

HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

BILL #:	CS/HB 359	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	Agriculture & Natural Resources Subcommittee and Diaz, M. and others	82 Y's	30 N's
COMPANION BILLS:	CS/SB 510	GOVERNOR'S ACTION:	Approved

SUMMARY ANALYSIS

CS/HB 359 passed the House on April 27, 2015, and subsequently passed the Senate on April 28, 2015.

The Miami-Dade County Lake Belt Area (Lake Belt) encompasses 77.5 square miles of environmentally sensitive land at the western edge of the Miami-Dade County urban area. The Lake Belt contains deposits of limestone and sand suitable for production of construction aggregates, cement, and road base materials. Rock mined from the Lake Belt supplies one half of the limestone used annually in Florida. Under current law, the mining companies operating in the Lake Belt must pay a combination of fees based on the number of tons of limestone or sand extracted from the area. The fees are used to conduct wetland mitigation activities, fund seepage mitigation projects, and fund water treatment plant upgrades.

The bill includes the following revisions to the Lake Belt statutes:

- Requires amendments to local zoning and subdivision regulations so that properties located within one mile of the Lake Belt are compatible with limestone mining activities. Further, the bill prohibits amendments to local zoning and subdivision regulations that would result in an increase in residential density in certain parts of the Lake Belt until active mining operations cease within two miles of the property.
- Reduces the mitigation fees from 45 cents per ton to 25 cents per ton beginning January 1, 2016, to 15 cents per ton beginning January 1, 2017, and to 5 cents per ton beginning January 1, 2018. The reason for the mitigation fee reduction is because there are sufficient funds in the Lake Belt Mitigation Trust Fund to cover the cost of projected mitigation requirements.
- Requires proceeds from the mitigation fee to be used to conduct water quality monitoring to ensure the protection of water resources within the Lake Belt.
- Removes the requirement that the South Florida Water Management District use the water treatment plant upgrade fee to pay for seepage mitigation projects, and returns the proceeds collected from the fee to Miami-Dade County.
- Reduces the water treatment upgrade fee from 15 cents to 6 cents per ton of limerock and sand sold. This fee will expire on July 1, 2018. The Department of Revenue must transfer 2 cents per ton of this fee, not to exceed \$300,000, to fund a study by the State Fire Marshall to review the established statewide ground vibration limits for construction materials mining activities and to review any legitimate claims paid for damages caused by such mining activities.
- Requires Miami-Dade County to provide the House and Senate:
 - A detailed accounting of the water treatment plant upgrade fees collected and all expenditures of those fees; and
 - A detailed report on all pathogen data collection and analyses related to the Northwest Wellfield and the planning and engineering studies undertaken to upgrade any water treatment plant to provide treatment for pathogens in water from the Northwest Wellfield.

The bill may have a negative fiscal impact on the South Florida Water Management District and Miami-Dade County by gradually reducing the mitigation fee and reducing and eventually eliminating the water treatment plant upgrade fee.

The bill was approved by the Governor on June 11, 2015, ch. 2015-141, L.O.F., and will become effective on July 1, 2015.

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

STORAGE NAME: h0359z2.ANRS

DATE: June 30, 2015

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

The Miami-Dade County Lake Belt Area (Lake Belt) encompasses 77.5 square miles of environmentally sensitive land at the western edge of the Miami-Dade County urban area.¹ Generally, the Lake Belt is bounded by the Ronald Reagan Turnpike to the east, the Miami-Dade-Broward County line to the north, Krome Avenue to the west, and Tamiami Trail to the south; along with certain lands south of Tamiami Trail.²

The Lake Belt contains deposits of limestone and sand suitable for production of construction aggregates, cement, and road base materials.³ Mining companies extract rock from the Lake Belt. This supplies one-half of the limestone used annually in Florida.⁴ In south Florida, groundwater occurs so near the surface of the ground that when rock is mined from the Lake Belt, even in shallow pits, the excavation areas fill with water and man-made "lakes" are formed.⁵ The "lakes" that form after rock is mined are the features after which the "Lake Belt" is named.⁶

The wetlands and lakes of the Lake Belt offer the potential to buffer the Everglades from the potentially adverse impacts of urban development.⁷ 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.⁸

In 1992, the Florida Legislature recognized the importance of the Lake Belt and established the Lake Belt Committee (Committee).⁹ The Legislature charged the Committee with the task of developing a long-term plan for the Lake Belt to address a number of critical concerns.¹⁰ Through a cooperative process involving government agencies, mining interests, non-mining interests, and environmental groups, the Committee completed the Miami-Dade County Lake Belt Plan (Lake Belt Plan).¹¹ The Legislature accepted the Lake Belt Plan and recommendations of the Committee in 1997.¹² The Lake

¹ South Florida Water Management District, *Regional Contacts, Miami-Dade*, <http://my.sfwmd.gov/portal/page/portal/xweb%20about%20us/miami%20dade%20service%20center> (last visited January 22, 2015).

