

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB ENRC 08-13 Environmental Resources
SPONSOR(S): Environment & Natural Resources Council
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Environment & Natural Resources Council		Kliner / Perkins	Dixon / Hamby
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill provides definitions and legislative findings regarding construction aggregate materials and establishes the Strategic Aggregate Resource Assessment (SARA) to identify aggregate resources in the State. The Florida Department of Transportation (DOT) is directed to organize and provide administrative support in the preparation of SARA. The DOT will work with the Florida Geological Survey, the Department of Environmental Protection (DEP), the Florida Department of Community Affairs (DCA), and local governments in preparation of the SARA. The SARA will address the demand, location and relevant regulatory framework for construction aggregate materials, as well as the necessary infrastructure aspects for such materials (See Effect of Proposed Changes Section).

The bill directs the DEP to consider adverse impacts to all wetlands when permitting aggregate mines, including monitoring of groundwater to ensure that water quality outside the mining pit is protected. The bill requires a pre-application meeting between the mining applicant, the DEP, and the affected local government. Excluding the Miami-Dade Lake Belt Area, the bill provides that no county or municipality shall enact or enforce any ordinance, resolution, regulation, rule, policy, or other action which prohibits or prevents the construction or operation of a limestone mine based on issues or subject matters regulated by the Department of Environmental Protection (DEP) pursuant to Chapter 378 or Chapter 373, part IV, F.S., which regulate the management and storage of surface waters.

The bill provides that local governments may not require the production of written documentation or further verification from the DEP or a water management district that a project does not require a permit pursuant to s. 403.813(2), F.S.

The bill directs the DEP, and encourages local governments, to identify projects and activities that serve as regulatory and public interest mitigation for all environmental permitting. The bill provides that the contents of such a list are not a rule as defined in chapter 120, F.S., and listing a specific project or activity does not imply approval by the DEP for such project or activity.

The bill expands the current permitting exception for the replacement or repair of existing docks and piers to allow the use of different construction materials or minor deviations to allow upgrades to current structural and design standards.

The bill requires the DOT, DEP, DCA, and the Florida Geological Survey to conduct a SARA. This requirement will have a significant but indeterminate fiscal impact on the affected agencies.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill requires the DOT to organize and provide administrative support in the preparation of the Strategic Aggregate Resource Assessment (SARA). The DOT will work with the DEP, the DCA, and local governments in preparation of the SARA. The SARA will address the demand, location and relevant regulatory framework for construction aggregate materials, as well as the necessary infrastructure aspects of such materials.

The bill directs the DEP to consider adverse impacts to all wetlands when permitting aggregate mines, and requires an aggregate resource mine pre-application meeting between the applicant, the DEP, and the local government that will review the local application. The bill provides that no county or municipality shall enact or enforce any ordinance, resolution, regulation, rule, policy, or other action which prohibits or prevents the construction or operation of a limestone mine based on issues or subject matters regulated by the DEP pursuant to Chapter 378 or Chapter 373, part IV, F.S., which regulate the management and storage of surface waters.

The bill expands the current permitting exception for the replacement or repair of existing docks and piers to allow the use of different construction materials or to allow minor deviations to allow upgrades to current structural and design standards. The bill also directs the DEP, and encourages local governments, to identify projects and activities which serve as regulatory and public interest mitigation for all environmental permitting.

Safeguard Individual Liberty: The bill provides that local governments may not require the production of written documentation from the DEP or a water management district that a project does not require a permit pursuant to s. 403.813(2), F.S. In addition, counties or municipal governments may not require further verification from the DEP for a project, other than a general permit, if that project is already exempt from permit requirements under the DEP statutes or rules.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Aggregate Mine Permitting

The Mandatory Nonphosphate program, within DEP's Bureau of Mine Reclamation, administers the laws and regulations related to the reclamation of mined land and the protection of water resources (water quality, water quantity and wetlands) at mines extracting heavy minerals, fuller's earth, limestone, dolomite & shell, gravel, sand, dirt, clay, peat, and other solid resources (except phosphate). The section administers two regulatory programs: Permitting (ERP) and Reclamation.

