



Finance and Tax Committee

Thursday, March 12, 2015

3:30 p.m. – 5:00 p.m.

Morris Hall

MEETING PACKET

The Florida House of Representatives

Finance and Tax Committee



Steve Crisafulli
Speaker

Matt Gaetz
Chair


AGENDA

March 12, 2015
3:30 p.m. – 5:00 p.m.
Morris Hall

- I. Call to Order/Roll Call
- II. Chair's Opening Remarks
- III. **Consideration of the following bill(s):**
 - HB 37 Voluntary Contributions for Public Education Facilities by Raschein
 - CS/HB 209 Emergency Fire Rescue Services and Facilities Surtax by Local Government Affairs Subcommittee, Artiles
 - CS/HB 359 Miami-Dade County Lake Belt Area by Agriculture & Natural Resources Subcommittee, Diaz, M.
- IV. Discussion of Research and Development Tax Credit Program
- V. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 37 Voluntary Contributions for Public Education Facilities
SPONSOR(S): Raschein
TIED BILLS: IDEN./SIM. BILLS: SB 118

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|-----------------------------|--------|----------|--|
| 1) Finance & Tax Committee | | Dugan RD | Langston  |
| 2) Appropriations Committee | | | |

SUMMARY ANALYSIS

Current law provides funding to the Public Education Capital Outlay and Debt Service (PECO) Trust Fund from the following sources:

- funds received from the sale of public education bonds;
- certain revenues from the gross receipts tax;
- interest on investments held by the PECO Trust Fund;
- federal interest subsidies;
- amounts appropriated to the PECO Trust Fund; and
- amounts previously appropriated which revert back the PECO Trust Fund when unspent.

Current law does not authorize voluntary contributions to the PECO Trust Fund.

The bill authorizes voluntary contributions from participating businesses to be used as additional funds to the PECO Trust Fund for the construction and maintenance of public education facilities. The participating businesses will register with the Department of Revenue (DOR), and remit the contributions to the DOR on a monthly basis.

The bill authorizes the DOR to adopt emergency rules to implement the bill.

On February 20, 2015, the Revenue Estimating Conference reviewed similar language and estimated a positive indeterminate fiscal impact on the PECO Trust Fund. According to the DOR bill analysis, the bill will require the department to expend \$136,065 in non-recurring and \$59,421 in recurring funds to implement the provisions of the bill (see fiscal analysis section).

The bill has an effective date of July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Current law provides funding to the Public Education Capital Outlay and Debt Service (PECO) Trust Fund from the following sources:¹

- funds received from the sale of public education bonds;
- certain revenues from the gross receipts tax;
- interest on investments held by the PECO Trust Fund;
- federal interest subsidies;
- amounts appropriated to the PECO Trust Fund; and
- amounts previously appropriated which revert back the PECO Trust Fund when unspent.

Although grants and donations may be made to certain state trust funds under current law,² voluntary contributions to the PECO Trust Fund are not authorized.

Effect of Proposed Changes

The bill creates s. 215.165, F.S., authorizing a business to solicit and collect voluntary contributions from its customers for the construction and maintenance of public education facilities. In order to participate, a business must register as a participating business with the DOR. To register, the business is required to provide certain identifying information, including the business name, physical and mailing addresses, telephone number, e-mail address, and federal employer identification number.

Once registered, participating businesses may solicit voluntary contributions by any means, including point of sale solicitation and through monthly invoices or billing statements.

A participating business that collects voluntary contributions must file a return and remit the contributions to the DOR by the 20th day of the following calendar month. If the 20th day is a Saturday, Sunday, or legal holiday, the return and contributions are due on the next business day. Returns must include the business's identifying information, as well as the amount of voluntary contributions collected, the amount being remitted and any applicable adjustments. If no contributions are collected, no return is required. Returns may be filed and contributions may be paid by mail or electronically.

The DOR must deposit the contributions into the Public Education Capital Outlay and Debt Service Trust Fund.

The DOR must adopt rules establishing forms and procedures for remitting voluntary contributions. New forms may be created or the required information may be included on existing returns.

The bill provides that the voluntary contributions are not subject to audit by the DOR.

The bill provides an effective date of July 1, 2015.

B. SECTION DIRECTORY:

¹ s. 1013.65(2)(a), F.S.

² Florida Revenue Estimating Conference, 2015 Florida Tax Handbook, Florida State Treasury Funds, at page 13, available at: <http://www.edr.state.fl.us/Content/revenues/reports/tax-handbook/index.cfm>. For example, an applicant for a boat registration may voluntarily contribute between \$2-\$5 to the Save the Manatee Trust Fund on the registration form. See s. 328.72(11), F.S.

- Section 1. Creates s. 215.615, F.S., to authorize a business that registers with the DOR to solicit and collect contributions from customers for the PECO Trust Fund; provides registration and tax return requirements for a participating business;
- Section 2. Amends s. 1013.65(2)(a), F.S., to authorize deposits into the PECO Trust Fund from voluntary contributions collected pursuant to s. 215.615, F.S.
- Section 3. Provides emergency rulemaking authority to the DOR to implement the provisions of this bill.
- Section 4. Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

On February 20, 2015, the Revenue Estimating Conference reviewed similar language and estimated a positive indeterminate fiscal impact on the PECO Trust Fund.

2. Expenditures:

According to the DOR bill analysis, the bill will require the department to expend \$81,065 in non-recurring technology costs in Fiscal Year 2014-15, \$55,000 for a non-recurring cost to create a public announcement to advertise the program in Fiscal Year 2015-16, and \$59,421 in recurring return and revenue processing costs.³

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Participation is voluntary. Businesses that participate will be required to file returns and remit collections to the DOR.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have

³ The Department of Revenue, Agency Analysis of 2015 HB 37, pages 8-10 (January 22, 2015).
STORAGE NAME: h0037.FTC.DOCX
DATE: 3/6/2015

to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill grants the DOR emergency rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to the DOR bill analysis, the department recommends the following changes:⁴

- provide how the DOR should handle funds received from an unregistered business;
- clarify whether returns and tax documents received by the DOR pursuant to the voluntary contribution program fall under the public records exemption;
- provide the DOR the ability to recoup the cost of a return item (check or electronic funds transfer).
- clarify at line 39 that a participating business will receive a taxpayer identification number for purposes of voluntary contributions that is separate from its standard taxpayer identification number;
- change the phrase “electronic data” on line 47 to “electronic means;”
- clarify at line 48 that a return is only necessary in a reporting period when collections have been made;
- clarify at lines 54-55 what reasons a participating business may make “adjustments” to the amount of contributions collected; and
- change the effective date of the bill to January 1, 2016, to allow the DOR sufficient time to implement the provision of the bill.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

⁴ The Department of Revenue, Agency Analysis of 2015 HB 37, pages 5-7 (January 22, 2015).
STORAGE NAME: h0037.FTC.DOCX
DATE: 3/6/2015

1 A bill to be entitled
 2 An act relating to voluntary contributions for public
 3 education facilities; creating s. 215.165, F.S.;
 4 authorizing a participating business that registers
 5 with the Department of Revenue to solicit and collect
 6 contributions from its customers for the construction
 7 and maintenance of public education facilities;
 8 providing registration requirements; requiring a
 9 participating business to file a return and remit
 10 contributions to the department within a specified
 11 timeframe; requiring the department to deposit
 12 contributions into the Public Education Capital Outlay
 13 and Debt Service Trust Fund; requiring the department
 14 to adopt rules establishing forms and procedures;
 15 providing that voluntary contributions are not subject
 16 to audit by the department; amending s. 1013.65, F.S.;
 17 including voluntary contributions as a source of
 18 funding for the Public Education Capital Outlay and
 19 Debt Service Trust Fund; authorizing the executive
 20 director of the department to adopt emergency rules;
 21 providing that such rules are effective for a
 22 specified period; providing an effective date.