² Section 373.4149(1), F.S.

³ Section 373.4149, F.S.

⁴ South Florida Water Management District, *Regional Contacts, Miami-Dade*, <http://my.sfwmd.gov/portal/page/portal/xweb%20about%20us/miami%20dade%20service%20center> (last visited January 22, 2015).

⁵ Id.

⁶ Id.

⁷ South Florida Water Management District, *Regional Contacts, Miami-Dade*, <http://my.sfwmd.gov/portal/page/portal/xweb%20about%20us/miami%20dade%20service%20center> (last visited January 22, 2015).

⁸ Id.

⁹ S. 21 Ch. 92-132, Laws of Fla.; Originally called the Northwest Dade County Freshwater Lake Plan Implementation Committee.

¹⁰ Id.

¹¹ Phase I Plan in 1997 and Phase II Plan in 2000. South Florida Water Management District, *Regional Contacts, Miami-Dade*, <http://my.sfwmd.gov/portal/page/portal/xweb%20about%20us/miami%20dade%20service%20center> (last visited January 22, 2015).

¹² Lake Belt Mitigation Committee, 1997 Progress Report p. 2. available at http://www.sfwmd.gov/portal/pls/portal/portal_apps.repository_lib_pkg.repository_browse?p_keywords=lbannual&p_thumbnails=no (last visited February 13, 2015).

Belt Plan guides the mitigation¹³ that is required to offset the impacts to wetlands caused by the mining operations in the Lake Belt.

Mitigation Fee

The Lake Belt statute requires that the mining companies operating in the Lake Belt pay a mitigation fee of 45 cents per ton of limestone or sand extracted from the area.¹⁴ The statute requires that 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 Committee.¹⁵ 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 Lake Belt.¹⁶

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 (SFWMD), 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 for mitigation due to rock mining.¹⁷ The mitigation fee is collected from the mining industry by the Department of Revenue and transferred to the SFWMD's Lake Belt Mitigation Trust Fund.¹⁸ Payment of the mitigation fee satisfies the mitigation requirements imposed under ss. 373.403 through 373.439, F.S.,¹⁹ and any applicable county ordinance for loss of the value and functions from mining of the wetlands.²⁰

The mitigation fee imposed by the Lake Belt statute could have been suspended until revived by the Legislature if the United States Army Corps of Engineers (USACE) had not issued a permit for mining in the Lake Belt by September 30, 2000.²¹ Permits were issued in 2002 and subsequently challenged in federal court.²² The USACE issued new permits in 2010.²³

Water Treatment Plant Upgrade Fee

¹³ "Mitigation" means an action or series of actions to offset the adverse impacts that would otherwise cause an activity that requires an Environmental Resource Permit to fail to meet the criteria set forth in the statutes and rules. Mitigation usually consists of restoration, enhancement, creation, preservation, or a combination thereof. Rule 62-330.021, F.A.C., incorporating by reference Environmental Resource Permit Applicant's Handbook, Volume I, Section 2.0.

¹⁴ Section 373.41492(2), F.S.

¹⁵ Section 373.41492(6)(a), F.S.

¹⁶ Id.

¹⁷ Id.

¹⁸ Section 373.41492(3), F.S.

¹⁹ A discussion of what is typically required for mitigation can be found in the Environmental Resource Permit Applicant's Handbook, Volume I, Section 10.3, incorporated by reference in Chapter 62-330, F.A.C.

²⁰ Section 373.41492(7), F.S.

²¹ Section 373.41492(8), F.S.

²² See Sierra Club v. Flowers, 423 F. Supp.2d 1306 (S.D. Fla. 2006); Sierra Club v. Strock, 494 F. Supp.2d 1188 (S.D. Fla. 2007).

²³ Lake Belt Mitigation Committee, Annual Report for 2013 p. 8. available at http://www.sfwmd.gov/portal/pls/portal/portal_apps.repository_lib_pkg.repository_browse?p_keywords=lbannual&p_thumbnails=no (last visited January 22, 2015).

The Lake Belt statute also requires mining companies operating in the Lake Belt to pay a water treatment plant upgrade fee of 15 cents per ton of limestone or sand extracted from the Lake Belt.²⁴ In 2006, the Legislature created this fee to upgrade a water treatment plant that treats water coming from the Northwest Wellfield in Miami-Dade County.²⁵ Originally, the water treatment plant upgrade fee was deposited into a trust fund established by Miami-Dade County.

