

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 377 Miami-Dade County Lake Belt Mitigation Plan

**SPONSOR(S):** Nuñez and others

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 182

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	14 Y, 0 N, As CS	Deslatte	Blalock
2) State Affairs Committee	15 Y, 0 N	Deslatte	Hamby

### SUMMARY ANALYSIS

Limestone operations in the Miami-Dade County Lake Belt are guided by the Lake Belt Mitigation Plan. Under the plan provided in current law, the Lake Belt limestone companies pay a special mitigation fee. The proceeds of the mitigation fee must be used to conduct mitigation activities that are appropriate to offset the loss of the value and functions of wetlands as a result of mining activities and must be used in a manner consistent with the recommendations contained in the reports submitted to the Legislature by the Miami-Dade County Lake Belt Mitigation Plan Implementation Committee and adopted under s. 373.4149, F.S. The fee is collected by the Department of Revenue and transferred to the South Florida Water Management District's Lake Belt Mitigation Trust Fund. The Lake Belt limestone companies also pay a water treatment plant upgrade fee of 15 cents per ton, to be used to upgrade a water treatment plant that treats water coming from the Northwest Wellfield in Miami-Dade County. The fee is collected by the Department of Revenue and transferred to a trust fund established by Miami-Dade County.

The bill expands the authorized uses of the proceeds of the water treatment plant upgrade fee by allowing the proceeds of the fee to be used to pay for seepage mitigation projects, including groundwater and surface water management structures designed to improve wetland habitat and approved by the Lake Belt Mitigation Committee.

Beginning July 1, 2012, the proceeds of the water treatment plant upgrade fee will be deposited into the Lake Belt Mitigation Trust Fund (instead of the trust fund established by Miami-Dade County to pay for water treatment plant upgrades) until:

- \$20 million is placed in the trust fund, or
- Pathogen sampling demonstrates that the water in any quarry lake in the vicinity of the Northwest Wellfield would be classified as being in Bin 2 or higher.

Once either of these qualifications is triggered, the proceeds would again be transferred to a trust fund established by Miami-Dade County for the purpose of upgrading a water treatment plant that treats water coming from the Northwest Wellfield.

Proceeds of the water treatment plant upgrade fee deposited into the Lake Belt Mitigation Trust Fund must be used to pay for seepage mitigation projects, including groundwater or surface water management structures designed to improve wetland habitat and approved by the Lake Belt Mitigation Committee.

The bill changes the allowed uses of the mitigation fee to require approval by the Miami-Dade County Lake Belt Mitigation Committee rather than requiring them to be used in a manner consistent with the recommendations submitted to the Legislature under s. 337.4149, F.S. The bill also specifies that the proceeds of the mitigation fee may be used for the management of wetlands and uplands in the Everglades watershed, and for any modifications to the existing drainage system to enhance the hydrology of the Everglades watershed in addition to the Miami-Dade Lake Belt Area.

Applicable to both the mitigation fee and the water treatment upgrade fee, the bill also specifies that "proceeds of a fee" means all funds collected and received by the Department of Revenue under s. 373.41492, F.S., including interest and penalties on delinquent fees. The amount deducted for administrative costs may not exceed 3 percent of the total revenues and may equal only those administrative costs reasonably attributable to the fees.

The bill appears to have a temporary positive fiscal impact on revenues of the South Florida Water Management District and a temporary negative fiscal impact on Miami-Dade County.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h0377e.SAC

**DATE:** 12/8/2011

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### **Mitigation for Mining Activities Within the Miami-Dade County Lake Belt**

The Miami-Dade County Lake Belt Area encompasses 77.5 square miles of environmentally sensitive land at the western edge of the Miami-Dade County urban area. The wetlands and lakes of the Lake Belt offer the potential to buffer the Everglades from the potentially adverse impacts of urban development<sup>1</sup>. The Northwest Wellfield, located at the eastern edge of the Lake Belt, is the largest drinking water wellfield in Florida and supplies approximately 40 percent of the potable water for Miami-Dade County.

Construction aggregates provide the basic materials needed for concrete, asphalt, and road base. 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. Rock mined from the Lake Belt supplies one half of the limestone used annually in Florida. Approximately 50 percent of the land within the Lake Belt Area is owned by the mining industry, 25 percent is owned by government agencies, and the remaining 25 percent is owned by non-mining private landowners<sup>2</sup>.

