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CS/HB 359, Engrossed 1

2015 Legislature

1
2 An act relating to the Miami-Dade County Lake Belt
3 Area; amending s. 373.4149, F.S.; requiring amendments
4 to local zoning and subdivision regulations concerning
5 properties located within a certain area to be
6 compatible with limestone mining activities;
7 prohibiting amendments to local zoning and subdivision
8 regulations which would result in an increase in
9 residential density for certain property until there
10 is no mining activity within a certain distance;
11 amending s. 373.41492, F.S.; conforming a cross-
12 reference; including monitoring as an environmental
13 purpose for which the per-ton mitigation fee may be
14 applied; decreasing the amount of the per-ton
15 mitigation fee for limerock and sand sold after
16 certain dates; decreasing the amount of the per-ton
17 water treatment plant upgrade fee; requiring that a
18 portion of the proceeds from the per-ton water
19 treatment plant upgrade fee be used to fund a study
20 reviewing certain mining activities and claims
21 relating to such activities; adding water quality
22 monitoring to the required uses for mitigation fee
23 proceeds; providing for expiration of the water
24 treatment plant upgrade fee; removing a requirement
25 that uses of the mitigation fee proceeds be approved
26 by the Miami-Dade County Lake Belt Mitigation



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27 | Committee; deleting an obsolete provision; providing
 28 | legislative findings with respect to certain water
 29 | treatment plant upgrades; requiring Miami-Dade County
 30 | to submit certain reports to the Legislature; amending
 31 | s. 552.30, F.S.; requiring the State Fire Marshal to
 32 | conduct a study reviewing the appropriateness of the
 33 | established statewide ground vibration limits for
 34 | construction materials mining activities and any
 35 | legitimate claims paid for damages caused by such
 36 | mining activities; providing funding for the study;
 37 | requiring a report to be submitted to the Governor and
 38 | the Legislature by a certain date; reenacting s.
 39 | 373.41495(1), (2), and (3), F.S., relating to the Lake
 40 | Belt Mitigation Trust Fund to incorporate the
 41 | amendment made to s. 373.41492, F.S., in reference
 42 | thereto; providing an effective date.

43 |
 44 | Be It Enacted by the Legislature of the State of Florida:

45 |
 46 | Section 1. Subsection (4) of section 373.4149, Florida
 47 | Statutes, is amended to read:

48 | 373.4149 Miami-Dade County Lake Belt Plan.—

49 | (4) The identification of the Miami-Dade County Lake Belt
 50 | Area shall not preempt local land use jurisdiction, planning, or
 51 | regulatory authority in regard to the use of land by private
 52 | land owners. When amending local comprehensive plans, or



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53 | implementing zoning regulations, development regulations, or
54 | other local regulations, Miami-Dade County shall strongly
55 | consider limestone mining activities and ancillary operations,
56 | such as lake excavation, including use of explosives, rock
57 | processing, cement, concrete and asphalt products manufacturing,
58 | and ancillary activities, within the rock mining supported and
59 | allowable areas of the Miami-Dade County Lake Plan adopted by
60 | subsection (1); provided, however, that limerock mining
61 | activities are consistent with wellfield protection. Rezoning~~s~~,
62 | ~~or~~ amendments to local zoning and subdivision regulations, and
63 | amendments to local comprehensive plans concerning properties
64 | that are located within 1 mile of the Miami-Dade Lake Belt Area
65 | shall be compatible with limestone mining activities. No
66 | rezonings, variances, amendments to local zoning and subdivision
67 | regulations which would result in an increase in residential
68 | density, or amendments to local comprehensive plans for any
69 | residential purpose may be approved for any property located in
70 | sections 35 and 36 and the east one-half of sections 24 and 25,
71 | Township 53 South, Range 39 East until such time as there is no
72 | active mining within 2 miles of the property. This section does
73 | not preclude residential development that complies with current
74 | regulations.

