

By Senator Dean

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1                   A bill to be entitled  
2           An act relating to limestone mining; amending s.  
3           373.414, F.S.; eliminating criteria for determining  
4           the ratio of mitigation-to-wetlands loss relating to  
5           limestone and sand mining; providing that financial  
6           responsibility for mitigation for wetlands and other  
7           surface waters required by a permit for activities  
8           associated with the extraction of limestone is subject  
9           to approval by the Department of Environmental  
10          Protection as part of permit application review;  
11          conforming terminology; amending s. 378.901, F.S.;  
12          authorizing mine operators proposing to mine or  
13          extract limestone to apply for a life-of-the-mine  
14          permit; providing an exception for life-of-the-mine  
15          permit application review requirements; amending ss.  
16          316.520, 337.0261, 373.4149, 373.41492, 373.4415,  
17          377.244, 378.403, and 378.4115, F.S.; conforming  
18          terminology; providing for retroactive applicability;  
19          providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23           Section 1. Paragraph (d) of subsection (6), subsection  
24           (16), and paragraph (a) of subsection (19) of section 373.414,  
25           Florida Statutes, are amended to read:

26           373.414 Additional criteria for activities in surface  
27           waters and wetlands.—

28           (6)

29           (d) Onsite reclamation of the mine pit for limestone

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30 ~~limerock~~ and sand mining shall be conducted in accordance with  
31 the requirements of chapter 378.

32 ~~1.~~ Mitigation activities for limestone ~~limerock~~ and sand  
33 mining must offset the regulated activities' adverse impacts on  
34 surface waters and wetlands. Mitigation activities shall be  
35 located on site, unless onsite mitigation activities are not  
36 feasible, in which case, offsite mitigation as close to the  
37 activities as possible shall be required. However, mitigation  
38 banking may be an acceptable form of mitigation, whether on or  
39 off site, as judged on a case-by-case basis.

40 ~~2. The ratio of mitigation to wetlands loss shall be~~  
41 ~~determined on a case-by-case basis and shall be based on the~~  
42 ~~quality of the wetland to be impacted and the type of mitigation~~  
43 ~~proposed.~~

44 (16) Until October 1, 2000, regulation under rules adopted  
45 pursuant to this part of any sand, ~~limerock,~~ or limestone mining  
46 activity which is located in Township 52 South, Range 39 East,  
47 sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26,  
48 27, 34, 35, and 36; in Township 52 South, Range 40 East,  
49 sections 6, 7, 8, 18, and 19; in Township 53 South, Range 39  
50 East, sections 1, 2, 13, 21, 22, 23, 24, 25, 26, 33, 34, 35, and  
51 36; and in Township 54 South, Range 38 East, sections 24, and  
52 25, and 36, shall not include the rules adopted pursuant to  
53 subsection (9). In addition, until October 1, 2000, such  
54 activities shall continue to be regulated under the rules  
55 adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the  
56 Florida Statutes 1983, as amended, as such rules existed prior  
57 to the effective date of the rules adopted pursuant to  
58 subsection (9) and such dredge and fill jurisdiction shall be

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59 that which existed prior to January 24, 1984. In addition, any  
60 such sand, ~~limerock~~, or limestone mining activity shall be  
61 approved by Miami-Dade County and the United States Army Corps  
62 of Engineers. This section shall only apply to mining activities  
63 which are continuous and carried out on land contiguous to  
64 mining operations that were in existence on or before October 1,  
65 1984.

66 (19) (a) Financial responsibility for mitigation for  
67 wetlands and other surface waters required by a permit issued  
68 pursuant to this part for activities associated with the  
69 extraction of limestone and phosphate are subject to approval by  
70 the department as part of permit application review. Financial  
71 responsibility for permitted activities which will occur over a  
72 period of 3 years or less of mining operations must be provided  
73 to the department prior to the commencement of mining operations  
74 and shall be in an amount equal to 110 percent of the estimated  
75 mitigation costs for wetlands and other surface waters affected  
76 under the permit. For permitted activities which will occur over  
77 a period of more than 3 years of mining operations, the initial  
78 financial responsibility demonstration shall be in an amount  
79 equal to 110 percent of the estimated mitigation costs for  
80 wetlands and other surface waters affected in the first 3 years  
81 of operation under the permit; and, for each year thereafter,  
82 the financial responsibility demonstration shall be updated,  
83 including to provide an amount equal to 110 percent of the  
84 estimated mitigation costs for the next year of operations under  
85 the permit for which financial responsibility has not already  
86 been demonstrated and to release portions of the financial  
87 responsibility mechanisms in accordance with applicable rules.

