

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1039 CS
SPONSOR(S): Garcia and others
TIED BILLS:

Miami-Dade County Lake Belt Area
IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Water & Natural Resources Committee</u>	<u>8 Y, 0 N</u>	<u>Winker</u>	<u>Lotspeich</u>
2) <u>Finance & Tax Committee</u>	<u>8 Y, 0 N, w/CS</u>	<u>Monroe</u>	<u>Diez-Arguelles</u>
3) <u>Agriculture & Environment Appropriations Committee</u>	<u>10 Y, 0 N</u>	<u>Dixon</u>	<u>Dixon</u>
4) <u>State Resources Council</u>	<u>8 Y, 0 N, w/CS</u>	<u>Winker</u>	<u>Hamby</u>
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill makes the following changes to the Miami-Dade County Lake Belt Area (Lake Belt Area):

- Changes the boundary of the Lake Belt Area by including certain sections of the area which were previously excluded.
- Increases the mitigation fee that is imposed for each ton of limerock and sand that is sold from the area from its current seven cents per ton to 12 cents per ton beginning January 1, 2007, 18 cents per ton beginning January 1, 2008, and 24 cents per ton beginning January 1, 2009.
- Creates an additional water treatment plant upgrade fee of 15 cents per ton beginning January 1, 2007 for the exclusive and time-limited purpose of upgrading a water treatment plant that treats water from the Northwest Wellfield in Miami-Dade County.
- Requires the water treatment plant upgrade fee, less administrative costs, to be deposited in a trust fund established by Miami-Dade County.
- Revises the date from January 1, 2001, to January 1, 2010, on which the mitigation fee will be increased by 2.1 percentage points (plus a cost growth index) pursuant to current law.
- Adds funding sources (South Florida Water Management District and Miami-Dade County) that may be reimbursed with proceeds of the mitigation fee.

The bill will have a positive fiscal impact on the revenue deposited into the Lake Belt Mitigation Trust Fund from approximately \$3 million in 2005 to \$10 million in 2009, due to three annual increases in the mitigation fee. The additional water treatment plant upgrade fee will cease when the total amount of proceeds, less administrative costs, reaches \$112.5 million or the actual costs of designing and constructing the water treatment plant upgrade, whichever is less.

The bill will take effect January 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes – The bill increases the mitigation fee and creates a new fee for the mining industry in the Lake Belt Area.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The Miami-Dade Lake Belt Area comprises 77.5 square miles of environmentally sensitive land located in the western edge of the Miami-Dade County urban area. This area consists of wetlands and lakes which act potentially as a buffer between the Everglades and the encroachment of urban development. The area is also used for mining limestone and sand, with rock mined from the area supplying about one-half of all the limestone used in Florida. About 50% of the land within the Lake Area is owned by the mining industry, 25% is owned by government agencies, and 25% is owned by non-mining private owners.

The Northwest Wellfield, which is located at the eastern edge of the area, is the largest drinking water wellfield in the state and supplies about 40 percent of the potable drinking water for Miami-Dade County. About 330 million gallons of water per day are withdrawn from the Biscayne Aquifer which is the primary source of water for Miami-Dade County.

Water is pumped to Miami-Dade County Water and Sewer Department water treatment facilities. Two water treatment facilities, the Preston Water Treatment Plant and the Hialeah Water Treatment Plant, are located on the Northwest Wellfield which is part of the Lake Belt Area. At these treatment plants, water treatment specialists conduct or supervise more than 100,000 analyses of water samples each year. Based on such tests, staff of the Miami-Dade County Water and Treatment Department have recommended that the Preston and Hialeah water treatment plants be upgraded with technology designed to identify and eradicate a specific parasite (cryptosporidium) found in the water at levels which have raised the concerns of department staff. According to department staff, the cost of the upgrades could range from \$100 to more than \$250 million.

Section 373.4139, F.S., established the Lake Belt Committee for the purpose of developing a long-term plan for the Lake Belt Area. In February 1997, and February 2001, this committee submitted reports to the Legislature with findings, recommendations, and a plan for the Lake Belt Area.

Based on these findings and recommendations, s. 373.4149, F.S., was enacted which adopted the plan intended to enhance the water supply for Miami-Dade County and the Everglades, including the development of wellfield protection measures, while maximizing the efficient recovery of limestone, promoting the social and economic welfare of the community, and protecting the environment.

A major recommendation from the Lake Belt Committee was that in order to offset the impacts of rock mining in the Lake Belt Area, this activity needed to be offset by the implementation of a mitigation plan.

Section 373.41492, F.S., enacted the mitigation plan by requiring the assessment of a per-ton mitigation fee assessed on limestone and sand sold from the Lake Belt Area. Fees collected from such sales are to be used for acquiring environmentally sensitive lands and for restoration, maintenance, and other environmental purposes.

Section 373.41492(2), F.S., provides that, effective October 1, 1999, 5 cents for each ton of limerock and sand sold from within the Lake Belt Area will be assessed. The limerock or sand miner who sells

the limerock or sand is required to collect the mitigation fee and send the fee to the Department of Revenue (DOR). Proceeds of the fee, less administrative costs for the DOR, are then transferred to the South Florida Water Management District and deposited into the Lake Belt Mitigation Trust Fund created under s. 373.41495, F.S.