75 | Section 2. Sections (1), (2), (3), (6), and (8) of section
76 | 373.41492, Florida Statutes, are amended, subsection (9) is
77 | renumbered as subsection (8), and a new subsection (9) is added
78 | to that section, to read:



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79 373.41492 Miami-Dade County Lake Belt Mitigation Plan;
80 mitigation for mining activities within the Miami-Dade County
81 Lake Belt.—

82 (1) The Legislature finds that the impact of mining within
83 the rock mining supported and allowable areas of the Miami-Dade
84 County Lake Belt Plan adopted by s. 373.4149(1) can best be
85 offset by the implementation of a comprehensive mitigation plan.
86 The Lake Belt Mitigation Plan consists of those provisions
87 contained in subsections (2)-(8) ~~(2)-(9)~~. The per-ton mitigation
88 fee assessed on limestone sold from the Miami-Dade County Lake
89 Belt Area and sections 10, 11, 13, 14, Township 52 South, Range
90 39 East, and sections 24, 25, 35, and 36, Township 53 South,
91 Range 39 East, shall be used for acquiring environmentally
92 sensitive lands and for restoration, monitoring, maintenance,
93 and other environmental purposes. It is the intent of the
94 Legislature that the per-ton mitigation fee not be a revenue
95 source for purposes other than enumerated in this section.
96 Further, the Legislature finds that the public benefit of a
97 sustainable supply of limestone construction materials for
98 public and private projects requires a coordinated approach to
99 permitting activities on wetlands within Miami-Dade County in
100 order to provide the certainty necessary to encourage
101 substantial and continued investment in the limestone processing
102 plant and equipment required to efficiently extract the
103 limestone resource. It is the intent of the Legislature that the
104 Lake Belt Mitigation Plan satisfy all local, state, and federal



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105 requirements for mining activity within the rock mining
106 supported and allowable areas.

107 (2) To provide for the mitigation of wetland resources
108 lost to mining activities within the Miami-Dade County Lake Belt
109 Plan, effective October 1, 1999, a mitigation fee is imposed on
110 each ton of limerock and sand extracted by any person who
111 engages in the business of extracting limerock or sand from
112 within the Miami-Dade County Lake Belt Area and the east one-
113 half of sections 24 and 25 and all of sections 35 and 36,
114 Township 53 South, Range 39 East. The mitigation fee is imposed
115 for each ton of limerock and sand sold from within the
116 properties where the fee applies in raw, processed, or
117 manufactured form, including, but not limited to, sized
118 aggregate, asphalt, cement, concrete, and other limerock and
119 concrete products. The mitigation fee imposed by this subsection
120 for each ton of limerock and sand sold shall be 25 ~~45~~ cents per
121 ton, beginning on January 1, 2016; 15 cents per ton beginning on
122 January 1, 2017; and 5 cents per ton beginning on January 1,
123 2018, and thereafter. To pay for seepage mitigation projects,
124 including groundwater and surface water management structures
125 designed to improve wetland habitat and approved by the Lake
126 Belt Mitigation Committee, and to upgrade a water treatment
127 plant that treats water coming from the Northwest Wellfield in
128 Miami-Dade County, a water treatment plant upgrade fee is
129 imposed within the same Lake Belt Area subject to the mitigation
130 fee and upon the same kind of mined limerock and sand subject to



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131 the mitigation fee. The water treatment plant upgrade fee
132 imposed by this section ~~subsection~~ for each ton of limerock and
133 sand sold shall be 6 ~~15~~ cents per ton, and the collection of
134 this fee shall cease once the total amount of proceeds collected
135 for this fee reaches the amount of the actual moneys necessary
136 to design and construct the water treatment plant upgrade, as
137 determined in an open, public solicitation process. The water
138 treatment plant upgrade fee imposed by this section expires July
139 1, 2018. Any limerock or sand that is used within the mine from
140 which the limerock or sand is extracted is exempt from the fees.
141 The amount of the mitigation fee and the water treatment plant
142 upgrade fee imposed under this section must be stated separately
143 on the invoice provided to the purchaser of the limerock or sand
144 product from the limerock or sand miner, or its subsidiary or
145 affiliate, for which the fee or fees apply. The limerock or sand
146 miner, or its subsidiary or affiliate, who sells the limerock or
147 sand product shall collect the mitigation fee and the water
148 treatment plant upgrade fee and forward the proceeds of the fees
149 to the Department of Revenue on or before the 20th day of the
150 month following the calendar month in which the sale occurs. The
151 proceeds of a fee imposed by this section include all funds
152 collected and received by the Department of Revenue relating to
153 the fee, including interest and penalties on a delinquent fee.
154 The amount deducted for administrative costs may not exceed 3
155 percent of the total revenues collected under this section and
156 may equal only those administrative costs reasonably



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157 | attributable to the fee.