- ERP regulates the creation or alteration of water bodies, including old mine pits. It may also be required for the creation of impervious areas, and for certain projects exclusively in uplands. These permits focus on how the activity will affect wetlands, water quality, and water quantity. They also consider how changes to wetlands affect wildlife.
- Reclamation means the reasonable rehabilitation of land where resource extraction has occurred. Areas disturbed by mining operations, and subject to the reclamation requirements, must be reclaimed after mining is complete. Debris, litter, junk, worn-out or unusable equipment or materials must be appropriately disposed. The land must be recontoured and stabilized to control erosion. Bare areas must be revegetated. Prior to mining, the operator must provide a conceptual mining and reclamation plan, or a reclamation notice.

Specific to limestone mining, s. 378.501, F.S., provides that no operator may begin the process of limestone resource extraction at a new mine without notifying the Secretary of DEP of the intention to mine. The operator's notice of intent to mine must include, but not be limited to:

- The operator's conceptual mining plan which is comprised of such maps and other supporting documents as may be reasonably required by the DEP, the operator's time schedule that assures that the reclamation process is achieved in a timely manner, and the operator's estimated life of the mine.
- The operator's signed acknowledgment of the limestone reclamation performance standards provided by s. 378.503, F.S.

The DEP is required to notify the operator as to the sufficiency of the notice of intent to mine. The review of the notice must be accomplished in accordance with the provisions of s. 378.405, F.S., which requires that within 30 days after receipt of an operator's conceptual reclamation plan, the DEP or the affected agency must review the plan and request submittal of all additional information the agency is permitted by law to require. If the applicant believes any agency request for additional information is not authorized by law or agency rule, the applicant may request a hearing under ss. 120.569 and 120.57, F.S. Within 30 days after receipt of such additional information, the agency must review it and may request only such further information as is needed to clarify the additional information. If the applicant believes the request of the agency for such additional information is not authorized by law or agency rule, the agency, at the applicant's request, shall proceed to process the plan. A plan must be approved or denied within 90 days after receipt of the original plan, the last item of timely requested additional information, or the applicant's written request to begin processing the plan. Currently, s. 373.4141, F.S., provides that a permit under Part IV of Chapter 373, F.S., including ERP and wetland resource permits, shall be approved or denied within 90 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application.

In addition to the regulatory programs discussed above, many mining activities are subject to other regulatory requirements. If water will be pumped or moved, a water/consumptive use permit may be required from the water management district. If wetlands or surface waters will be altered, a federal dredge and fill permit may be required from the U.S. Army Corps of Engineers. In order to address stormwater runoff and industrial waste discharges, an industrial wastewater permit may be required from the Industrial Wastewater Program within the DEP.

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.

The Florida Department of Transportation (FDOT) has the role of approving the quality of the materials that ultimately are produced from the mines. The State Materials Office and FDOT District Materials Engineers keep close contact with mining operations to provide validation that materials being produced meet specifications set by the department for engineering applications.

The Florida Department of Community Affairs (DCA) oversees Florida's local government comprehensive planning process that establishes land use conditions for local development. 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 a DRI review is annually mining more than 100 acres per year, or water consumption exceeding 3,000,000 gallons per day.

Local Regulation of Mining

In addition to state and federal regulations, there are 67 counties and 390 municipalities that may regulate activities at mines. Local ordinances address: conformance with the Comprehensive Land Use Plan, impacts to wetlands, operating permits, reclamation, set backs from property lines, storm water management, truck routes, noise, dust, hours of operation, blasting, performance bonding, garbage disposal, etc.

Florida's current growth management system includes: ss. 163.3161-163.3246, F.S., the Local Government Comprehensive Planning and Land Development Regulation Act of 1985; chapter 380, F.S., the Florida Environmental Land and Water Management Act, that includes the Development of Regional Impact (DRI) and the Areas of Critical State Concern programs; chapter 186, F.S., establishing regional planning councils and requiring the development of state and regional plans; and chapter 187, F.S., the State Comprehensive Plan.

