

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Affairs Community Committee

BILL: CS/SB 774

INTRODUCER: Transportation Committee and Senator Baker

SUBJECT: Construction Aggregate Materials

DATE: April 4, 2008

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Eichin</u>	<u>Meyer</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Herrin</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable</u>
3.	_____	_____	<u>EP</u>	_____
4.	_____	_____	<u>TA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The committee substitute (CS) implements consensus and non-consensus recommendations of the Strategic Aggregates Review Task Force (task force). Consensus recommendations are implemented by adding definitions and revising legislative findings relative to construction aggregate materials mining. The CS implements non-consensus recommendations of the task force by requiring a super-majority of a local government commission to deny approval of construction aggregate mining activities and allowing applicants to seek approval of the Governor and Cabinet in certain situations.

This CS substantially amends s. 337.0261, F.S.

**II. Present Situation:**

*Construction Aggregate Materials*

Construction aggregates provide the basic materials needed for concrete, asphalt, and road base. In Florida, approximately 143 million tons of crushed stone, limestone, dolomite, limerock, shell rock, and high-quality sand were used as construction aggregate in 2007. Most, about 120 million tons, was mined in Florida; however, about 13 million tons were imported and 10 million tons of recycled aggregates were used. Housing and commercial construction account for approximately 86 million tons and roads and other infrastructure used about 42 million tons. The Florida Department of Transportation (FDOT) is the largest single user of construction aggregates, accounting for about 10 percent of the supply.

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. The most economically advantageous deposits of aggregate materials is located in 79 square miles in Northwest Miami-Dade County known as the Lake Belt. The Lake Belt is distinct in that it has been identified as the highest concentration of the highest quality aggregate indigenous to Florida. Approximately 55 million tons of aggregate were expected to be mined in the Lake Belt last year; however, in July 2007, several of the permits used by the mining companies in the Lake Belt were vacated by a federal judge, leading to the closure of some mines. According to FDOT, long-term shutdown of all the Lake Belt mines could result in the loss of 288,000 jobs statewide, and a \$28.6 billion decrease in the state's economic output. FDOT further estimates the long-term availability of indigenous aggregate, even without closure of the Lake Belt mines, is insufficient to maintain current consumption rates beyond a 5 to 10 year period.

#### *Strategic Aggregates Review Task Force (SARTF)*

Anticipating the need for additional information, the Legislature created the task force in 2007 with the passage of House Bill 985. Nineteen task force members were designated by legislation or appointed by the Governor, President of the Senate, and Speaker of the House of Representatives and included representatives from government, industry, and environmental groups. The task force conducted a series of meetings to identify areas of improvement in policy and public investment relating to the supply of construction aggregate materials available for use in Florida and, as directed, evaluated the availability and disposition of construction aggregate materials and related mining and land use practices. The task force recommendations focused on the following issues:

- General policy changes in the aggregates arena.
- Availability and locations of deposits of construction aggregate materials.
- Land use issues.
- Public and private investments in infrastructure such as access and availability to ports, railroads and roadway transportation.

The task force also identified the following aggregate resource counties:

- *Aggregate Counties:* Alachua, Broward, Charlotte, Citrus, Collier, Dixie, Hamilton, Hernando, Jackson, Lake, Lee, Levy, Liberty, Marion, Miami- Dade, Okeechobee, Palm Beach, Pasco, Sumter, Suwannee, Taylor, Washington
- *Fine Aggregate Sand Counties:* Bay, Calhoun, Clay, Gadsden, Glades, Hendry, Lake, Marion, Polk, Putnam, Walton, Washington
- *Shell Rock and Coquina Counties:* Charlotte, Collier, Indian River, Lee, Okeechobee, Palm Beach, Sarasota, St Lucie.

#### *Location of Aggregate Mines*

In Florida, aggregate materials are obtained through "surface mining" where the overburden soil is removed from the layer above the limestone rock deposit, exposing the resource. The economic viability of a mine is largely determined by the thickness of the overburden that must be removed to reach the mineable limestone. The thicker the overburden is, the more it costs to remove. In south Florida, the limestone bedrock is covered with a thin layer of overburden characterized by a few feet of organic muck, clay, and sand. In central and north Florida the

overburden is thicker and in some areas, the limestone suitable for aggregates are too far below the surface to be removed by strip mining methods.

Sand mining is undertaken across the state in many small pits and excavations. High-quality sand is mined for the most part in Putnam, Lake, Glades and Polk Counties. The quality is related to the abundance of coarse sand grains that can be blended and used as the fine aggregates component of the coarse to fine gradation required for many engineering uses.

Another factor affecting the location of aggregate mines is the cost associated with transportation of the mined material. Being a high-volume, high-weight commodity, the cost of aggregate materials is most influenced by the haul distance from the mine to the construction jobsite. Trucking is the principal mode used to transport aggregate materials in the state. Trucking costs are dependent upon diesel fuel costs and whether the trucks must return empty or have back haul loads. Rail transportation plays a key role in the movement of aggregate materials within and to the state. Approximately 4,000, 100-ton hopper cars are used to transfer materials from mines to storage depots around the state. Florida also imports between four and five million tons of construction aggregate materials into the state annually, mostly through the facilities at the Port of Tampa, Port Manatee, Port Canaveral, and the Port of Jacksonville. Smaller quantities of primarily high-end construction aggregate materials are handled on an intermittent basis by ship and barge through other ports.