23
 24 Be It Enacted by the Legislature of the State of Florida:

25
 26 Section 1. Section 215.165, Florida Statutes, is created

27 | to read:

28 | 215.165 Voluntary contributions for public education
 29 | facilities.—A business that registers with the Department of
 30 | Revenue as a participating business may solicit and collect
 31 | voluntary contributions from its customers for the construction
 32 | and maintenance of public education facilities. Such
 33 | contributions may be solicited and collected through any means,
 34 | including point-of-sale transactions and monthly customer
 35 | invoices.

36 | (1) To register as a participating business, the business
 37 | shall provide the department with its name, physical address,
 38 | mailing address, telephone number, e-mail address, and federal
 39 | employer identification number.

40 | (2) By the 20th day of each month that immediately follows
 41 | a month in which voluntary contributions were collected, a
 42 | participating business shall file a return with, and remit
 43 | contributions collected during the prior month to, the
 44 | department. If the 20th day is a Saturday, Sunday, or legal
 45 | holiday, the return and voluntary contributions are due on the
 46 | next business day. A participating business may file a return
 47 | that is initiated through an electronic data interchange and may
 48 | remit voluntary contributions by electronic funds transfer.

49 | (3) A participating business shall provide the following
 50 | information on each return:

51 | (a) The information required under subsection (1).

52 | (b) Its taxpayer identification number issued by the

53 department.

54 (c) The amount of voluntary contributions collected and
 55 the amount of any adjustment to such contributions.

56 (d) The amount of voluntary contributions being remitted.

57 (4) The department shall deposit voluntary contributions
 58 remitted under this section into the Public Education Capital
 59 Outlay and Debt Service Trust Fund.

60 (5) The department shall adopt rules establishing forms
 61 and procedures for filing returns and remitting voluntary
 62 contributions, which may include the use of existing tax returns
 63 or separate returns.

64 (6) Voluntary contributions collected and remitted by
 65 participating businesses under this section are not subject to
 66 audit by the department.

67 Section 2. Paragraph (a) of subsection (2) of section
 68 1013.65, Florida Statutes, is amended to read:

69 1013.65 Educational and ancillary plant construction
 70 funds; Public Education Capital Outlay and Debt Service Trust
 71 Fund; allocation of funds.—

72 (2)(a) The Public Education Capital Outlay and Debt
 73 Service Trust Fund shall be comprised of the following sources,
 74 which are hereby appropriated to the trust fund:

75 1. Proceeds, premiums, and accrued interest from the sale
 76 of public education bonds and that portion of the revenues
 77 accruing from the gross receipts tax as provided by s. 9(a)(2),
 78 Art. XII of the State Constitution, as amended, interest on

79 | investments, and federal interest subsidies.

80 | 2. General revenue funds appropriated to the fund for
81 | educational capital outlay purposes.

82 | 3. All capital outlay funds previously appropriated and
83 | certified forward pursuant to s. 216.301.

84 | 4. Deposits from voluntary contributions collected
85 | pursuant to s. 215.165.

86 | Section 3. Emergency rules.—

87 | (1) The executive director of the Department of Revenue is
88 | authorized, and all conditions are deemed to be met, to adopt
89 | emergency rules pursuant to s. 120.54(4), Florida Statutes, for
90 | the purpose of implementing this act.

91 | (2) Notwithstanding any other provision of law, emergency
92 | rules adopted pursuant to subsection (1) are effective for 6
93 | months after adoption and may be renewed during the pendency of
94 | procedures to adopt permanent rules addressing the subject of
95 | the emergency rules.

96 | (3) This section expires July 1, 2018.

97 | Section 4. This act shall take effect July 1, 2015.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 37 (2015)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

| | | |
|-----------------------|-------|-------|
| ADOPTED | ___ | (Y/N) |
| ADOPTED AS AMENDED | ___ | (Y/N) |
| ADOPTED W/O OBJECTION | ___ | (Y/N) |
| FAILED TO ADOPT | ___ | (Y/N) |
| WITHDRAWN | ___ | (Y/N) |
| OTHER | _____ | |

1 Committee/Subcommittee hearing bill: Finance & Tax Committee
2 Representative Raschein offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Section 215.165, Florida Statutes, is created
7 to read:

8 215.165 Voluntary contributions for public education
9 facilities.—A business that registers with the Department of
10 Revenue as a participating business may solicit and collect
11 voluntary contributions from its customers for the construction
12 and maintenance of public education facilities. Such
13 contributions may be solicited and collected through any means,
14 including point-of-sale transactions and monthly customer
15 invoices.

16 (1) To register as a participating business, the business
17 must provide the department with its name, physical address,

Amendment No. 1

18 mailing address, telephone number, e-mail address, and federal
19 employer identification number. Upon receipt of this
20 information, the department shall issue to the participating
21 business a certificate indicating that the business is
22 registered with the department for the collection of voluntary
23 contributions and providing a taxpayer identification number to
24 be used by the business for returns under this section. The
25 department may issue this certificate electronically or by
26 United States mail.

27 (2) By the 20th day of each month that immediately follows
28 a month in which voluntary contributions were collected, a
29 participating business shall file a return with, and remit the
30 contributions collected during the prior month to, the
31 department. If the 20th day is a Saturday, Sunday, or legal
32 holiday, the return and voluntary contributions are due on the
33 next business day. A participating business may file a return
34 that is initiated by electronic means and may remit voluntary
35 contributions by electronic funds transfer. A return is not
36 required for a period in which voluntary contributions were not
37 collected. A participating business may correct an error in a
38 prior remittance by adjusting the amount remitted on a future
39 return.

40 (3) (a) A participating business shall provide the
41 following information on each return:

- 42 1. The information required under subsection (1).
- 43 2. The taxpayer identification number issued by the

Amendment No. 1

44 department.

45 3. The amount of voluntary contributions collected and the
46 amount of any adjustment to such contributions.

47 4. The amount of voluntary contributions being remitted.

48 (b) If the department receives a return from a business
49 that has not registered as a participating business, the
50 department shall deposit the voluntary contributions pursuant to
51 subsection (4) and shall register the business as a
52 participating business with the information included on the
53 return.

54 (4) The department shall deposit voluntary contributions
55 remitted under this section into the Public Education Capital
56 Outlay and Debt Service Trust Fund.

57 (5) The department may adopt rules to establish forms and
58 procedures for filing returns and remitting voluntary
59 contributions, which may include the use of existing or new
60 forms.

61 (6) Voluntary contributions collected and remitted by
62 a participating business under this section are not subject to
63 audit by the department.

64 Section 2. Paragraph (a) of subsection (2) of section
65 1013.65, Florida Statutes, is amended to read:

66 1013.65 Educational and ancillary plant construction
67 funds; Public Education Capital Outlay and Debt Service Trust
68 Fund; allocation of funds.—

69 (2) (a) The Public Education Capital Outlay and Debt

Amendment No. 1

70 Service Trust Fund shall be comprised of the following sources,
71 which are hereby appropriated to the trust fund:

72 1. Proceeds, premiums, and accrued interest from the sale
73 of public education bonds and that portion of the revenues
74 accruing from the gross receipts tax as provided by s. 9(a)(2),
75 Art. XII of the State Constitution, as amended, interest on
76 investments, and federal interest subsidies.

77 2. General revenue funds appropriated to the fund for
78 educational capital outlay purposes.

79 3. All capital outlay funds previously appropriated and
80 certified forward pursuant to s. 216.301.