The Local Government Comprehensive Planning and Land Development Regulation Act of 1985 ("Act"), ss. 163.3161-163.3246, F.S., establishes a growth management system in Florida which requires each local government (or combination of local governments) to adopt a comprehensive land use plan that includes certain required elements, such as: a future land use plan; capital improvements element; and an intergovernmental coordination element. The local government comprehensive plan is intended to be the policy document guiding local governments in their land use decision-making. Under the Act, the Department of Community Affairs adopted by rule minimum criteria for the review and determination of compliance of the local government comprehensive plan elements with the requirements of the Act. Such minimum criteria require that the elements of the plan are consistent with each other and with the State Comprehensive Plan and the regional policy plan; that the elements include policies to guide future decisions and programs to ensure the plans would be implemented; that the elements include processes for intergovernmental coordination; and that the elements identify procedures for evaluating the implementation of the plan.

A local government may amend its comprehensive plan, provided certain conditions are met including advertised public hearings on a proposed amendment before its adoption and mandatory review by the DCA. A local government may amend its comprehensive plan only twice per year with certain exceptions.

Section 380.06, F.S., governs the DRI program and establishes the basic process for DRI review. The DRI program is a vehicle that provides state and regional review of local land use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one county. For those land uses that are subject to review, numerical thresholds are identified in s. 380.0651, F.S., and Chapter 28-24, Florida Administrative Code. Mining is one of several land uses subject to DRI review.

Strategic Aggregates Review Task Force

In 2007, the Florida Legislature created the Strategic Aggregates Review Task Force (SARTF) with the passage of House Bill 985. The bill defined "Construction aggregate materials" to mean

Crushed stone, limestone, dolomite, limerock, shell rock, cemented coquina, sand for use as a component of mortars, concrete, bituminous mixtures, or underdrain filters, and other mined resources providing the basic material for concrete, asphalt, and road base.

Finding that there is a strategic and critical need for an available supply of construction aggregate materials within the state and that a disruption of the supply would cause a significant detriment to the state's construction industry, transportation system, and overall health, safety, and welfare, the bill included the following provisions:

- Prohibited local governments from approving or denying a proposed land use zoning change, comprehensive plan amendment, land use permit, ordinance, or order regarding construction aggregate materials without considering any information provided by the Department of Transportation regarding the effect such change, amendment, permit decision, ordinance, or order would have on the availability, transportation, and potential extraction of construction aggregate materials on the local area, the region, and the state.
- Prohibited local governments from imposing a moratorium, or combination of moratoria, of more than 12 months' duration on the mining or extraction of construction aggregate materials, commencing on the date the vote was taken to impose the moratorium. The bill specified

January 1, 2007, as the commencement of the 12-month period for moratoria already in place as of July 1, 2007.

- Provided that limerock environmental resource permitting and reclamation applications filed after March 1, 2007, are eligible for the expedited permitting processes contained in s. 403.973, F.S., and provided that challenges to state agency action in the expedited permitting process for establishment of a limerock mine in this state under s. 403.973, F.S., are subject to the same requirements as challenges brought under s. 403.973(15)(a), F.S., except that, notwithstanding s. 120.574, F.S., summary proceedings must be conducted within 30 days after a party files the motion for summary hearing, regardless of whether the parties agree to the summary proceeding.
- Created the Strategic Aggregates Review Task Force to evaluate the availability and disposition of construction aggregate materials and related mining and land use practices in this state. The task force was required to report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2008. The report was required to identify locations with significant concentrations of construction aggregate materials and recommend actions intended to ensure the continued extraction and availability of construction aggregate materials.

