 meetings of the local government decisionmaking body or after 3
106 months following the application's initial consideration by the
107 local government decisionmaking body, whichever occurs first, the
108 applicant may seek a final determination on the application by
109 the Governor and Cabinet sitting as the Administration
110 Commission. An applicant may invoke this review by filing a
111 petition with the Administration Commission within 30 days after
112 the date of the last local government hearing at which the
113 application was considered or scheduled to be heard, whichever
114 occurs latest.

115 (d) The Administration Commission shall review the
116 application based solely upon the record of proceedings before
117 the local government and shall decide by a simple majority vote
118 whether there was competent, substantial evidence in the record
119 to support approval of the application. It shall thereafter enter



392884

TR.TR.05488

120 an order setting forth its decision and, by copy of its order,
121 notify the clerk of the local government and the applicant.

122 (e) The applicable provisions of the Uniform Rules of
123 Procedure promulgated in chapter 28, Florida Administrative Code,
124 shall govern the proceedings before the Administration
125 Commission.

126 (f) Judicial review of the commission's decision shall be
127 pursuant to s. 120.68.

128 (g) This subsection does not limit, eliminate, or otherwise
129 affect existing legal remedies to challenge or appeal a final
130 decision of a local government decisionmaking body concerning an
131 application for construction aggregate materials mining site
132 approval.

133 Section 2. This act shall take effect July 1, 2008.