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

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Paragraph (d) of subsection (6), subsection
 22 (16), and paragraph (a) of subsection (19) of section 373.414,
 23 Florida Statutes, are amended to read:

24 373.414 Additional criteria for activities in surface
 25 waters and wetlands.—

26 (6)

27 (d) Onsite reclamation of the mine pit for limestone
 28 ~~limerock~~ and sand mining shall be conducted in accordance with

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29 the requirements of chapter 378.

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

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

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

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

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

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85 responsibility mechanisms in accordance with applicable rules.

86 Section 2. Subsection (2) and paragraph (c) of subsection
87 (4) of section 378.901, Florida Statutes, are amended to read:

88 378.901 Life-of-the-mine permit.—

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

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

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

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

106 316.520 Loads on vehicles.—

107 (2) It is the duty of every owner and driver, severally,
108 of any vehicle hauling, upon any public road or highway open to
109 the public, dirt, sand, limestone ~~lime rock~~, gravel, silica, or
110 other similar aggregate or trash, garbage, any inanimate object
111 or objects, or any similar material that could fall or blow from
112 such vehicle, to prevent such materials from falling, blowing,

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113 or in any way escaping from such vehicle. Covering and securing
 114 the load with a close-fitting tarpaulin or other appropriate
 115 cover or a load securing device meeting the requirements of 49
 116 C.F.R. s. 393.100 or a device designed to reasonably ensure that
 117 cargo will not shift upon or fall from the vehicle is required
 118 and shall constitute compliance with this section.

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

121 337.0261 Construction aggregate materials.—

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

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

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

143 373.4149 Miami-Dade County Lake Belt Plan.—

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

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

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169 373.41492 Miami-Dade County Lake Belt Mitigation Plan;
 170 mitigation for mining activities within the Miami-Dade County
 171 Lake Belt.—

172 (2) To provide for the mitigation of wetland resources
 173 lost to mining activities within the Miami-Dade County Lake Belt
 174 Plan, effective October 1, 1999, a mitigation fee is imposed on
 175 each ton of limestone ~~limerock~~ and sand extracted by any person
 176 who engages in the business of extracting limestone ~~limerock~~ or
 177 sand from within the Miami-Dade County Lake Belt Area and the
 178 east one-half of sections 24 and 25 and all of sections 35 and
 179 36, Township 53 South, Range 39 East. The mitigation fee is
 180 imposed for each ton of limestone ~~limerock~~ and sand sold from
 181 within the properties where the fee applies in raw, processed,
 182 or manufactured form, including, but not limited to, sized
 183 aggregate, asphalt, cement, concrete, and other limestone
 184 ~~limerock~~ and concrete products. The mitigation fee imposed by
 185 this subsection for each ton of limestone ~~limerock~~ and sand sold
 186 shall be 12 cents per ton beginning January 1, 2007; 18 cents
 187 per ton beginning January 1, 2008; and 24 cents per ton
 188 beginning January 1, 2009. To upgrade a water treatment plant
 189 that treats water coming from the Northwest Wellfield in Miami-
 190 Dade County, a water treatment plant upgrade fee is imposed
 191 within the same Lake Belt Area subject to the mitigation fee and
 192 upon the same kind of mined limestone ~~limerock~~ and sand subject
 193 to the mitigation fee. The water treatment plant upgrade fee
 194 imposed by this subsection for each ton of limestone ~~limerock~~
 195 and sand sold shall be 15 cents per ton beginning on January 1,
 196 2007, and the collection of this fee shall cease once the total