The Task Force conducted a series of meetings to identify areas of improvement in policy and public investment as related to the supply of construction aggregate materials available for use in Florida. The Task Force was directed to evaluate the availability and disposition of construction aggregate materials and related mining and land use practices in Florida. Some of the consensus Task Force's recommendations include:

Issue 1: Construction Aggregate Materials Resource Management

Statutorily acknowledge that:

- Construction aggregate materials are a finite natural resource.
- Construction aggregate materials mining is an industry of critical importance to the state.
- The siting and permitting of mines must be compatible with Florida's environment and communities.
- There are at least 33 counties where the aggregate and sand resource exists. Those counties include:
 - 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.
- The Legislature should encourage a reliable, predictable, and sustainable supply of construction aggregate materials with a goal of maintaining public and private construction without interruptions.
- The Legislature should continue to adopt policies, regulations and laws to encourage the increased use of recycled and reused construction aggregate materials as appropriate.
- Alternative material substitutions for construction aggregate materials should be investigated and encouraged by all state agencies involved in construction as appropriate.
- The Legislature should provide a specific appropriation for those activities required to further the goals of construction aggregate materials management, including but not limited to the development of the Strategic Aggregate Resource Assessment (SARA).

- The SARA is critical to the economic, environmental, and social stability of the state of Florida. The FDOT should be the lead agency and should work with the DEP and the DCA in the preparation of SARA. The SARA should include, on a regional basis, the following:
 - A. For construction aggregate materials the SARA should:
 1. The Florida Geological Survey (FGS) shall identify and map the areas where the construction aggregate materials deposits are located.

Information can be submitted by willing land owners to the Florida Geological Survey (FGS) for inclusion in State data repository.

The FGS should be directed to protect the confidentiality of any materials submitted to the FGS pursuant to the SARA process. The FGS shall maintain the confidential status of such information, as required by s. [to be adopted], and such information shall be exempt from the provisions of s.119.07(1).
 2. FDEP shall identify and superimpose on the above map the areas of natural resources subject to state permitting requirements.
 3. FDCA, along with the local governments, shall identify and superimpose the above map the areas of existing future land use elements of local comprehensive plans and local zoning regulations.
 4. Provide a projection of short and long term (5, 25 and 50 year) demand.
 5. Provide an estimate of volume of aggregate available from already permitted mines to meet that demand.
 6. Identify out of state construction aggregate materials available to meet demand projections.
 - B. For infrastructure, identify the current and potential capacity of construction aggregate material imports into the State utilizing current and planned rail, connecting roadways and port infrastructure.
 - C. The SARA shall be updated every five (5) years and be included as part of the FDOT Florida Transportation Plan.
- The state and local governments should protect existing mines from encroachment from incompatible development, and such actions should be expressly exempted from the Bert J. Harris Act.
- The local governments should consider the expansion of existing mines. Mines should be sited, permitted or expanded in locations that result in the least amount of additional environmental and community impacts.
- The construction aggregate mining industry and construction industry should work with FDOT to establish a fee mechanism to pay for the initial costs of the SARA implementation.

Issue 2: State and Local Planning and Regulation of Mining

- Future procedures for the siting and permitting of construction aggregate materials mines should be based upon earlier and more inter-agency coordination.

Issue 3: Infrastructure Improvements

- Provide statutory authority for FDOT to enter into Public-Private-Partnerships in development of rail and port infrastructure to facilitate distribution of strategic construction aggregate materials.
- The state should identify and prioritize possible funding sources for the improvement of or building of new rail/port facilities.
- The aggregate resource counties should be offered incentives regarding transportation funding.¹

The Task Force also had numerous non-consensus recommendations that can be found in the report.²

Environmental Permit Streamlining

The Florida Legislative Committee on Intergovernmental Relations (LCIR) in March, 2007, issued an interim project report titled *Improving Consistency and Predictability in Dock and Marina Permitting*.³ This concluded a 2-year project to review current permitting practices and identify opportunities to improve the consistency and predictability in the permitting of water related facilities in Florida. The principle recommendations contained in the report support taking steps to:

- Increase staffing and technology resources for the Department of Environmental Protection (DEP);
- Direct the Department of Business and Professional Regulation to establish certification and licensure standards for marine contractors;
- Authorize local governments, with the assistance of local advisory councils, to identify public interest projects that serve as mitigation for dock and marina permitting;
- Require local governments to accept self-certification in order to exempt permitting of single-family docks meeting certain standards;
- Require the DEP to continue to request participation of appropriate professional associations when developing guidance documents regarding standards of marine building materials and construction methods;
- Authorize the DEP to accept electronically transmitted materials in the Request for Additional Information (RAI) process; and
- Consider abolishing the current land lease fee exemption, and levy an annual flat or single fee that would apply to all docks.