158 | (3) The mitigation fee and the water treatment plant
 159 | upgrade fee imposed by this section must be reported to the
 160 | Department of Revenue. Payment of the mitigation and the water
 161 | treatment plant upgrade fees must be accompanied by a form
 162 | prescribed by the Department of Revenue.

163 | (a) The proceeds of the mitigation fee, less
 164 | administrative costs, must be transferred by the Department of
 165 | Revenue to the South Florida Water Management District and
 166 | deposited into the Lake Belt Mitigation Trust Fund.

167 | ~~(b) Beginning July 1, 2012, the proceeds of the water~~
 168 | ~~treatment plant upgrade fee, less administrative costs, must be~~
 169 | ~~transferred by the Department of Revenue to the South Florida~~
 170 | ~~Water Management District and deposited into the Lake Belt~~
 171 | ~~Mitigation Trust Fund until:~~

172 | ~~1. A total of \$20 million from the proceeds of the water~~
 173 | ~~treatment plant upgrade fee, less administrative costs, is~~
 174 | ~~deposited into the Lake Belt Mitigation Trust Fund; or~~

175 | ~~2. The quarterly pathogen sampling conducted as a~~
 176 | ~~condition of the permits issued by the department for rock~~
 177 | ~~mining activities in the Miami-Dade County Lake Belt Area~~
 178 | ~~demonstrates that the water in any quarry lake in the vicinity~~
 179 | ~~of the Northwest Wellfield would be classified as being in Bin 2~~
 180 | ~~or higher as defined in the Environmental Protection Agency's~~
 181 | ~~Long Term 2 Enhanced Surface Water Treatment Rule.~~



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182 ~~(b)(c)~~ ~~Upon the earliest occurrence of the criterion under~~
183 ~~subparagraph (b)1. or subparagraph (b)2.,~~ The proceeds of the
184 water treatment plant upgrade fee, less administrative costs and
185 less 2 cents per ton transferred pursuant to paragraph (c), must
186 be transferred by the Department of Revenue to a trust fund
187 established by Miami-Dade County, for the sole purpose
188 authorized by paragraph (6) (a).

189 (c) Until December 1, 2016, or until funding for the study
190 is complete, whichever comes earlier, 2 cents per ton, not to
191 exceed \$300,000, shall be transferred by the Department of
192 Revenue to the State Fire Marshal to be used to fund the study
193 required under s. 552.30 to review the established statewide
194 ground vibration limits for construction materials mining
195 activities and to review any legitimate claims paid for damages
196 caused by such mining activities. Any amount not used to fund
197 the study shall be transferred to the trust fund established by
198 Miami-Dade County, for the sole purpose authorized by paragraph
199 (6) (a).

200 (6) (a) The proceeds of the mitigation fee must be used to
201 conduct mitigation activities that are appropriate to offset the
202 loss of the value and functions of wetlands as a result of
203 mining activities and to conduct water quality monitoring to
204 ensure the protection of water resources within the Lake Belt
205 Area and be approved by the Miami-Dade County Lake Belt
206 Mitigation Committee. Such mitigation may include the purchase,
207 enhancement, restoration, and management of wetlands and uplands



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208 | in the Everglades watershed, the purchase of mitigation credit
209 | from a permitted mitigation bank, and any structural
210 | modifications to the existing drainage system to enhance the
211 | hydrology of the Miami-Dade County Lake Belt Area or the
212 | Everglades watershed. Funds may also be used to reimburse other
213 | funding sources, including the Save Our Rivers Land Acquisition
214 | Program, the Internal Improvement Trust Fund, the South Florida
215 | Water Management District, and Miami-Dade County, for the
216 | purchase of lands that were acquired in areas appropriate for
217 | mitigation due to rock mining and to reimburse governmental
218 | agencies that exchanged land under s. 373.4149 for mitigation
219 | due to rock mining. The proceeds of the water treatment plant
220 | upgrade fee deposited into the Lake Belt Mitigation Trust Fund
221 | shall be used solely to pay for seepage mitigation projects,
222 | including groundwater or surface water management structures
223 | designed to improve wetland habitat and approved by the Lake
224 | Belt Mitigation Committee. The proceeds of the water treatment
225 | plant upgrade fee which are transmitted to a trust fund
226 | established by Miami-Dade County shall be used to upgrade a
227 | water treatment plant that treats water coming from the
228 | Northwest Wellfield in Miami-Dade County. As used in this
229 | section, the terms "upgrade a water treatment plant" or
230 | "treatment plant upgrade" mean those works necessary to treat or
231 | filter a surface water source or supply or both.