81 4. Deposits from voluntary contributions collected
82 pursuant to s. 215.165.

83 Section 3. (1) The executive director of the Department
84 of Revenue is authorized, and all conditions are deemed to be
85 met, to adopt emergency rules pursuant to s. 120.54(4), Florida
86 Statutes, for the purpose of implementing this act.

87 (2) Notwithstanding any other provision of law, emergency
88 rules adopted pursuant to subsection (1) are effective for 6
89 months after adoption and may be renewed during the pendency of
90 procedures to adopt permanent rules addressing the subject of
91 the emergency rules.

92 (3) This section expires July 1, 2018.

93 Section 4. For the 2015-2016 fiscal year, the sum of
94 \$59,421 in recurring funds and \$136,065 in nonrecurring funds,
95 from the General Revenue Fund are appropriated to the Department

Amendment No. 1

96 of Revenue for the purpose of implementing the provisions of
97 this act.

98 Section 5. This act shall take effect January 1, 2016.
99

100 -----

101 T I T L E A M E N D M E N T

102 Remove everything before the enacting clause and insert:

103 A bill to be entitled

104 An act relating to voluntary contributions for public education
105 facilities; creating s. 215.165, F.S.; authorizing a
106 participating business that registers with the Department of
107 Revenue to solicit and collect contributions from its customers
108 for the construction and maintenance of public education
109 facilities; providing registration requirements; requiring the
110 department to issue a certificate and taxpayer identification
111 number to a participating business; requiring a participating
112 business to file a return and remit contributions to the
113 department within a specified timeframe; requiring the
114 department to deposit contributions into the Public Education
115 Capital Outlay and Debt Service Trust Fund; authorizing the
116 department to adopt rules establishing forms and procedures;
117 providing that voluntary contributions are not subject to audit
118 by the department; amending s. 1013.65, F.S.; including
119 voluntary contributions as a source of funding for the Public
120 Education Capital Outlay and Debt Service Trust Fund;
121 authorizing the executive director of the department to adopt

COMMITTEE/SUBCOMMITTEE AMENDMENT



Bill No. HB 37 (2015)

Amendment No. 1

122 emergency rules; providing that such rules are effective for a
123 specified period; providing for expiration; providing an
124 appropriation; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 209 Emergency Fire Rescue Services and Facilities Surtax
SPONSOR(S): Local Government Affairs Subcommittee; Artilles
TIED BILLS: IDEN./SIM. BILLS:

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|---------------------|--|--|
| 1) Local Government Affairs Subcommittee | 13 Y, 0 N, As CS | Darden | Miller |
| 2) Finance & Tax Committee | | Wolfgang  | Langston  |
| 3) Local & Federal Affairs Committee | | | |

SUMMARY ANALYSIS

Current law, s. 212.055(8), F.S., enables counties to adopt a discretionary sales surtax of up to one percent to help fund emergency fire and rescue services, subject to approval by a majority of the qualified electors in a referendum. The county must have an interlocal agreement with a majority of emergency fire rescue service providers within the county as a prerequisite to conducting the referendum on enacting an Emergency Fire Rescue Services and Facilities Surtax. Only service providers who are signatories to the interlocal agreement are entitled to the revenue generated by the sales surtax. Distribution of surtax revenues to each service provider depends either on the actual amounts collected within each participating jurisdiction or, if the county contains any special fire control districts, the proportion of each participating jurisdiction's expenditures for fire control and emergency services to the total of all such expenditures for all participating jurisdictions. Any local government entity that receives surtax revenues is required to reduce its ad valorem tax levy or non-ad valorem assessment in the following fiscal years by the amount the entity expects to receive in surtax revenues. If more surtax revenues are received than were expected, the proceeds must be applied as a rebate to the final millage.

The bill amends the distribution formula for counties that have adopted an Emergency Fire Rescue Services and Facilities Surtax. The bill removes the requirement for the county government to enter into an interlocal agreement as a prerequisite for holding a referendum on the surtax. If the surtax is approved by referendum, the proceeds would instead be distributed to all local government entities providing emergency fire rescue services in the county. The bill amends the procedure for distributing revenue generated by the surtax, creating a uniform system of proportional allocation, with a pro rata distribution based on average annual spending of ad valorem and non-ad valorem assessment revenue on fire rescue services in the preceding five fiscal years by all entities in the county providing fire services. The bill amends and removes other language from the subsection related to interlocal agreements.

On Friday, February 6, 2015, the Revenue Estimating Impact Conference estimated that the provisions of a similar bill would have a zero or indeterminate positive fiscal impact on county and municipal government revenue.

The effective date of the bill is July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Local Government Budgeting and Fire Prevention and Emergency Medical Treatment

Counties,¹ cities, and fire districts² currently bear the primary responsibility for providing fire protection and prevention. Oftentimes, the county, city, or a special district also provides or financially supports emergency medical services. Under the Florida Constitution, local governments may not levy taxes except for ad valorem taxes or unless granted authority by the Legislature.³ However, cities and counties have broad home rule authority, and, by state law, counties have limited authority to levy a sales surtax on the transactions subject to state sales tax.⁴ Generally, fire services are funded using ad valorem taxes or non-ad valorem assessments. There is currently a surtax available for local governments to support emergency fire rescue services,⁵ but there are no local governments levying the surtax at this time.

Therefore, funds for fire services are generally included in the normal local government budget process. Each year, taxing authorities propose a budget, advertise and hold public hearings, and consider public input before setting a final budget and millage rates. This is commonly called the Truth in Millage or TRIM process.

There are some statewide limits on how much a millage rate can increase relative to the roll-back rate. A roll-back rate is the rate at which the current tax base would produce the same taxes levied as the previous year. When a tax base increases, maintaining the same millage rate represents an increase in taxes. Millage rates are typically different for every taxing authority, depending on the budget of each.

Local government budget and millages are set according to a process described in s. 200.065, F.S. The county fiscal year is from October 1 through September 30 each year. Local governments hold a hearing(s) to adopt their final budgets and millage rates between September 18 and October 3 of each year.⁶ Ad valorem taxes and most non-ad valorem assessments are paid annually between November 1 and April 1.

Emergency Fire Rescue Services Surtax

If not already imposing two discretionary sales surtaxes of indefinite duration, a county may pass an ordinance to levy a sales surtax of up to one percent for Emergency Fire Rescue Services and Facilities.⁷ The surtax may be used to fund "emergency fire rescue services," which includes fire prevention and extinguishing, protection of life and property from natural or intentionally-created fires, and providing emergency medical treatment.⁸

Authorization for the Emergency Fire Rescue Services and Facilities Surtax was added in 2009.⁹ To levy the surtax, the county must pass an ordinance, which becomes effective upon approval by a

¹ Section 125.01, F.S.

² Chapter 191, F.S., and chapter 189, F.S.

³ FLA. CONST. art VII, s. 1(a) and 9(a).

⁴ Sections 212.054 and 212.055, F.S.

⁵ Section 212.055(8), F.S.

⁶ Section 200.065, F.S.

⁷ S. 212.055(8)(a), F.S.