Self-certification

According to the LCIR report, in interviews with stakeholder groups, some local governments often do not accept self-certification for permit-exempt projects identified in statute, rule, or listed in the DEP's Self-Certification Process for Single-Family Docks. Some local governments require a "signature" from DEP permit review staff to verify the exempt status of the projects submitted under Self-Certification, notwithstanding the fact that current law neither requires nor provides for a "signature" from the DEP as an alternative or as supplemental to Self-Certification.

Regulatory mitigation

According to the LCIR report, a proposed marine construction project is subject to regulatory mitigation requirements, and if the project involves state submerged lands it is subject to proprietary or public interest mitigation requirements as well. Regulatory mitigation is essentially an action or series of actions to offset the adverse impacts to the environment from the proposed project. In contrast, public

¹ Strategic Aggregates Review Task Force Final Report, <http://www.dot.state.fl.us/statematerialsoffice/administration/resources/library/issues-trends/aggtaskforce/meetingfour/finalreport.pdf>

² *Id.*

³ The LCIR is a public entity that facilitates the development of intergovernmental policies and practices. Housed in the legislative branch of state government, one of its statutorily authorized functions is to evaluate the interrelationships among local, regional, state, interstate, and federal agencies in the provision of public services and prepare studies and recommendations to improve organizational structure, operational efficiency, allocation of functional responsibility, and the delivery of service.

interest mitigation may be viewed as compensation to the state and the citizens of Florida for use of sovereignty submerged lands, in addition to actions to offset adverse impacts to sovereign lands and associated resources from the proposed project. A common concern of DEP staff, as well as local governments and marine contractors and consultants, is that identifying appropriate projects or activities to serve as mitigation continues to be based on guesswork and time consuming negotiations

with permit applicants. According to the LCIR report, the marine construction industry contends that permitting staff require the applicant to suggest a project or set of activities to meet the public interest and/or mitigation requirements only to be told that the proposed activities are insufficient. While the expense of public interest and regulatory mitigation activities are sometimes identified by marine contractors as excessive relative to the type, size, and location of the proposed project, the most frequently cited problem in interviews and surveys is the uncertainty and unpredictability of what will be acceptable.⁴

Dock Replacement

Although not part of the LCIR findings, according to representatives of the marine industry there are occasions when it is counterintuitive to rebuild a damaged or destroyed dock or pier to its prior configuration if the prior configuration was of poor design or placement. If there are minor deviations that are proposed in writing to the DEP or a water management district prior to construction, however, either the DEP or the district may exempt the construction or repair if the agency determines it will have only minimal or insignificant individual or cumulative adverse impacts on the water resources of the district.⁵

Section 403.813(2)(d), F.S., provides the criteria required for a permitting exemption for the replacement or repair of an existing dock or pier provided no fill is used, and the dock or pier is in the same location, configuration and dimension of the dock or pier being replaced or repaired. As this exemption would apply to a single family dock as well as a marina, the DEP reports that it is important not to increase or change the "footprint" over sovereignty submerged lands, as this would necessarily trigger a review by the DEP to discern the potential environmental impacts.⁶

Proposed Changes

Aggregate Mine Permitting

When permitting the construction, operation, and reclamation of construction aggregate material mines, including the permitting requirements in Part IV of Chapter 373, F.S., and the reclamation requirements in Part IV of Chapter 378, F.S., the DEP is directed to consider adverse impacts to all wetlands and other surface waters, notwithstanding the provisions of subsection 373.414 (2) (a) F.S. The DEP shall also require groundwater monitoring within the permit issued pursuant to Part IV of Chapter 373, F.S., to ensure that water quality outside the mining pit is protected. The Miami-Dade Lake Belt Area is excluded from this section.⁷