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88 Section 2. Subsection (2) and paragraph (c) of subsection  
89 (4) of section 378.901, Florida Statutes, are amended to read:  
90 378.901 Life-of-the-mine permit.-

91 (2) As an alternative to, and in lieu of, separate  
92 applications for permits required by part IV of chapter 373 and  
93 part IV of this chapter, each operator who proposes to mine or  
94 extract heavy minerals, limestone, or fuller's earth clay may  
95 apply to the bureau for a life-of-the-mine permit.

96 (4) Notwithstanding the provisions of s. 378.405, an  
97 application for a life-of-the-mine permit must be reviewed as  
98 follows:

99 (c) A life-of-the-mine permit must be approved or denied by  
100 the bureau within 135 days after receipt of the original  
101 completed application, receipt of the timely requested  
102 additional information, or correction of errors or omissions.  
103 The 135-day period must be tolled in accordance with s. 120.60.  
104 This paragraph does not apply to applications for permits to  
105 mine or extract limestone filed before July 1, 2010.

106 Section 3. Subsection (2) of section 316.520, Florida  
107 Statutes, is amended to read:

108 316.520 Loads on vehicles.-

109 (2) It is the duty of every owner and driver, severally, of  
110 any vehicle hauling, upon any public road or highway open to the  
111 public, dirt, sand, limestone ~~lime rock~~, gravel, silica, or  
112 other similar aggregate or trash, garbage, any inanimate object  
113 or objects, or any similar material that could fall or blow from  
114 such vehicle, to prevent such materials from falling, blowing,  
115 or in any way escaping from such vehicle. Covering and securing  
116 the load with a close-fitting tarpaulin or other appropriate

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117 cover or a load securing device meeting the requirements of 49  
118 C.F.R. s. 393.100 or a device designed to reasonably ensure that  
119 cargo will not shift upon or fall from the vehicle is required  
120 and shall constitute compliance with this section.

121 Section 4. Subsections (1) and (4) of section 337.0261,  
122 Florida Statutes, are amended to read:

123 337.0261 Construction aggregate materials.—

124 (1) DEFINITIONS.—“Construction aggregate materials” means  
125 crushed stone, limestone, dolomite, ~~limerock~~, shell rock,  
126 cemented coquina, sand for use as a component of mortars,  
127 concrete, bituminous mixtures, or underdrain filters, and other  
128 mined resources providing the basic material for concrete,  
129 asphalt, and road base.

130 (4) EXPEDITED PERMITTING.—Due to the state’s critical  
131 infrastructure needs and the potential shortfall in available  
132 construction aggregate materials, limestone ~~limerock~~  
133 environmental resource permitting and reclamation applications  
134 filed after March 1, 2007, are eligible for the expedited  
135 permitting processes contained in s. 403.973. Challenges to  
136 state agency action in the expedited permitting process for  
137 establishment of a limestone ~~limerock~~ mine in this state under  
138 s. 403.973 are subject to the same requirements as challenges  
139 brought under s. 403.973(14)(a), except that, notwithstanding s.  
140 120.574, summary proceedings must be conducted within 30 days  
141 after a party files the motion for summary hearing, regardless  
142 of whether the parties agree to the summary proceeding.