⁸ *Id.*

⁹ The Emergency Fire Rescue Services and Facilities Surtax was authorized initially by Chapter 2009-182, Laws of Florida.

majority of the qualified electors in a referendum.¹⁰ Since the passage of the statute, no county has levied the surtax.¹¹

The proceeds of the surtax are distributed according to an interlocal agreement between the county and local government entities¹² providing fire services in the county.¹³ The formula to be used for distribution is stated in s. 212.055(8)(d), F.S., which states the interlocal agreement shall only specify:

- The amount of surtax to be distributed to each participating government entity based on the actual amounts collected within the jurisdiction of that entity, as determined by Department of Revenue population allocations, or;
- If the county has one or more special fire control districts, the amount of surtax to be distributed to each participating municipality and fire control district, as based on those entities' proportional spending on fire control and emergency rescue services from both ad valorem taxes and non-ad valorem assessments in the preceding five years.¹⁴

The Department of Revenue may retain an administrative fee, and the county may also charge an administrative fee equal to the lesser of actual costs or two percent of the sales surtax collected.¹⁵ If a multicounty independent special district provides emergency fire rescue services inside a portion of the county, the county may not levy the Emergency Fire Rescue Services and Facilities Surtax inside the boundaries of that district.¹⁶ The existence of the interlocal agreement is a prerequisite for holding a referendum to approve the ordinance.¹⁷

The interlocal agreement must include a majority of service providers within the county.¹⁸ If a local government entity providing fire control services is not part of the interlocal agreement, it is not entitled to any proceeds from the surtax.¹⁹

If one local government entity provides personnel or equipment to another on a long-term basis, the entity receiving personnel or equipment must agree to the distribution of its share of the surtax to the providing entity. The amount of this distribution cannot exceed the providing entity's costs for furnishing the services to the receiving entity.²⁰

When collections of the surtax begin, the county and participating local governments must reduce ad valorem taxes and non-ad valorem assessments used to pay for fire control and emergency rescue services by the estimated amount of revenue provided by the surtax.²¹ Surtax collections begin on the January 1 following a successful referendum.²² The Department of Revenue distributes surtax revenues each month.²³

If the revenue collected from the surtax is higher than the estimated amount, the surplus must be used to reduce ad valorem taxes the following year.²⁴ The statute requires such excess collections to be

¹⁰ Section 212.055(8)(b), F.S.

¹¹ Office of Economic and Demographic Research, *2014 Local Government Financial Information Handbook*, 193.

¹² Municipalities, dependent special districts, independent special districts, and/or municipal service taxing units.

¹³ Section 212.055(8)(c), F.S.

¹⁴ Section 212.055(8)(d), F.S. This provision does not apply, however, if the county and one or more participating local governments have an interlocal agreement prohibiting one or more other jurisdictions from providing pre-hospital medical treatment inside the prohibited jurisdiction's boundaries, or if the county has issued a certificate of public convenience and necessity or its equivalent to a county department or dependent special district of the county. Section 212.055(8)(h), F.S.

¹⁵ *Id.*

¹⁶ Section 212.055(8)(j), F.S..

¹⁷ Section 212.055(8)(b), F.S.

¹⁸ Section 212.055(8)(d), F.S.

¹⁹ Section 212.055(8)(g), F.S.

²⁰ Section 212.055(8)(d), F.S.

²¹ Section 212.055(8)(e), F.S.

²² Section 212.055(8)(i), F.S.

²³ Section 212.054(b), F.S.

²⁴ Section 212.055(8)(f), F.S.

applied as a "rebate to the final millage."²⁵ From the context of the statute, this provision appears to state a procedure for the taxing authority to provide taxpayers with the required reduction of ad valorem taxes, rather than create an additional type of reimbursement amount.

The use of surtax proceeds does not relieve counties and participating local governments from the provisions of Chapter 200, F.S. or any other provision of law establishing millage caps or limiting undesignated budget reserves.²⁶

Effect of Proposed Changes

The bill removes the requirement for an interlocal agreement between the county and participating local government entities as a prerequisite to a referendum for imposition of an Emergency Fire Rescue Services and Facilities Surtax. If the county passed an ordinance to levy the surtax, subsequently approved by the electors in a referendum, all local government entities providing fire control and emergency rescue services within the county would share in the proceeds of the surtax based on the amended statutory formula. The bill provides for distributing the revenue generated from the surtax to local government entities in proportion to their average annual expenditures from ad valorem taxes and non-ad valorem assessments on fire control and emergency fire rescue services over the preceding five fiscal years. This formula would apply to all counties levying the surtax regardless of whether the county contained a special fire control district.

Since an interlocal agreement would no longer be required for the distribution of surtax revenues, the bill removes other references to such agreements. Local government entities still would be entitled to a share of the surtax proceeds when providing personnel and equipment on a long-term basis to another entity in the county. Local government entities also still would be required to reduce ad valorem taxes and non-ad valorem assessments for fire control and emergency rescue by the estimated amount of surtax revenue. These provisions, however, would apply to each local government entity (including the county) providing fire services in the county.²⁷

B. SECTION DIRECTORY:

Section 1: Amends s. 212.055(8), F.S., to remove a requirement for an interlocal agreement between counties and local government entities providing fire rescue service, and to adjust the distribution formula for revenues collected by the surtax.

Section 2: Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

²⁵ *Id.*

²⁶ *Id.*

²⁷ The removal of the interlocal agreement requirement erases the distinction between participating and non-participating service providers.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On Friday, February 6, 2015, the Revenue Estimating Impact Conference estimated that the provisions of this bill would have a zero or indeterminate positive fiscal impact on county and municipal government revenue.²⁸

2. Expenditures:

Counties implementing the surtax would incur the cost of holding a referendum and other implementation expenses, offset in part by an administrative fee not to exceed two percent of the surtax collected.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals and businesses in counties implementing the surtax would face higher sales taxes, but would receive a reduction in ad valorem taxes and non-ad valorem assessments.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties and municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 17, 2015, the Local Government Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment restored deleted language concerning the procedure for providing taxpayers with the required additional reduction in ad valorem taxes due to actual surtax collections.

This analysis has been updated to reflect the bill as amended.

²⁸ *Id.*

1 A bill to be entitled

2 An act relating to the emergency fire rescue services
 3 and facilities surtax; amending s. 212.055, F.S.;
 4 revising the distribution of surtax proceeds; deleting
 5 a provision requiring the county governing authority
 6 to develop and execute interlocal agreements with
 7 local government entities providing emergency fire and
 8 rescue services; requiring a local government entity
 9 requesting and receiving certain personnel or
 10 equipment from another service provider to pay for
 11 such personnel or equipment from its share of surtax
 12 proceeds; deleting a provision requiring local
 13 government entities to enter into an interlocal
 14 agreement in order to receive surtax proceeds;
 15 providing an effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Paragraphs (b) through (j) of subsection (8) of
 20 section 212.055, Florida Statutes, are amended to read:

21 212.055 Discretionary sales surtaxes; legislative intent;
 22 authorization and use of proceeds.—It is the legislative intent
 23 that any authorization for imposition of a discretionary sales
 24 surtax shall be published in the Florida Statutes as a
 25 subsection of this section, irrespective of the duration of the
 26 levy. Each enactment shall specify the types of counties

27 authorized to levy; the rate or rates which may be imposed; the
 28 maximum length of time the surtax may be imposed, if any; the
 29 procedure which must be followed to secure voter approval, if
 30 required; the purpose for which the proceeds may be expended;
 31 and such other requirements as the Legislature may provide.
 32 Taxable transactions and administrative procedures shall be as
 33 provided in s. 212.054.