The bill requires a pre-application meeting between the mining applicant, the DEP, and the local government responsible for reviewing the local permit. The bill provides that nothing in s. 378.202-378.804, F.S., relating to phosphate land reclamation and resource extraction reclamation, shall preempt local ordinances that impose land use requirements for reclamation activities as set forth in the comprehensive plan or zoning regulations. With the exception of the Miami-Dade Lake Belt Area, however, the bill also provides that no county or municipality shall enact or enforce any ordinance, resolution, regulation, rule, policy, or other action which prohibits or prevents the construction or operation of a limestone mine based on issues or subject matters regulated by the DEP pursuant to

⁴ Florida LCIR Report: Improving Consistency and Predictability in Dock and Marina Permitting, page 18.

⁵ s. 373.406(6), F.S. This exemption applies to any proposed activity regulated by the DEP and not just dock or pier repair.

⁶ According to the DEP they typically will not prevent anyone from building a smaller dock, or building a dock higher over the water, and do not preclude people from rebuilding to updated structural standards.

⁷ The Miami-Dade Lake Belt region is currently regulated pursuant to ss. 373.4149 and 373.41492, F.S.

Chapter 378 or Chapter 373, part IV, F.S., which regulate the management and storage of surface waters.

Strategic Aggregate Resource Task Force

The bill provides a definition for “construction aggregate materials”, which means crushed stone, limestone, dolomite, limerock, shell rock, cemented coquina, and sand for use as a component of mortars, concrete, bituminous mixtures, or underdrain filters, and other mined resources providing the basic material for concrete, asphalt, and road base. Mined materials that do not require sorting and grading and that are used for fill are not construction aggregate materials.

The bill provides legislative findings regarding construction aggregate materials. The Legislature finds the following:

- 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;
- There is a need to accurately identify and locate available supplies of aggregate construction materials in the state.

The Strategic Aggregate Resource Assessment (SARA)

The bill requires DOT to organize and provide administrative support in the preparation of the SARA. The DOT will work with the DEP, the DCA, and local governments in preparation of the SARA.

For construction aggregate materials:

- The Florida Geological Survey shall identify and map areas where construction aggregate materials deposits are located in the state. Information may be submitted by willing land owners to the Florida Geological Survey for inclusion in the state data repository.
- The DOT shall identify and superimpose on the above map a high to low quality grading classification to identify the areas that contain the materials needed for road building and repair.
- The DEP shall identify and superimpose on the above map the areas of natural resources that may be of concern during state permitting in order to identify any potential conflicts between the location of geologically valuable resources and natural land and water resources. The mapping of natural resources shall be for planning purposes only and shall not constitute a formal determination of the landward extent of wetlands and other surface waters pursuant to Part IV of Chapter 373.
- The DCA, along with local governments, shall identify and superimpose the above map the distribution, location and extent of land uses within a local government jurisdiction in addition to future land use map designations and zoning elements in order to identify any potential conflicts between the areas where growth and development is planned and areas with deposits of geologically valuable resources. The mapping of land uses within a local government jurisdiction shall be for planning purposes only.
- The SARA will provide a projection of 5 year, 25 year, and 50 year demand for aggregate. The SARA will also provide an estimate of volume of aggregate available from already permitted mines to meet demand projections. The SARA will identify international and out-of-state construction aggregate materials available to meet demand projections.

For infrastructure:

- The SARA shall provide a rating structure assessing the ability to mine these deposits in an economic manner, taking into account the proximity of the materials to the available markets,

the thickness of overburden, and the quantity and quality of the materials. In assessing the economic viability of a geologic deposit the SARA shall take into account the proximity to rail and port facilities where similar or replacement products can be imported at a lower cost than producing them locally.