Section 373.41492(5), F.S., provides that effective January 1, 2001, and each January 1 thereafter, the per-ton mitigation fee must be increased by 2.1 percentage points, plus a cost growth index. Based upon this rate schedule, the mitigation fee for 2005 was 7 cents per ton.

All proceeds from the mitigation fee are to be used for mitigation activities that offset the loss of the value and functions of wetlands as a result of mining activities in the Lake Belt Area. Mitigation activities include the following:

- The purchase, enhancement, restoration, and management of wetlands and uplands.
- The purchase of mitigation credit from a permitted mitigation bank pursuant to s. 373.4136, F.S.
- Structural modifications to the existing drainage system to enhance the hydrology of the Lake Belt Area.
- Reimbursement to other funding sources, including the Save Our Rivers Land Acquisition Program and the Internal Improvement Trust Fund, for the purchase of lands acquired in areas appropriate for mitigation due to rock mining and to reimburse governmental agencies that exchanged land for mitigation due to rock mining.

Section 373.41492(6)(b), F.S., creates a Lake Belt Area mitigation fee interagency committee consisting of representatives from the Miami-Dade County Department of Environmental Resource Management, the Department of Environmental Protection, the South Florida Water Management District, and the Fish and Wildlife Conservation Commission. A representative of the limerock mining industry is a non-voting member of the committee. The interagency committee is required to submit a report to the Legislature with recommendations for any needed adjustments to the mitigation fee (s. 373.41492(8), F.S.).

Effect of Proposed Changes

The bill makes the following changes to the Miami-Dade County Lake Belt Area (Lake Belt Area):

- Changes the boundary of the Lake Belt Area by including certain sections of the area which were previously excluded.
- Increases the mitigation fee that is imposed for each ton of limerock and sand that is sold from the area from its current seven cents per ton to 12 cents per ton beginning January 1, 2007, 18 cents per ton beginning January 1, 2008, and 24 cents per ton beginning January 1, 2009.
- Creates an additional water treatment plant upgrade fee of 15 cents per ton beginning January 1, 2007 for the exclusive and time-limited purpose of upgrading a water treatment plant that treats water from the Northwest Wellfield in Miami-Dade County.
- Requires the water treatment plant upgrade fee, less administrative costs, to be deposited in a trust fund established by Miami-Dade County.
- Revises the date from January 1, 2001 to January 1, 2010, on which the mitigation fee will be increased by 2.1 percentage points (plus a cost growth index) pursuant to current law.
- Adds funding sources (South Florida Water Management District and Miami-Dade County) that may be reimbursed with proceeds from the mitigation fee.

The bill will take effect January 1, 2007.

C. SECTION DIRECTORY:

Section 1: Amends s. 373.4149, F.S., changes the boundaries of the Lake Belt Area.

Section 2: Amends s. 373.41492, F.S., increases the mitigation fee for each ton of limerock and sand sold in the Lake Belt Area; creates a new water treatment plant upgrade fee and a trust fund established by Miami-Dade County.

Section 3: The bill takes effect on January 1, 2007.

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:

According to the South Florida Water Management District, approximately \$3 million in fee revenues from about 43 million tons of limerock and sand mined were deposited into the Lake Belt Mitigation Trust Fund in 2005.

Under the new mitigation fee rates provided for in the bill, an estimated \$5.2 million in fee revenues would be deposited in the trust fund at the 12 cents level (effective January 1, 2007); \$7.8 million effective January 1, 2008, and \$10.3 million effective January 1, 2009. Effective January 1, 2010 and each January 1 thereafter, the mitigation fee will increase by 2.1%, plus a cost growth index which will further increase the fee revenues deposited in the trust fund.

These increases in the mitigation fees should increase revenues to local governments for mitigation activities expenses.

The newly created water treatment plant upgrade fee will cease when the total proceeds, less administrative costs, reaches \$112.5 million or the amount of the actual costs necessary to design and construct the treatment plant upgrade, whichever is less.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The increased mitigation fees will have a negative fiscal impact upon the mining industry in the Lake Belt Area.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that counties and municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill creates a new water treatment plant upgrade fee intended for the upgrade of a single water treatment plant treating water coming from the Northwest Wellfield. However, staff from the Miami-Dade County Water and Sewer Department report that there are two water treatment plants treating such water. Both of these water treatment plants are in need of technology upgrade.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 31, 2006, the Committee on Finance and Tax adopted two amendments to this bill. The first amendment changed the dates of adjustments to the mitigation rate from October 1 to January 1. The second amendment changed the effective date from October 1, 2006 to January 1, 2007. These changes were suggested by the Department of Revenue due to technical difficulties with the October 1 date.¹

On April 14, 2006, the State Resources Council adopted an amendment that created a water treatment plant upgrade fee intended to raise up to \$112.5 million at which time the fee shall no longer be collected.

This analysis has been updated to reflect this change.

¹ In their analysis of this bill, the Department of Revenue wrote: "The . . . requirement to calculate the adjustments to the mitigation fee based upon specific indexes from the United States Department of Labor for the 12 month period ending September 30 of each year and an adjusted mitigation fee effective October 1 of the same year can not be done. Indexes such as the Consumer Price Index are published as much as three or more months following the reported month. Index information for September of a given year is not available until sometime in December of that year, at the earliest." The Department went on to recommend that the rate changes be made effective on January 1, three months later than the bill had the rate changes occurring. For similar reasons, the Department also asked for the bills effective date to be moved to January 1, 2007