34 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

35 (b) Upon the adoption of the ordinance, the levy of the
 36 surtax must be placed on the ballot by the governing authority
 37 of the county enacting the ordinance. The ordinance will take
 38 effect if approved by a majority of the electors of the county
 39 voting in a referendum held for such purpose. The referendum
 40 shall be placed on the ballot of a regularly scheduled election.
 41 The ballot for the referendum must conform to the requirements
 42 of s. 101.161. ~~The interlocal agreement required under paragraph~~
 43 ~~(d) is a condition precedent to holding the referendum.~~

44 (c) Pursuant to s. 212.054(4), the proceeds of the
 45 discretionary sales surtax collected under this subsection, less
 46 an administrative fee that may be retained by the Department of
 47 Revenue, shall be distributed by the department to the county.
 48 The county shall distribute the proceeds it receives from the
 49 department to each local government entity providing emergency
 50 fire rescue services in the county. The surtax proceeds, less an
 51 administrative fee not to exceed 2 percent of the surtax
 52 collected, shall be distributed by the county based on the

53 proportion of each entity's average annual expenditures of ad
 54 valorem taxes and non-ad valorem assessments for fire control
 55 and emergency fire rescue services in the preceding 5 fiscal
 56 years to the average annual total of the expenditures for all
 57 entities receiving such proceeds in the preceding 5 fiscal years
 58 ~~the participating jurisdictions that have entered into an~~
 59 ~~interlocal agreement with the county under this subsection. The~~
 60 ~~county may also charge an administrative fee for receiving and~~
 61 ~~distributing the surtax in the amount of the actual costs~~
 62 ~~incurred, not to exceed 2 percent of the surtax collected.~~

63 (d) If a local government entity requests ~~The county~~
 64 ~~governing authority must develop and execute an interlocal~~
 65 ~~agreement with participating jurisdictions, which are the~~
 66 ~~governing bodies of municipalities, dependent special districts,~~
 67 ~~independent special districts, or municipal service taxing units~~
 68 ~~that provide emergency fire and rescue services within the~~
 69 ~~county. The interlocal agreement must include a majority of the~~
 70 ~~service providers in the county.~~

71 1. ~~The interlocal agreement shall only specify that:~~

72 a. ~~The amount of the surtax proceeds to be distributed by~~
 73 ~~the county to each participating jurisdiction is based on the~~
 74 ~~actual amounts collected within each participating jurisdiction~~
 75 ~~as determined by the Department of Revenue's population~~
 76 ~~allocations in accordance with s. 218.62; or~~

77 b. ~~If a county has special fire control districts and~~
 78 ~~rescue districts within its boundary, the county shall~~

79 ~~distribute the surtax proceeds among the county and the~~
 80 ~~participating municipalities or special fire control and rescue~~
 81 ~~districts based on the proportion of each entity's expenditures~~
 82 ~~of ad valorem taxes and non-ad valorem assessments for fire~~
 83 ~~control and emergency rescue services in each of the immediately~~
 84 ~~preceding 5 fiscal years to the total of the expenditures for~~
 85 ~~all participating entities.~~

86 ~~2. Each participating jurisdiction shall agree that if a~~
 87 ~~participating jurisdiction is requested to provide personnel or~~
 88 ~~equipment from ~~to~~ any other service provider,~~ on a long-term
 89 ~~basis and the personnel or equipment is provided pursuant to an~~
 90 ~~interlocal agreement, the local government entity jurisdiction~~
 91 ~~providing the service is entitled to payment from the requesting~~
 92 ~~service provider from that provider's share of the surtax~~
 93 ~~proceeds for all costs of the equipment or personnel.~~

94 (e) Upon the surtax taking effect and initiation of
 95 collections, each local government entity receiving a share of
 96 surtax proceeds ~~a county and any participating jurisdiction~~
 97 ~~entering into the interlocal agreement~~ shall reduce the ad
 98 valorem tax levy or any non-ad valorem assessment for fire
 99 control and emergency rescue services in its next and subsequent
 100 budgets by the estimated amount of revenue provided by the
 101 surtax.

102 (f) Use of surtax proceeds authorized under this
 103 subsection does not relieve a local government from complying
 104 with ~~the provisions of~~ chapter 200 and any related provision of

105 law that establishes millage caps or limits undesignated budget
 106 reserves and procedures for establishing rollback rates for ad
 107 valorem taxes and budget adoption. If surtax collections exceed
 108 projected collections in any fiscal year, any surplus
 109 distribution shall be used to further reduce ad valorem taxes in
 110 the next fiscal year. These proceeds shall be applied as a
 111 rebate to the final millage, after the TRIM notice is completed
 112 in accordance with this provision.

113 ~~(g) Municipalities, special fire control and rescue~~
 114 ~~districts, and contract service providers that do not enter into~~
 115 ~~an interlocal agreement are not entitled to receive a portion of~~
 116 ~~the proceeds of the surtax collected under this subsection and~~
 117 ~~are not required to reduce ad valorem taxes or non-ad valorem~~
 118 ~~assessments pursuant to paragraph (c).~~

119 ~~(h) The provisions of sub-subparagraph (d)1.a. and~~
 120 ~~subparagraph (d)2. do not apply if:~~

121 ~~1. There is an interlocal agreement with the county and~~
 122 ~~one or more participating jurisdictions which prohibits one or~~
 123 ~~more jurisdictions from providing the same level of service for~~
 124 ~~prehospital emergency medical treatment within the prohibited~~
 125 ~~participating jurisdictions' boundaries; or~~

126 ~~2. The county has issued a certificate of public~~
 127 ~~convenience and necessity or its equivalent to a county~~
 128 ~~department or a dependent special district of the county.~~

129 (g)(i) Surtax collections shall be initiated on January 1
 130 of the year following a successful referendum in order to

131 coincide with s. 212.054(5).

132 (h)~~(j)~~ Notwithstanding s. 212.054, if a multicounty
 133 independent special district created pursuant to chapter 67-764,
 134 Laws of Florida, levies ad valorem taxes on district property to
 135 fund emergency fire rescue services within the district and is
 136 required by s. 2, Art. VII of the State Constitution to maintain
 137 a uniform ad valorem tax rate throughout the district, the
 138 county may not levy the discretionary sales surtax authorized by
 139 this subsection within the boundaries of the district.

140 Section 2. This act shall take effect July 1, 2015.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 209 (2015)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

| | | |
|-----------------------|-------|-------|
| ADOPTED | ___ | (Y/N) |
| ADOPTED AS AMENDED | ___ | (Y/N) |
| ADOPTED W/O OBJECTION | ___ | (Y/N) |
| FAILED TO ADOPT | ___ | (Y/N) |
| WITHDRAWN | ___ | (Y/N) |
| OTHER | _____ | |

1 Committee/Subcommittee hearing bill: Finance & Tax Committee
2 Representative Artiles offered the following:

3
4 **Amendment**

5 Remove line 112 and insert:

6 in accordance with this provision. If a local government entity
7 receiving a share of the surtax is unable to further reduce ad
8 valorem taxes because the millage rate is zero, the funds shall
9 be applied to reduce any non-ad valorem assessments levied for
10 the purposes described in this section. If no ad valorem or non-
11 ad valorem reduction is possible, the surplus surtax collections
12 shall be returned to the county, and the county shall reduce the
13 county millage rates to offset the surplus surtax proceeds.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. 209 (2015)

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

| | | |
|-----------------------|-------|-------|
| ADOPTED | ___ | (Y/N) |
| ADOPTED AS AMENDED | ___ | (Y/N) |
| ADOPTED W/O OBJECTION | ___ | (Y/N) |
| FAILED TO ADOPT | ___ | (Y/N) |
| WITHDRAWN | ___ | (Y/N) |
| OTHER | _____ | |

1 Committee/Subcommittee hearing bill: Finance & Tax Committee
2 Representative Artiles offered the following:

3
4 **Amendment**

5 Remove lines 52-57 and insert:

6 collected, shall be distributed by the county based on each
7 entity's average annual expenditures of ad valorem taxes and
8 non-ad valorem assessments for fire control and emergency fire
9 rescue services in the 5 fiscal years preceding the year that
10 the surtax takes effect in proportion to the average annual
11 total of the expenditures for all entities receiving such
12 proceeds in the 5 fiscal years preceding the year that the
13 surtax takes effect. The county shall revise these distribution
14 proportions to reflect any change in service area among entities
15 receiving surtax distributions.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 359 Miami-Dade County Lake Belt Area
SPONSOR(S): Diaz, Jr.
TIED BILLS: None **IDEN./SIM. BILLS:** SB 510

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---------------------|------------------|--|
| 1) Agriculture & Natural Resources Subcommittee | 13 Y, 0 N, As CS | Gregory | Blalock |
| 2) Finance & Tax Committee | | Pewitt <i>JP</i> | Langston <i>SL</i> |
| 3) State Affairs Committee | | | |

SUMMARY ANALYSIS

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.