In 2012, the Legislature expanded the authorized uses of the proceeds of the water treatment plant upgrade fee to allow them to be used to pay for seepage mitigation projects performed by SFWMD, including groundwater or surface water management structures designed to improve wetland habitat.²⁶ The new law changed the recipient of the proceeds of the water treatment plant upgrade fee from Miami-Dade County to the SFWMD and specified that these funds would be deposited into the Lake Belt Mitigation Trust Fund until:

- A total of \$20 million, less administrative costs, is deposited in the Lake Belt Mitigation Trust Fund; or
- Quarterly 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.²⁷

According to the statute, as soon as either of these qualifications is triggered, Miami-Dade County would again be the recipient of the water treatment plant upgrade fee proceeds.

Local Government Land Use Planning in the Lake Belt

Current law also requires that rezonings or amendments to local government comprehensive plans concerning properties within one mile of the Lake Belt be compatible with limestone mining activities.²⁸ In addition, rezonings, variances, or amendments to local government comprehensive plans for any residential purpose cannot be approved for any property located in certain areas until there is no active mining within two miles of the property.²⁹

Effect of Proposed Changes

The bill includes the following revisions to the Lake Belt statutes:

- Amends s. 373.4149(4), F.S., to require amendments to local zoning and subdivision regulations concerning properties located within one mile of the Lake Belt to be compatible with limestone mining activities. Further, the bill prohibits amendments to local zoning and subdivision regulations that would result in an increase in residential density in certain parts of the Lake Belt until active mining operations cease within two miles of the property.
- Amends s. 373.41492(1), F.S., to require the per ton mitigation fee assessed on limestone sold from the Lake Belt to be used for water quality monitoring purposes.
- Amends s. 373.41492(2), F.S., to gradually reduce the mitigation fees collected for each ton of limerock and sand sold from the Lake Belt. The mitigation fee will be reduced from 45 cents per ton to 25 cents per ton beginning January 1, 2016, then to 15 cents per ton beginning January 1, 2017, and then to 5 cents per ton beginning January 1, 2018, and thereafter. The reason for the mitigation fee reduction is because there are sufficient funds in the Lake Belt Mitigation Trust Fund to cover the cost of projected mitigation requirements.³⁰ Over time, most of the land

²⁴ Section 373.41492(2), F.S.

²⁵ Section 2 Ch. 2006-13, Laws of Fla.

²⁶ Section 1 Ch. 2012-107, Laws of Fla.

²⁷ Section 373.41492(3)(b), F.S. Bin 2 is an average source water concentration of cryptosporidium equal to or more than 0.075 oocysts/L, but less than 1.0 oocysts/L.

²⁸ Section 373.41492(4), F.S.

²⁹ Id.

³⁰ Email from Amanda Marsh, Office of Legislative Affairs, Department of Environmental Protection, FW: HB - 359 Miami-Dade Lake Belt Bill (February 4, 2015), on file with Agricultural & Natural Resources Subcommittee staff; Lake Belt Mitigation Committee, Annual Report for 2012 p. 5.; available at

areas designated for mitigation within the Lake Belt was restored. The remaining projects within Miami-Dade County were all small and insufficient to meet the needs of the Lake Belt Plan.³¹ Thus, in 2012, the Committee approved a plan to allow mitigation on land in Hendry County that formally served as a citrus grove.³² The SFWMD owns this land.³³ The mitigation fee will be used to reimburse the SFWMD for the land and to pay for the mitigation activities.³⁴ This proposed mitigation is projected to exceed the amount of mitigation needed to complete limestone and sand mining in the Lake Belt.³⁵ There are currently sufficient projected funds to complete this project with the new mitigation fee structure.

- Amends s. 373.41492(2), F.S., to reduce the water treatment plant upgrade fee from 15 cents to 6 cents per ton of limerock and sand sold. The bill sets the fee to expire on July 1, 2018.
- Amends ss. 373.41492(3)(a) and (b), F.S., to remove the transfer of the water treatment upgrade fee to the SFWMD to pay for a seepage barrier project and returns the proceeds collected from the fee to Miami-Dade County. The SFWMD has completed two miles of a planned five-mile seepage barrier to block seepage from moving out of Everglades National Park.³⁶ The monitoring results from the initial construction of two miles of the barrier showed the project decreased the amount of seepage leaving Everglades National Park.³⁷ Modeling results showed that increasing the seepage barrier to five miles would result in increasing the area beneficially affected in Everglades National Park from approximately 12,000 acres to more than 30,000 acres.³⁸ There are currently previously approved funds in the Lake Belt Mitigation Fund to complete this project.³⁹
- Amends ss. 373.41492(3)(b) and (c), F.S., to direct 2 cents per ton of limerock and sand sold to pay for a study by the State Fire Marshall to review the established statewide ground vibration limits for construction materials mining activities and to review any legitimate claims paid for damages caused by such mining activities. This transfer will occur until December 1, 2016, or until the study is complete. This transfer may not exceed \$300,000. Any amount not used to fund the study will be transferred to Miami-Dade County to pay for mitigation activities.
- Amends s. 373.41492(6), F.S., to require the SFWMD to use the proceeds from the mitigation fee to conduct water quality monitoring to ensure the protection of water resources within the Lake Belt.
- Amends s. 373.41492(6)(a), F.S., to delete the requirement that the mitigation in the Lake Belt must be approved by the Committee. This provision is already adequately provided for in s. 373.41492(6)(b), F.S.

http://www.sfwmd.gov/portal/pls/portal/portal_apps.repository_lib_pkg.repository_browse?p_keywords=lbannual&p_thumbnails=no (last visited February 4, 2015).