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197 amount of proceeds collected for this fee reaches the amount of
 198 the actual moneys necessary to design and construct the water
 199 treatment plant upgrade, as determined in an open, public
 200 solicitation process. Any limestone ~~limerock~~ or sand that is
 201 used within the mine from which the limestone ~~limerock~~ or sand
 202 is extracted is exempt from the fees. The amount of the
 203 mitigation fee and the water treatment plant upgrade fee imposed
 204 under this section must be stated separately on the invoice
 205 provided to the purchaser of the limestone ~~limerock~~ or sand
 206 product from the limestone ~~limerock~~ or sand miner, or its
 207 subsidiary or affiliate, for which the fee or fees apply. The
 208 limestone ~~limerock~~ or sand miner, or its subsidiary or
 209 affiliate, who sells the limestone ~~limerock~~ or sand product
 210 shall collect the mitigation fee and the water treatment plant
 211 upgrade fee and forward the proceeds of the fees to the
 212 Department of Revenue on or before the 20th day of the month
 213 following the calendar month in which the sale occurs.

214 (6)

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

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225 environmental, and fish and wildlife agencies.

226 Section 7. Section 373.4415, Florida Statutes, is amended
227 to read:

228 373.4415 Role of Miami-Dade County in processing permits
229 for limestone ~~limerock~~ mining in Miami-Dade County Lake Belt.—
230 The department and Miami-Dade County shall cooperate to
231 establish and fulfill reasonable requirements for the
232 departmental delegation to the Miami-Dade County Department of
233 Environmental Resource Management of authority to implement the
234 permitting program under ss. 373.403-373.439 for limestone
235 ~~limerock~~ mining activities within the geographic area of the
236 Miami-Dade County Lake Belt which was recommended for mining in
237 the report submitted to the Legislature in February 1997 under
238 s. 373.4149. The delegation of authority must be consistent with
239 s. 373.441 and chapter 62-344, Florida Administrative Code. To
240 further streamline permitting within the Miami-Dade County Lake
241 Belt, the department and Miami-Dade County are encouraged to
242 work with the United States Army Corps of Engineers to establish
243 a general permit under s. 404 of the Clean Water Act for
244 limestone ~~limerock~~ mining activities within the geographic area
245 of the Miami-Dade County Lake Belt consistent with the report
246 submitted in February 1997. Miami-Dade County is further
247 encouraged to seek delegation from the United States Army Corps
248 of Engineers for the implementation of any such general permit.
249 This section does not limit the authority of the department to
250 delegate other responsibilities to Miami-Dade County under this
251 part.

252 Section 8. Subsection (2) of section 377.244, Florida

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253 Statutes, is amended to read:

254 377.244 Conditions for granting permits for surface
255 exploratory and extraction operations.—

256 (2) The provisions of this act shall not apply to the
257 exploration and removal from lands of peat, muck, marl,
258 limestone, ~~limerock~~, kaolin, fuller's earth, phosphate, common
259 clays, gravel, shell, sand, and similar substances, it being the
260 legislative determination that the mining and extraction
261 operations, and the grants of authority under which these
262 activities are conducted for said substances exempted from the
263 provisions of this act, are dissimilar from the exploratory and
264 extraction operations and the grants of authority under which
265 these activities are conducted for substances which come within
266 the purview of the regulatory provisions of this act.

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

269 378.403 Definitions.—As used in this part, the term:

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

274 Section 10. Section 378.4115, Florida Statutes, is amended
275 to read:

276 378.4115 County certification for limestone ~~limerock~~
277 mining in the Miami-Dade County Lake Belt.—The department and
278 Miami-Dade County shall cooperate to establish and fulfill
279 reasonable requirements for the departmental certification of
280 the Miami-Dade County Department of Environmental Resource

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281 Management to implement the reclamation program under ss.
282 378.401-378.503 for limestone ~~limerock~~ mining activities within
283 the geographic area of the Miami-Dade County Lake Belt which was
284 recommended for mining in the report submitted to the
285 Legislature in February 1997 under s. 373.4149. The delegation
286 of implementing authority must be consistent with s. 378.411 and
287 chapter 62C-36, Florida Administrative Code. Further, the
288 reclamation program shall maximize the efficient mining of
289 limestone, and the littoral area surrounding the lake
290 excavations shall not be required to be greater than 100 feet
291 average in width.

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

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