In 1992, the Legislature established the Lake Belt Committee (Committee). 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. The Committee previously approved sufficient funds to complete the seepage mitigation project.
- Replaces the water treatment plant upgrade fee with an environmentally endangered lands (EEL) fee. The bill also reduces the fee from 15 cents to 5 cents per ton of limerock and sand sold. If the Department of Environmental Protection determines that mining activities have, directly or indirectly, resulted in pathogens contaminating certain groundwater wellfields, then the proceeds of the EEL fee must first be used to upgrade a water treatment plant.
- Proceeds from the EEL fee must be used solely for the acquisition, preservation, enhancement, restoration, conservation, and maintenance of wetland and threatened forest communities located in Miami-Dade County (not just near the Lake Belt).

The estimated impact to total local government revenues is -\$6.2 million in the first year (2015-2016) and -\$15.7 million on a recurring basis, split between the South Florida Water Management District and Miami-Dade County. However, there is projected to be sufficient funds in the Lake Belt Mitigation Trust Fund to cover projected future mitigation requirements.

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

STORAGE NAME: h0359b.FTC.DOCX

DATE: 3/9/2015

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED 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

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

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_apps.repository_lib_pkg.repository_browse?p_keywords=lbannual&p_thumbnails=no (last visited January 22, 2015).

²⁴ Section 373.41492(2), F.S.

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 allow 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 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

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 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.

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(6), F.S., to remove the requirement that the water treatment plant upgrade fees be used to pay for seepage mitigation projects. 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 s. 373.41492(2), F.S., to replace the water treatment plant upgrade fee with an environmentally endangered lands (EEL) fee. The EEL fee will be deposited into a trust fund established by Miami-Dade County. According to the Lake Belt 2014 Annual Report, thousands of sampling events from the lakes over the years have demonstrated that water treatment is not needed to mitigate the effects of the mining operations.⁴⁰ The bill reduces the fee from 15 cents to 5 cents per ton of limerock and sand sold, and makes various revisions to conform the statutes to the replacement of the water treatment plant upgrade fee with the EEL fee. Miami-Dade County must use the proceeds from the EEL fee solely for the acquisition, preservation, enhancement, restoration, conservation, and maintenance of wetland and threatened forest communities located in Miami-Dade County (not just near the Lake Belt). Acquisition of these lands is above normal mitigation requirements to offset impacts caused by the mining activity. The bill directs the Department of Revenue to administer, collect, and enforce the fee.
- 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.
- Amends s. 373.41492(6)(a), F.S., to require the EEL fee be used to upgrade a water treatment plant that treats water coming from the Northwest Wellfield, if the Department of Environmental

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.

⁴⁰ Lake Belt 2014 Annual Report p. 2-3 (available at Florida Department of Environmental Protection).

Protection (DEP) determines that due to the direct or indirect result of rock mining activities within the Lake Belt Area, the quarterly pathogen sampling conducted as a condition of the permits issued by the DEP for rock mining activities in the Miami-Dade County Lake Belt Area demonstrates that the water in any quarry lake monitored pursuant to the monitoring plan would be classified as being in Bin 2 or higher as defined in the Environmental Protection Agency's Long Term 2 Enhanced Surface Water Treatment Rule.

- 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.
- 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.

B. SECTION DIRECTORY:

- Section 1. Amends s. 373.4149, F.S., relating to the Miami-Dade Lake Belt Plan.
- Section 2. Amends s. 373.41492, F.S., relating to the Miami-Dade County Lake Belt Mitigation Plan.
- Section 3. Reenacts subsections (1), (2), and (3) of s. 373.41492, F.S., relating to the Lake Belt Mitigation Trust Fund.
- Section 4. Providing an effective date of July 1, 2015.

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 Revenue Estimating Conference met on February 26, 2015 and adopted estimates on the impact of the bill. The estimated impact to total local government revenues is -\$6.2 million in the first year (2015-2016) and -\$15.7 million on a recurring basis, split between the South Florida Water Management District and Miami-Dade County.

For South Florida Water Management District, in the first year there is a -\$7.8 million impact, growing to -\$12.6 million on a recurring basis. For Miami-Dade County, in the first year the impact is +\$1.6 million, but becomes negative in subsequent years. The recurring impact to Miami-Dade County is -\$3.1 million.

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 will be eliminated and replaced with the 5 cents per ton EEL fee.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The 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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 18, 2015, the Agricultural & Natural Resources Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments made the following revisions to the bill:

- Provides that if certain water quality standards are not met in the quarries in the Lake Belt Area, as determined by DEP, then the EEL fee must be used to upgrade a water treatment plant to treats water coming from the Northwest Wellfield; and
- Deletes the requirement that the proceeds of the mitigation fee be approved by the Lake Belt Committee. This provision is already adequately provided for in s. 373.41492(6)(b), F.S.

This analysis is drafted to the bill as amended and passed by the Agricultural and Natural Resources Subcommittee.

CS/HB 359

2015

1 A bill to be entitled

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; imposing an environmentally endangered
17 lands fee; rescinding the water treatment plant
18 upgrade fee; requiring the Department of Revenue to
19 administer, enforce, and collect the environmentally
20 endangered lands fee; adding water quality monitoring
21 to the required uses for mitigation fee proceeds;
22 removing a requirement that such uses be approved by
23 the Miami-Dade County Lake Belt Mitigation Committee;
24 requiring the environmentally endangered lands fee to
25 be used solely for purposes related to wetland and
26 threatened forest communities located in Miami-Dade

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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27 County after proceeds are used for water treatment
 28 plant upgrades under certain conditions; reenacting s.
 29 373.41495(1), (2), and (3), F.S., relating to the Lake
 30 Belt Mitigation Trust Fund to incorporate the
 31 amendment made to s. 373.41492, F.S., in reference
 32 thereto; providing an effective date.
 33

34 Be It Enacted by the Legislature of the State of Florida:
 35

36 Section 1. Subsection (4) of section 373.4149, Florida
 37 Statutes, is amended to read:

38 373.4149 Miami-Dade County Lake Belt Plan.—

39 (4) The identification of the Miami-Dade County Lake Belt
 40 Area shall not preempt local land use jurisdiction, planning, or
 41 regulatory authority in regard to the use of land by private
 42 land owners. When amending local comprehensive plans, or
 43 implementing zoning regulations, development regulations, or
 44 other local regulations, Miami-Dade County shall strongly
 45 consider limestone mining activities and ancillary operations,
 46 such as lake excavation, including use of explosives, rock
 47 processing, cement, concrete and asphalt products manufacturing,
 48 and ancillary activities, within the rock mining supported and
 49 allowable areas of the Miami-Dade County Lake Plan adopted by
 50 subsection (1); provided, however, that limerock mining
 51 activities are consistent with wellfield protection. Rezonings,
 52 ~~or~~ amendments to local zoning and subdivision regulations, and

53 amendments to local comprehensive plans concerning properties
 54 that are located within 1 mile of the Miami-Dade Lake Belt Area
 55 shall be compatible with limestone mining activities. No
 56 rezonings, variances, amendments to local zoning and subdivision
 57 regulations which would result in an increase in residential
 58 density, or amendments to local comprehensive plans for any
 59 residential purpose may be approved for any property located in
 60 sections 35 and 36 and the east one-half of sections 24 and 25,
 61 Township 53 South, Range 39 East until such time as there is no
 62 active mining within 2 miles of the property. This section does
 63 not preclude residential development that complies with current
 64 regulations.