³¹ Id.

³² Lake Belt Mitigation Committee, Annual Report for 2012 p. 5.; available at http://www.sfwmd.gov/portal/pls/portal/portal_apps.repository_lib_pkg.repository_browse?p_keywords=lbannual&p_thumbnails=no (last visited February 4, 2015).

³³ Lake Belt Committee, June 29, 2012 Meeting Summary p. 4; available at http://www.sfwmd.gov/portal/pls/portal/portal_apps.repository_lib_pkg.repository_browse?p_keywords=lakebeltmc2012&p_thumbnails=no (last visited January 26, 2014).

³⁴ Lake Belt Committee, November 20 2013 Meeting Summary p. 3; available at http://www.sfwmd.gov/portal/pls/portal/portal_apps.repository_lib_pkg.repository_browse?p_keywords=lakebeltmc2013&p_thumbnails=no (last visited January 26, 2014).

³⁵ Lake Belt Committee, December 4, 2012 Meeting Summary p. 4; available at http://www.sfwmd.gov/portal/pls/portal/portal_apps.repository_lib_pkg.repository_browse?p_keywords=lakebeltmc2012&p_thumbnails=no (last visited January 26, 2014); Lake Belt Mitigation Committee, Annual Report for 2013 p. 8.; available at http://www.sfwmd.gov/portal/pls/portal/portal_apps.repository_lib_pkg.repository_browse?p_keywords=lbannual&p_thumbnails=no (last visited January 22, 2015).

³⁶ Miami-Dade Limestone Products Association, L-31N Seepage Barrier Project Presentation (March 5, 2014) available at Florida Department of Environmental Protection.

³⁷ Id.

³⁸ Id.

³⁹ Id.

- Deletes s. 373.41492(8), F.S., which provides that the mitigation fee imposed by the Lake Belt statute must be suspended until revived by the Legislature if the United States Army Corps of Engineers (USACE) does not issue a permit for mining in the Lake Belt by September 30, 2000.
- Creates s. 373.41492(9)(a), F.S., making a finding that there is no connection between the Lake Belt quarry lakes and any potential need to upgrade the water treatment plant that receives water from the Northwest Wellfield for pathogen removal and none is expected in the future.
- Creates s. 373.41492(9)(b), F.S., to require Miami-Dade County to provide the House and Senate:
 - A detailed accounting of the water treatment plant upgrade fees collected and all expenditures of those fees by January 15, 2016; and
 - A detailed report on all pathogen data collection and analyses related to the Northwest Wellfield and the planning and engineering studies undertaken to upgrade any water treatment plant to provide treatment for pathogens in water from the Northwest Wellfield by January 15, 2017.
- Creates s. 552.30(3), F.S., to direct the State Fire Marshall to conduct a study to review the established statewide ground vibration limits for construction materials mining activities and to review any legitimate claims paid for damages caused by such mining activities. The bill requires the State Fire Marshall to include in the study a review of measured vibration amplitudes and frequencies, structure responses, theoretical analyses of material strength and strains, and assessments of home damages. The State Fire Marshall must submit this report to the House and Senate by December 1, 2016.
- The bill reenacts subsections 373.41495(1), (2), and (3), F.S., relating to the Lake Belt Mitigation Trust Fund to incorporate the amendments to s. 373.41492, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may have a negative fiscal impact on the South Florida Water Management District by gradually reducing the mitigation fee from 45 cents to 5 cents. However, there is projected to be sufficient funds in the Lake Belt Mitigation Trust Fund to cover the cost of projected future mitigation requirements.

The bill appears to have a negative fiscal impact on Miami-Dade County by reducing the water treatment plant upgrade fee from 15 cents to 6 cents for each ton of limerock and sand extracted from the Lake Belt Area. Further, this fee will expire on July 1, 2018.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill appears to have a positive economic impact on companies that mine limestone and sand in Lake Belt. The mitigation fee will gradually be reduced from 45 cents per ton to 5 cents per ton over a three-year period. Further, the water treatment plant upgrade fee of 15 cents per ton is reduced to 6 cents per ton and will expire on July 1, 2018.

D. FISCAL COMMENTS:

None.