The Florida Legislature recognized the importance of the Lake Belt Area to the citizens of Florida and mandated that a plan be prepared to address a number of concerns critical to the State in s. 373.4139, F.S. The Legislature established the Lake Belt Committee and assigned it the task of developing a long-term plan for the Lake Belt Area. Through a cooperative process involving government agencies, mining interests, non-mining interests, and environmental groups, the Lake Belt Committee completed the Miami-Dade County Lake Belt Plan.

Limestone operations in the Lake Belt are guided by the Lake Belt Mitigation Plan. Under the plan established in s. 373.41492, F.S., the Lake Belt limestone companies pay a special mitigation fee. The proceeds of the mitigation fee must be used to conduct mitigation activities that are appropriate to offset the loss of the value and functions of wetlands as a result of mining activities and must be used in a manner consistent with the recommendations contained in the reports submitted to the Legislature by the Miami-Dade County Lake Belt Mitigation Plan Implementation Committee and adopted under s. 373.4149, F.S. Such mitigation may include the purchase, enhancement, restoration, and management of wetlands and uplands, the purchase of mitigation credit from a permitted mitigation bank, and any structural modifications to the existing drainage system to enhance the hydrology of the Miami-Dade County Lake Belt Area. Funds may also be used to reimburse other funding sources, including the Save Our Rivers Land Acquisition Program, the Internal Improvement Trust Fund, the South Florida Water Management District, and Miami-Dade County, for the purchase of lands that were acquired in areas appropriate for mitigation due to rock mining and to reimburse governmental agencies that exchanged land under s. 373.4149, F.S., for mitigation due to rock mining. The fee is collected from the mining industry by the Department of Revenue and transferred to the South Florida Water Management District's Lake Belt Mitigation Trust Fund.

The Lake Belt limestone companies also pay a water treatment plant upgrade fee of 15 cents per ton, to be used to upgrade a water treatment plant that treats water coming from the Northwest Wellfield in Miami-Dade County. The fee is collected by the Department of Revenue and, less administrative costs, transferred to a trust fund established by Miami-Dade County. According to the Department of Environmental Protection (DEP), this fee was established to address the concern that the expansion of mining may cause the wellfield to be designated as "under the influence of surface water," which would

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<sup>1</sup> South Florida Water Management District, Miami-Dade, <http://my.sfwdm.gov/portal/page/portal/xweb%20about%20us/miami%20dade%20service%20center>

<sup>2</sup> *Id.*

mandate upgraded treatment. To date, this designation has not been made by the DEP, and water quality sampling and studies conducted indicate that such a designation is unlikely. Limestone operations in the Lake Belt require water quality certification from the state and a dredge and fill permit from the U.S. Army Corps of Engineers.

### The Environmental Protection Agency's (EPA) Long Term 2 Enhanced Surface Water Treatment Rule

The EPA has developed the Long Term 2 Enhanced Surface Water Treatment Rule (LT2 rule) to improve drinking water quality and provide additional protection from disease-causing microorganisms and contaminants that can form during drinking water treatment. The purpose of the LT2 rule is to reduce disease incidence associated with *Cryptosporidium* and other pathogenic microorganisms in drinking water<sup>3</sup>. The rule applies to all public water systems that use surface water or ground water that is under the direct influence of surface water. The rule bolsters existing regulations by:

- Targeting additional *Cryptosporidium* treatment requirements to higher risk systems;
- Requiring provisions to reduce risks from uncovered finished water storage facilities; and
- Providing provisions to ensure that systems maintain microbial protection as they take steps to reduce the formation of disinfection byproducts.

This combination of steps, together with the existing regulations, is designed to provide protection from microbial pathogens while simultaneously minimizing health risks to the population from disinfection byproducts. "Bin classifications" indicate the concentration of pathogens in the water sample<sup>4</sup> and are based on the results of the average number of oocysts<sup>5</sup> detected in water samples taken from a public water system.

#### Bin Classifications for Public Water Systems

<b><i>Cryptosporidium</i> Bin Concentration</b>	<b>Bin Classification</b>
<i>Cryptosporidium</i> < 0.075 oocysts/L	Bin 1
0.075 oocysts/L # <i>Cryptosporidium</i> < 1.0 oocyst/L	Bin 2
1.0 oocyst/L # <i>Cryptosporidium</i> < 3.0 oocysts/L	Bin 3
<i>Cryptosporidium</i> ≥ 3.0 oocysts/L	Bin 4
Public Water Systems that serve fewer than 10,000 people and NOT required to monitor for <i>Cryptosporidium</i> <sup>a</sup>	Bin 1

#### Effect of Proposed Changes

The bill amends s. 373.41492, F.S., by expanding the authorized uses of the proceeds of the water treatment plant upgrade fee to allow the per ton fee to also be used to pay for seepage mitigation projects, including groundwater and surface water management structures designed to improve wetland habitat and approved by the Lake Belt Mitigation Committee.