65 Section 2. Section 373.41492, Florida Statutes, is amended
 66 to read:

67 373.41492 Miami-Dade County Lake Belt Mitigation Plan;
 68 mitigation for mining activities within the Miami-Dade County
 69 Lake Belt.-

70 (1) The Legislature finds that the impact of mining within
 71 the rock mining supported and allowable areas of the Miami-Dade
 72 County Lake Belt Plan adopted by s. 373.4149(1) can best be
 73 offset by the implementation of a comprehensive mitigation plan.
 74 The Lake Belt Mitigation Plan consists of those provisions
 75 contained in subsections (2)-(8) ~~(2)-(9)~~. The per-ton mitigation
 76 fee assessed on limestone sold from the Miami-Dade County Lake
 77 Belt Area and sections 10, 11, 13, 14, Township 52 South, Range
 78 39 East, and sections 24, 25, 35, and 36, Township 53 South,

79 Range 39 East, shall be used for acquiring environmentally
 80 sensitive lands and for restoration, monitoring, maintenance,
 81 and other environmental purposes. It is the intent of the
 82 Legislature that the per-ton mitigation fee not be a revenue
 83 source for purposes other than enumerated in this section.
 84 Further, the Legislature finds that the public benefit of a
 85 sustainable supply of limestone construction materials for
 86 public and private projects requires a coordinated approach to
 87 permitting activities on wetlands within Miami-Dade County in
 88 order to provide the certainty necessary to encourage
 89 substantial and continued investment in the limestone processing
 90 plant and equipment required to efficiently extract the
 91 limestone resource. It is the intent of the Legislature that the
 92 Lake Belt Mitigation Plan satisfy all local, state, and federal
 93 requirements for mining activity within the rock mining
 94 supported and allowable areas.

95 (2) To provide for the mitigation of wetland resources
 96 lost to mining activities within the Miami-Dade County Lake Belt
 97 Plan, effective October 1, 1999, a mitigation fee is imposed on
 98 each ton of limerock and sand extracted by any person who
 99 engages in the business of extracting limerock or sand from
 100 within the Miami-Dade County Lake Belt Area and the east one-
 101 half of sections 24 and 25 and all of sections 35 and 36,
 102 Township 53 South, Range 39 East. The mitigation fee is imposed
 103 for each ton of limerock and sand sold from within the
 104 properties where the fee applies in raw, processed, or

105 manufactured form, including, but not limited to, sized
 106 aggregate, asphalt, cement, concrete, and other limerock and
 107 concrete products. The mitigation fee imposed by this subsection
 108 for each ton of limerock and sand sold shall be 25 ~~45~~ cents per
 109 ton, beginning on January 1, 2016; 15 cents per ton beginning on
 110 January 1, 2017; and 5 cents per ton beginning on January 1,
 111 2018, and thereafter. To pay for Miami-Dade County seepage
 112 mitigation projects, an environmentally endangered lands
 113 ~~including groundwater and surface water management structures~~
 114 ~~designed to improve wetland habitat and approved by the Lake~~
 115 ~~Belt Mitigation Committee, and to upgrade a water treatment~~
 116 ~~plant that treats water coming from the Northwest Wellfield in~~
 117 ~~Miami-Dade County, a water treatment plant upgrade fee is~~
 118 imposed within the same Lake Belt Area subject to the mitigation
 119 fee and upon the same kind of mined limerock and sand subject to
 120 the mitigation fee. The environmentally endangered lands water
 121 ~~treatment plant upgrade~~ fee imposed by this section ~~subsection~~
 122 for each ton of limerock and sand sold shall be 5 ~~15~~ cents per
 123 ton, ~~and the collection of this fee shall cease once the total~~
 124 ~~amount of proceeds collected for this fee reaches the amount of~~
 125 ~~the actual moneys necessary to design and construct the water~~
 126 ~~treatment plant upgrade, as determined in an open, public~~
 127 ~~solicitation process.~~ Any limerock or sand that is used within
 128 the mine from which the limerock or sand is extracted is exempt
 129 from the fees. The amount of the mitigation fee and the
 130 environmentally endangered lands water treatment plant upgrade

131 fee imposed under this section must be stated separately on the
 132 invoice provided to the purchaser of the limerock or sand
 133 product from the limerock or sand miner, or its subsidiary or
 134 affiliate, for which the fee or fees apply. The limerock or sand
 135 miner, or its subsidiary or affiliate, who sells the limerock or
 136 sand product shall collect the mitigation fee and the water
 137 treatment plant upgrade fee and forward the proceeds of the fees
 138 to the Department of Revenue on or before the 20th day of the
 139 month following the calendar month in which the sale occurs. The
 140 proceeds of a fee imposed by this section include all funds
 141 collected and received by the Department of Revenue relating to
 142 the fee, including interest and penalties on a delinquent fee.
 143 The amount deducted for administrative costs may not exceed 3
 144 percent of the total revenues collected under this section and
 145 may equal only those administrative costs reasonably
 146 attributable to the fee.

147 (3) The mitigation fee and the environmentally endangered
 148 lands ~~water treatment plant upgrade~~ fee imposed by this section
 149 must be reported to the Department of Revenue. Payment of the
 150 mitigation and the environmentally endangered lands ~~water~~
 151 ~~treatment plant upgrade~~ fees must be accompanied by a form
 152 prescribed by the Department of Revenue.

153 (a) The proceeds of the mitigation fee, less
 154 administrative costs, must be transferred by the Department of
 155 Revenue to the South Florida Water Management District and
 156 deposited into the Lake Belt Mitigation Trust Fund.

157 (b) Beginning July 1, 2015 ~~2012~~, ~~the proceeds of the water~~
 158 ~~treatment plant upgrade fee~~ previously imposed by this section
 159 is rescinded and is no longer imposed on the sale of mined
 160 limerock and sand, ~~less administrative costs, must be~~
 161 ~~transferred by the Department of Revenue to the South Florida~~
 162 ~~Water Management District and deposited into the Lake Belt~~
 163 ~~Mitigation Trust Fund until:~~

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

167 2. ~~The quarterly pathogen sampling conducted as a~~
 168 ~~condition of the permits issued by the department for rock~~
 169 ~~mining activities in the Miami-Dade County Lake Belt Area~~
 170 ~~demonstrates that the water in any quarry lake in the vicinity~~
 171 ~~of the Northwest Wellfield would be classified as being in Bin 2~~
 172 ~~or higher as defined in the Environmental Protection Agency's~~
 173 ~~Long Term 2 Enhanced Surface Water Treatment Rule.~~

174 (c) The proceeds of the environmentally endangered lands
 175 fee ~~Upon the earliest occurrence of the criterion under~~
 176 ~~subparagraph (b)1. or subparagraph (b)2., the proceeds of the~~
 177 ~~water treatment plant upgrade fee, less administrative costs,~~
 178 ~~must be transferred by the Department of Revenue to a trust fund~~
 179 ~~established by Miami-Dade County, for the sole purpose~~
 180 ~~authorized by paragraph (6)(a).~~

181 (4)(a) The Department of Revenue shall administer,
 182 collect, and enforce the mitigation and environmentally

183 endangered lands ~~treatment plant upgrade~~ fees authorized under
 184 this section in accordance with the procedures used to
 185 administer, collect, and enforce the general sales tax imposed
 186 under chapter 212. The provisions of chapter 212 with respect to
 187 the authority of the Department of Revenue to audit and make
 188 assessments, the keeping of books and records, and the interest
 189 and penalties imposed on delinquent fees apply to this section.
 190 The fees may not be included in computing estimated taxes under
 191 s. 212.11, and the dealer's credit for collecting taxes or fees
 192 provided for in s. 212.12 does not apply to the fees imposed by
 193 this section.