#### *Mine planning and permitting*

A number of issues are likely to be addressed when a mining company applies for governmental permits for new mines or mine expansions. Consideration of environmental impacts is necessary since mines operate in and around aquifers, over groundwater recharge areas, and ultimately change the topography of the land. Mines require permits or other approvals addressing stormwater management, industrial wastewater management, impacts to wetlands and other surface waters, impacts to listed species, air pollution, storage and handling of petroleum products, and the reclamation of disturbed land. Water use permits are needed from the state water management districts and federal wetlands permits are required from the U.S. Army Corps of Engineers. The Florida Department of Environmental Protection (DEP), Bureau of Mine Reclamation, is the lead agency addressing water resources pursuant to the Environmental Resource Permit (ERP) program. DEP coordinates wetland reviews with the Florida Fish and Wildlife Conservation Commission concerning Florida listed species and their habitats. DEP also coordinates wetland reviews with the Division of Historic Resources of the Department of State, concerning significant historic and archeological resources. The ERP review will also consider the requirements of the separate mine reclamation program.

Land use regulations must be addressed as well since mining operations often include industrial activities generating sights and sounds considered incompatible with residential neighborhoods or commercial areas. For example, a mine may use blasting to break and loosen the rock, use large draglines, excavators, dredges, as well as other machinery for sorting and grading the material. As with environmental permitting, a number of governmental entities are involved in land use approvals. The State Fire Marshal's Office licenses all blasters and users of explosives in the state and sets standards for blasting ground vibration and noise. Each local government has a comprehensive plan establishing land use conditions for local development. The Florida Department of Community Affairs (DCA) is the state land planning agency that reviews changes

to a local government's comprehensive plan and whether those changes are internally consistent with other parts of the plan and part II of ch. 163, F.S. DCA also coordinates the activities of the regional planning councils for reviews of developments of regional impact (DRI). For construction aggregate mines, the threshold for DRI review is annually mining more than 100 acres per year or water consumption exceeding 3,000,000 gallons per day. Local land use ordinances control the siting of a mine through the zoning and land use process and the day-to-day activities of the mine through ordinances regulating factors such as noise, hours of operation, road impacts, and traffic safety. Often the most contentious issues at the local level are brought into the local governmental process by concerned neighbors regarding existing or proposed mines. Issues commonly arising in conflicts between mining and non-mining interests are described in a 2007 report prepared for FDOT entitled "Strategic Aggregates Study: Sources, Constraints, and Economic Value of Limestone and Sand in Florida", specifically:

#### Roadways

Mining companies use trucks to haul limestone rock or other earth-based resources from mines. Larger operations may require from 900 to 1,000 trucks per day. Community leaders and residential neighbors commonly voice concerns about damage to roads, culverts, and bridges; added cost of maintenance, and safety hazards caused by increased numbers of industrial trucks on roads regularly used by family cars, school buses and emergency vehicles.

#### Quality of Life

Noise and "dirt" become issues. Mining equipment makes noise. Sorters and crushers raise the decibel levels and may generate a fine dust in processing. Truck engines and backup beepers add to the sound load for the individuals and families who live close to an active mine.

#### Property Values/Property Damage

Homeowners fear that the presence of mines within their area will diminish the value of their property, causing a de facto change in zoning from residential to industrial and corresponding losses. Separately, homeowners and others make claims of cracks and other physical damage to structures when mine blasting is involved at active mining areas. Some local residents, environmental organizations, and governmental agencies are concerned about potential damage to: domestic and municipal water supplies; fish and wildlife habitat loss; wetlands; historic and archaeology resources; and, air quality.

Decision-makers responsible for permitting the location of mines must weigh these issues with the effects of increased transportation costs, supply shortages, higher prices to the construction industry, and the potential loss of jobs in construction and other downstream industries.

### **III. Effect of Proposed Changes:**

The CS implements the following consensus recommendations of the task force related to definitions and legislative findings:

The CS provides definitions for the following terms for use in s. 337.0261, F.S:

- Aggregate resource county
- Application for construction aggregate materials mining site approval
- Construction materials mining activities
- Local government and local government decisionmaking body
- State approvals for construction materials mining activities

The CS includes the following additional legislative findings:

- Construction aggregate materials are a finite natural resource.
- Construction aggregate materials mining is an industry of critical importance to the state and is, therefore, in the public interest.
- There is a need for a reliable, predictable, and sustainable supply of construction aggregate materials so that public and private construction is maintained without interruption.
- There are a limited number of aggregate resource counties within the state where aggregate and sand resources exist.

The following implements a non-consensus recommendation of the task force:

Subsection (3) of s. 337.0261, F.S., is amended to require applicants seeking a construction aggregate mining site approval to submit a copy of the application for an environmental resource permit (as required in s. 373.414, F.S.) to an affected local government at the same time the application is submitted to DEP.

The CS also requires a super-majority (*i.e.*, majority plus one) vote of the local government commission to deny any application for construction aggregate materials mining site approval if the applicant has received the appropriate approvals from the pertinent state agencies. Approvals of such applications require a simple majority vote of the local government commission.

If no decision is made by the local government commission after consideration at two regularly scheduled meetings or three months following the initial consideration (whichever occurs first), the applicant may seek approval from the Governor and the Cabinet who may review the application based only on the record before the local government. Approval of the application shall be based on whether there is competent, substantial evidence in the record to support approval and shall require a simple majority of the Governor and Cabinet. The Uniform Rules of Procedure apply and judicial review is allowable under s. 120.68, F.S.

The CS takes effect July 1, 2008.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

The CS requires applicants seeking a construction aggregate mining site approval to submit a copy of the application for an environmental resource permit (as required in s. 373.414, F.S.) to an affected local government at the same time the application is submitted to DEP. The CS also changes the title from “An act relating to transportation” to “An act relating to construction aggregate materials.”

B. Amendments:

None.