143 Section 5. Subsection (4) of section 373.4149, Florida  
144 Statutes, is amended to read:

145 373.4149 Miami-Dade County Lake Belt Plan.—

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146 (4) The identification of the Miami-Dade County Lake Belt  
147 Area shall not preempt local land use jurisdiction, planning, or  
148 regulatory authority in regard to the use of land by private  
149 land owners. When amending local comprehensive plans, or  
150 implementing zoning regulations, development regulations, or  
151 other local regulations, Miami-Dade County shall strongly  
152 consider limestone mining activities and ancillary operations,  
153 such as lake excavation, including use of explosives, rock  
154 processing, cement, concrete and asphalt products manufacturing,  
155 and ancillary activities, within the rock mining supported and  
156 allowable areas of the Miami-Dade County Lake Plan adopted by  
157 subsection (1); provided, however, that limestone ~~limerock~~  
158 mining activities are consistent with wellfield protection.  
159 Rezoning or amendments to local comprehensive plans concerning  
160 properties that are located within 1 mile of the Miami-Dade Lake  
161 Belt Area shall be compatible with limestone mining activities.  
162 No rezonings, variances, or amendments to local comprehensive  
163 plans for any residential purpose may be approved for any  
164 property located in sections 35 and 36 and the east one-half of  
165 sections 24 and 25, Township 53 South, Range 39 East until such  
166 time as there is no active mining within 2 miles of the  
167 property. This section does not preclude residential development  
168 that complies with current regulations.

169 Section 6. Subsection (2) and paragraph (b) of subsection  
170 (6) of section 373.41492, Florida Statutes, are amended to read:

171 373.41492 Miami-Dade County Lake Belt Mitigation Plan;  
172 mitigation for mining activities within the Miami-Dade County  
173 Lake Belt.—

174 (2) To provide for the mitigation of wetland resources lost

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175 to mining activities within the Miami-Dade County Lake Belt  
176 Plan, effective October 1, 1999, a mitigation fee is imposed on  
177 each ton of limestone ~~limerock~~ and sand extracted by any person  
178 who engages in the business of extracting limestone ~~limerock~~ or  
179 sand from within the Miami-Dade County Lake Belt Area and the  
180 east one-half of sections 24 and 25 and all of sections 35 and  
181 36, Township 53 South, Range 39 East. The mitigation fee is  
182 imposed for each ton of limestone ~~limerock~~ and sand sold from  
183 within the properties where the fee applies in raw, processed,  
184 or manufactured form, including, but not limited to, sized  
185 aggregate, asphalt, cement, concrete, and other limestone  
186 ~~limerock~~ and concrete products. The mitigation fee imposed by  
187 this subsection for each ton of limestone ~~limerock~~ and sand sold  
188 shall be 12 cents per ton beginning January 1, 2007; 18 cents  
189 per ton beginning January 1, 2008; and 24 cents per ton  
190 beginning January 1, 2009. To upgrade a water treatment plant  
191 that treats water coming from the Northwest Wellfield in Miami-  
192 Dade County, a water treatment plant upgrade fee is imposed  
193 within the same Lake Belt Area subject to the mitigation fee and  
194 upon the same kind of mined limestone ~~limerock~~ and sand subject  
195 to the mitigation fee. The water treatment plant upgrade fee  
196 imposed by this subsection for each ton of limestone ~~limerock~~  
197 and sand sold shall be 15 cents per ton beginning on January 1,  
198 2007, and the collection of this fee shall cease once the total  
199 amount of proceeds collected for this fee reaches the amount of  
200 the actual moneys necessary to design and construct the water  
201 treatment plant upgrade, as determined in an open, public  
202 solicitation process. Any limestone ~~limerock~~ or sand that is  
203 used within the mine from which the limestone ~~limerock~~ or sand

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204 is extracted is exempt from the fees. The amount of the  
205 mitigation fee and the water treatment plant upgrade fee imposed  
206 under this section must be stated separately on the invoice  
207 provided to the purchaser of the limestone ~~limerock~~ or sand  
208 product from the limestone ~~limerock~~ or sand miner, or its  
209 subsidiary or affiliate, for which the fee or fees apply. The  
210 limestone ~~limerock~~ or sand miner, or its subsidiary or  
211 affiliate, who sells the limestone ~~limerock~~ or sand product  
212 shall collect the mitigation fee and the water treatment plant  
213 upgrade fee and forward the proceeds of the fees to the  
214 Department of Revenue on or before the 20th day of the month  
215 following the calendar month in which the sale occurs.

216 (6)

217 (b) Expenditures of the mitigation fee must be approved by  
218 an interagency committee consisting of representatives from each  
219 of the following: the Miami-Dade County Department of  
220 Environmental Resource Management, the Department of  
221 Environmental Protection, the South Florida Water Management  
222 District, and the Fish and Wildlife Conservation Commission. In  
223 addition, the limestone ~~limerock~~ mining industry shall select a  
224 representative to serve as a nonvoting member of the interagency  
225 committee. At the discretion of the committee, additional  
226 members may be added to represent federal regulatory,  
227 environmental, and fish and wildlife agencies.