- The SARA shall identify the current and potential capacity of construction aggregate material imports into the State utilizing current and planned rail, connecting roadways and port infrastructure.

The SARA shall be updated every 5 years and be included as part of the FDOT Florida Transportation Plan. The DOT shall prepare the findings of the SARA in an initial report submitted to the Governor, the President of the Senate, and the Speaker of the House no later than February 1, 2010. Subsequent reports shall be submitted by February 1 following each 5 year SARA update. The DOT is authorized to adopt rules pursuant to s. 120.536(1) and s. 120.54, F.S., to administer the SARA.

Environmental Permit Streamlining

Self-certification

The bill provides that local governments may not require the production of written documentation from the DEP or a water management district that a project does not require a permit pursuant to s. 403.813(2), F.S. In addition, counties or municipal governments may not require further verification from the DEP for a project, other than a general permit, if that project is already exempt from permit requirements under the DEP statutes or rules.

Regulatory mitigation

The bill directs the DEP to identify projects and activities which serve as regulatory and public interest mitigation for all environmental permitting. The bill declares the contents of such a list are not a rule as defined in chapter 120, F.S., and listing a specific project or activity does not imply approval by the department for such project or activity. In addition, each county government is encouraged to develop an inventory of projects or activities for inclusion on the list by obtaining input from local stakeholder groups in the public, private, and nonprofit sectors, including local governments, port authorities, marine contractors, other representatives of the marine construction industry, environmental or conservation organizations, and other interested parties.

Dock Replacement

The bill expands the current permitting exception for the replacement or repair of existing docks and piers to allow the use of different construction materials or to allow minor deviations to allow upgrades to current structural and design standards.

C. SECTION DIRECTORY:

Section 1: Amends s. 337.0261, F.S., providing a definition and legislative intent regarding aggregate resource mining. The section provides for an assessment of aggregate construction materials in the state; provides duties for the DOT, the DEP, the DCA, and the Florida Geological Survey; provides parameters for the assessment; and provides rulemaking authority.

Section 2: Creates s. 373.4146, F.S., requiring a pre-application meeting between the aggregate resource mining applicant, the DEP and the local government that will review the local mining application. The DEP is required to consider adverse impacts to all wetlands and surface waters when permitting an aggregate resource mine. This section also provides a definition. This section excludes the Miami-Dade Lake Belt Area.

Section 3: Adds subsection (40) to s. 403.061, F.S., requiring the DEP to maintain a list of projects or activities that applicants may consider when developing proposals to meet the mitigation or public interest requirements of Chapters 253, 373, or 403, F.S.

Section 4: Amends s. 378.412, F.S., prohibiting local governments from enacting or enforcing ordinances, resolutions, regulations, rules, policies, or other actions which prohibits or prevents the

construction or operation of a limestone mine under specified conditions. The Miami-Dade Lake Belt Area is excluded from the section limiting local government actions regarding limestone mining.

Section 5: Amends subsection (2) and paragraph (d) of that subsection, and subsection (3) of s. 403.813, F.S., prohibiting a local government from requiring further verification from the DEP that a project, other than a general permit, is already exempt from permit requirements under the DEP statutes or rules. This section also allows the use of different construction materials or allows minor deviations to allow upgrades to current structural and design standards for the replacement or repair of existing docks and piers.

Section 6: Prohibits a local government from requiring written documentation from the DEP or a water management district that a project does not require a permit pursuant to s. 403.813(2), F.S.

Section 7: The act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

See Fiscal Comments

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may allow cost savings due to less regulatory delays by local governments. In addition, those who desire to replace or repair existing docks and piers and take advantage of the current exemption for those activities may be allowed to use different construction materials or make minor deviations to allow upgrades to current structural and design standards.

D. FISCAL COMMENTS:

The bill requires the DOT, DEP, DCA, and the Florida Geological Survey to conduct a Strategic Aggregate Resource Assessment. This requirement will have a significant but indeterminate fiscal impact on the affected agencies.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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:

The bill authorizes the DOT to adopt rules to administer the SARA.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

N/A

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

N/A