232 | (b) Expenditures of the mitigation fee must be approved by
233 | an interagency committee consisting of representatives from each



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234 of the following: the Miami-Dade County Department of
235 Environmental Resource Management, the Department of
236 Environmental Protection, the South Florida Water Management
237 District, and the Fish and Wildlife Conservation Commission. In
238 addition, the limerock mining industry shall select a
239 representative to serve as a nonvoting member of the interagency
240 committee. At the discretion of the committee, additional
241 members may be added to represent federal regulatory,
242 environmental, and fish and wildlife agencies.

243 ~~(8) If a general permit by the United States Army Corps of~~
244 ~~Engineers, or an appropriate long-term permit for mining,~~
245 ~~consistent with the Miami-Dade County Lake Belt Plan, this~~
246 ~~section, and ss. 373.4149, 373.4415, and 378.4115 is not issued~~
247 ~~on or before September 30, 2000, the fee imposed by this section~~
248 ~~is suspended until revived by the Legislature.~~

249 (8) (a) The Legislature finds that more than 1,000 water
250 samples from quarry lakes and groundwater sources near the
251 Northwest Wellfield have been analyzed without a single
252 detection of pathogens. The Legislature further finds that the
253 best available science indicates that there is no connection
254 between the quarry lakes in the Miami-Dade County Lake Belt and
255 any potential need to upgrade the water treatment plant that
256 receives water from the Northwest Wellfield for pathogen removal
257 and none is expected in the future.

258 (b) To assist the Legislature in determining whether a
259 portion of the limestone mining fee should be dedicated to a



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260 treatment plant upgrade through July 1, 2018, pursuant to
261 subsection (2), Miami-Dade County shall:

262 1. By January 15, 2016, submit to the President of the
263 Senate and the Speaker of the House of Representatives a
264 detailed accounting of the Lake Belt fees collected through June
265 30, 2015, and all expenditures of those fees; and

266 2. By January 15, 2017, submit to the President of the
267 Senate and the Speaker of the House of Representatives a
268 detailed report on all pathogen data collection and analyses
269 related to the Northwest Wellfield and the planning and
270 engineering studies undertaken to upgrade any water treatment
271 plant to provide treatment for pathogens in water from the
272 Northwest Wellfield.

273 Section 3. Subsection (3) is added to section 552.30,
274 Florida Statutes, to read:

275 (3) The State Fire Marshall is directed to conduct or
276 contract for a study to review whether the established statewide
277 ground vibration limits for construction materials mining
278 activities are still appropriate and to review any legitimate
279 claims paid for damages caused by such mining activities. The
280 study must include a review of measured vibration amplitudes and
281 frequencies, structure responses, theoretical analyses of
282 material strength and strains, and assessments of home damages.

283 (a) The study shall be funded using the specified portion
284 of revenues received from the water treatment plant upgrade fee
285 pursuant to s. 373.41492.



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286 (b) The State Fire Marshal shall submit a report to the
287 Governor, the President of the Senate, and the Speaker of the
288 House of Representatives by December 1, 2016, which contains the
289 findings of the study and any recommendations.

290 Section 4. For the purpose of incorporating the amendment
291 made by this act to section 373.41492, Florida Statutes, in a
292 reference thereto, subsections (1), (2), and (3) of section
293 373.41495, Florida Statutes, are reenacted to read:

294 373.41495 Lake Belt Mitigation Trust Fund; bonds.—

295 (1) The Lake Belt Mitigation Trust Fund is hereby created,
296 to be administered by the South Florida Water Management
297 District. Funds shall be credited to the trust fund as provided
298 in s. 373.41492, to be used for the purposes set forth therein.

299 (2) The South Florida Water Management District may issue
300 revenue bonds pursuant to s. 373.584, payable from revenues from
301 the Lake Belt Mitigation fee imposed under s. 373.41492.

302 (3) Net proceeds from the Lake Belt Mitigation fee and any
303 revenue bonds issued under subsection (2) shall be deposited
304 into the trust fund and, together with any interest earned on
305 such moneys, shall be applied to Lake Belt mitigation projects
306 as provided in s. 373.41492.

307 Section 5. This act shall take effect July 1, 2015.