228 Section 7. Section 373.4415, Florida Statutes, is amended  
229 to read:

230 373.4415 Role of Miami-Dade County in processing permits  
231 for limestone ~~limerock~~ mining in Miami-Dade County Lake Belt.—  
232 The department and Miami-Dade County shall cooperate to



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233 establish and fulfill reasonable requirements for the  
234 departmental delegation to the Miami-Dade County Department of  
235 Environmental Resource Management of authority to implement the  
236 permitting program under ss. 373.403-373.439 for limestone  
237 ~~limerock~~ mining activities within the geographic area of the  
238 Miami-Dade County Lake Belt which was recommended for mining in  
239 the report submitted to the Legislature in February 1997 under  
240 s. 373.4149. The delegation of authority must be consistent with  
241 s. 373.441 and chapter 62-344, Florida Administrative Code. To  
242 further streamline permitting within the Miami-Dade County Lake  
243 Belt, the department and Miami-Dade County are encouraged to  
244 work with the United States Army Corps of Engineers to establish  
245 a general permit under s. 404 of the Clean Water Act for  
246 limestone ~~limerock~~ mining activities within the geographic area  
247 of the Miami-Dade County Lake Belt consistent with the report  
248 submitted in February 1997. Miami-Dade County is further  
249 encouraged to seek delegation from the United States Army Corps  
250 of Engineers for the implementation of any such general permit.  
251 This section does not limit the authority of the department to  
252 delegate other responsibilities to Miami-Dade County under this  
253 part.

254 Section 8. Subsection (2) of section 377.244, Florida  
255 Statutes, is amended to read:

256 377.244 Conditions for granting permits for surface  
257 exploratory and extraction operations.—

258 (2) The provisions of this act shall not apply to the  
259 exploration and removal from lands of peat, muck, marl,  
260 limestone, ~~limerock~~, kaolin, fuller's earth, phosphate, common  
261 clays, gravel, shell, sand, and similar substances, it being the

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262 legislative determination that the mining and extraction  
263 operations, and the grants of authority under which these  
264 activities are conducted for said substances exempted from the  
265 provisions of this act, are dissimilar from the exploratory and  
266 extraction operations and the grants of authority under which  
267 these activities are conducted for substances which come within  
268 the purview of the regulatory provisions of this act.

269 Section 9. Subsection (17) of section 378.403, Florida  
270 Statutes, is amended to read:

271 378.403 Definitions.—As used in this part, the term:

272 (17) "Resource" means soil, clay, peat, stone, gravel,  
273 sand, limestone ~~limerock~~, metallic ore, or any other solid  
274 substance of commercial value found in natural deposits on or in  
275 the earth, except phosphate, which is regulated by part III.

276 Section 10. Section 378.4115, Florida Statutes, is amended  
277 to read:

278 378.4115 County certification for limestone ~~limerock~~ mining  
279 in the Miami-Dade County Lake Belt.—The department and Miami-  
280 Dade County shall cooperate to establish and fulfill reasonable  
281 requirements for the departmental certification of the Miami-  
282 Dade County Department of Environmental Resource Management to  
283 implement the reclamation program under ss. 378.401-378.503 for  
284 limestone ~~limerock~~ mining activities within the geographic area  
285 of the Miami-Dade County Lake Belt which was recommended for  
286 mining in the report submitted to the Legislature in February  
287 1997 under s. 373.4149. The delegation of implementing authority  
288 must be consistent with s. 378.411 and chapter 62C-36, Florida  
289 Administrative Code. Further, the reclamation program shall  
290 maximize the efficient mining of limestone, and the littoral

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291 area surrounding the lake excavations shall not be required to  
292 be greater than 100 feet average in width.

293 Section 11. The amendments to ss. 373.414 and 378.901,  
294 Florida Statutes, made by this act, other than the conforming of  
295 terminology, apply retroactively to any permit granted by the  
296 Department of Environmental Protection under part IV of chapter  
297 373, Florida Statutes, or part IV of chapter 378, Florida  
298 Statutes, after September 1, 2009.

299 Section 12. This act shall take effect upon becoming a law.