Beginning July 1, 2012, the proceeds of the water treatment plant upgrade fee will be deposited into the Lake Belt Mitigation Trust Fund (instead of the trust fund established by Miami-Dade County to pay for water treatment plant upgrades) until:

- \$20 million is placed in the trust fund, or
- Pathogen sampling demonstrates that the water in any quarry lake in the vicinity of the Northwest Wellfield would be classified as being in Bin 2 or higher.

<sup>3</sup> U.S. ENVIRONMENTAL PROTECTION AGENCY, WATER: LONG TERM 2 ENHANCED SURFACE WATER TREATMENT RULE, <http://water.epa.gov/lawsregs/rulesregs/sdwa/lt2/basicinformation.cfm>

<sup>4</sup> 40 CFR § 141.710; U.S. ENVIRONMENTAL PROTECTION AGENCY, SOURCE WATER MONITORING GUIDANCE MANUAL FOR PUBLIC WATER SYSTEMS, 49 (Feb. 2006) available at [http://www.epa.gov/ogwdw/disinfection/lt2/pdfs/guide\\_lt2\\_swmonitoringguidance.pdf](http://www.epa.gov/ogwdw/disinfection/lt2/pdfs/guide_lt2_swmonitoringguidance.pdf).

<sup>5</sup> An oocyst is a thick-walled structure in which sporozoan zygotes develop and that serves to transfer them to new hosts.

Once either of these qualifications is triggered, the proceeds would again be transferred to a trust fund established by Miami-Dade County for the purpose of upgrading a water treatment plant that treats water coming from the Northwest Wellfield.

Proceeds of the water treatment plant upgrade fee deposited into the Lake Belt Mitigation Trust Fund must be used to pay for seepage mitigation projects, including groundwater or surface water management structures designed to improve wetland habitat and approved by the Lake Belt Mitigation Committee. Proceeds of the water treatment plant upgrade fee that are transmitted to a trust fund established by Miami-Dade County must be used to upgrade a water treatment plant that treats water coming from the Northwest Wellfield.

Regarding the proceeds of the mitigation fee, the bill requires approval by the Miami-Dade County Lake Belt Mitigation Committee rather than requiring the proceeds to be used in a manner consistent with the recommendations submitted to the Legislature under s. 337.4149, F.S. The bill also specifies that the proceeds of the mitigation fee may be used for the management of wetlands and uplands in the Everglades watershed, and for any modifications to the existing drainage system to enhance the hydrology of the Everglades watershed in addition to the Miami-Dade Lake Belt Area.

Applicable to both the mitigation fee and the water treatment upgrade fee, the bill also specifies that "proceeds of a fee" means all funds collected and received by the Department of Revenue under s. 373.41492, F.S., including interest and penalties on delinquent fees. The amount deducted for administrative costs may not exceed 3 percent of the total revenues and may equal only those administrative costs reasonably attributable to the fees.

#### B. SECTION DIRECTORY:

Section 1. Amends s. 373.41492, F.S., deleting references to a report by the Miami-Dade County Lake Belt Plan Implementation Committee; providing for the redirection of funds from the water treatment plant upgrade fee to fund seepage mitigation projects; requiring the proceeds of the water treatment plant upgrade fee to be transferred by the Department of Revenue to the South Florida Water Management District and to be deposited into the Lake Belt Mitigation Trust Fund; providing criterion when the transfer is not required; providing for the proceeds of the mitigation fee to be used to conduct mitigation activities that are approved by the Miami-Dade County Lake Belt Mitigation Committee.

Section 2. Providing an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See fiscal comments section.

2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See fiscal comments section.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

By diverting, from Miami-Dade County to the South Florida Water Management District, the proceeds from the water treatment plant upgrade fee, the bill has a temporary positive fiscal impact on revenues of the South Florida Water Management, and a temporary negative fiscal impact on Miami-Dade County.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On November 15, 2011, the Agriculture & Natural Resources Subcommittee amended and passed HB 377 as a Committee Substitute (CS). The amendment corrects the fee structure in s. 373.41492(2), F.S., which was a scrivener's error.