194 (b) In administering this section, the Department of
 195 Revenue may employ persons and incur expenses for which funds
 196 are appropriated by the Legislature. The Department of Revenue
 197 shall adopt rules and prescribe and publish forms necessary to
 198 administer this section. The Department of Revenue shall
 199 establish audit procedures and may assess delinquent fees.

200 (5) Each January 1, beginning January 1, 2010, through
 201 December 31, 2011, the per-ton mitigation fee shall be increased
 202 by 2.1 percentage points, plus a cost growth index. The cost
 203 growth index shall be the percentage change in the weighted
 204 average of the Employment Cost Index for All Civilian Workers
 205 (ecu 10001I), issued by the United States Department of Labor
 206 for the most recent 12-month period ending on September 30, and
 207 the percentage change in the Producer Price Index for All
 208 Commodities (WPU 00000000), issued by the United States

209 Department of Labor for the most recent 12-month period ending
210 on September 30, compared to the weighted average of these
211 indices for the previous year. The weighted average shall be
212 calculated as 0.6 times the percentage change in the Employment
213 Cost Index for All Civilian Workers (ecu 10001I), plus 0.4 times
214 the percentage change in the Producer Price Index for All
215 Commodities (WPU 00000000). If either index is discontinued, it
216 shall be replaced by its successor index, as identified by the
217 United States Department of Labor.

218 (6) (a) The proceeds of the mitigation fee must be used to
219 conduct mitigation activities that are appropriate to offset the
220 loss of the value and functions of wetlands as a result of
221 mining activities and to conduct water quality monitoring to
222 ensure the protection of water resources within the Lake Belt
223 Area and be approved by the Miami-Dade County Lake Belt
224 Mitigation Committee. Such mitigation may include the purchase,
225 enhancement, restoration, and management of wetlands and uplands
226 in the Everglades watershed, the purchase of mitigation credit
227 from a permitted mitigation bank, and any structural
228 modifications to the existing drainage system to enhance the
229 hydrology of the Miami-Dade County Lake Belt Area or the
230 Everglades watershed. Funds may also be used to reimburse other
231 funding sources, including the Save Our Rivers Land Acquisition
232 Program, the Internal Improvement Trust Fund, the South Florida
233 Water Management District, and Miami-Dade County, for the
234 purchase of lands that were acquired in areas appropriate for

235 mitigation due to rock mining and to reimburse governmental
 236 agencies that exchanged land under s. 373.4149 for mitigation
 237 due to rock mining. ~~The proceeds of the water treatment plant~~
 238 ~~upgrade fee deposited into the Lake Belt Mitigation Trust Fund~~
 239 ~~shall be used solely to pay for seepage mitigation projects,~~
 240 ~~including groundwater or surface water management structures~~
 241 ~~designed to improve wetland habitat and approved by the Lake~~
 242 ~~Belt Mitigation Committee.~~ The proceeds of the environmentally
 243 endangered lands ~~water treatment plant upgrade~~ fee which are
 244 transmitted to a trust fund established by Miami-Dade County
 245 shall be used solely for the acquisition, preservation,
 246 enhancement, restoration, conservation, and maintenance of
 247 wetland and threatened forest communities located ~~to upgrade a~~
 248 ~~water treatment plant that treats water coming from the~~
 249 ~~Northwest Wellfield~~ in Miami-Dade County. However, the proceeds
 250 of the environmentally endangered lands fee must first be used
 251 to upgrade a water treatment plant that treats water coming from
 252 the Northwest Wellfield in Miami-Dade County if, following a
 253 formal determination by the department that due to the direct or
 254 indirect result of rock mining activities within the Lake Belt
 255 Area, the quarterly pathogen sampling conducted as a condition
 256 of the permits issued by the department for rock mining
 257 activities in the Miami-Dade County Lake Belt Area demonstrates
 258 that the water in any quarry lake monitored pursuant to the
 259 monitoring plan would be classified as being in Bin 2 or higher
 260 as defined in the United States Environmental Protection

261 Agency's Long Term 2 Enhanced Surface Water Treatment Rule ~~As~~
 262 ~~used in this section, the terms "upgrade a water treatment~~
 263 ~~plant" or "treatment plant upgrade" mean those works necessary~~
 264 ~~to treat or filter a surface water source or supply or both.~~

265 (b) Expenditures of the mitigation fee must be approved by
 266 an interagency committee consisting of representatives from each
 267 of the following: the Miami-Dade County Department of
 268 Environmental Resource Management, the Department of
 269 Environmental Protection, the South Florida Water Management
 270 District, and the Fish and Wildlife Conservation Commission. In
 271 addition, the limerock mining industry shall select a
 272 representative to serve as a nonvoting member of the interagency
 273 committee. At the discretion of the committee, additional
 274 members may be added to represent federal regulatory,
 275 environmental, and fish and wildlife agencies.

276 (7) Payment of the mitigation fee imposed by this section
 277 satisfies the mitigation requirements imposed under ss. 373.403-
 278 373.439 and any applicable county ordinance for loss of the
 279 value and functions from mining of the wetlands identified as
 280 rock mining supported and allowable areas of the Miami-Dade
 281 County Lake Plan adopted by s. 373.4149(1). In addition, it is
 282 the intent of the Legislature that the payment of the mitigation
 283 fee imposed by this section satisfy all federal mitigation
 284 requirements for the wetlands mined.

285 ~~(8) If a general permit by the United States Army Corps of~~
 286 ~~Engineers, or an appropriate long-term permit for mining,~~

287 ~~consistent with the Miami-Dade County Lake Belt Plan, this~~
 288 ~~section, and ss. 373.4149, 373.4415, and 378.4115 is not issued~~
 289 ~~on or before September 30, 2000, the fee imposed by this section~~
 290 ~~is suspended until revived by the Legislature.~~

291 (8)~~(9)~~(a) The interagency committee established in this
 292 section shall annually prepare and submit to the governing board
 293 of the South Florida Water Management District a report
 294 evaluating the mitigation costs and revenues generated by the
 295 mitigation fee.

296 (b) No sooner than January 31, 2010, and no more
 297 frequently than every 2 years thereafter, the interagency
 298 committee shall submit to the Legislature a report recommending
 299 any needed adjustments to the mitigation fee, including the
 300 annual escalator provided for in subsection (5), to ensure that
 301 the revenue generated reflects the actual costs of the
 302 mitigation.

303 Section 3. For the purpose of incorporating the amendment
 304 made by this act to section 373.41492, Florida Statutes, in a
 305 reference thereto, subsections (1), (2), and (3) of section
 306 373.41495, Florida Statutes, are reenacted to read:

307 373.41495 Lake Belt Mitigation Trust Fund; bonds.—

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

312 (2) The South Florida Water Management District may issue

313 revenue bonds pursuant to s. 373.584, payable from revenues from
 314 the Lake Belt Mitigation fee imposed under s. 373.41492.

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

320 Section 4. This act shall take effect July 1, 2015.