

1                                   A bill to be entitled  
 2           An act relating to Everglades improvement and  
 3           management; amending s. 373.4592, F.S.; revising  
 4           legislative findings for achieving water quality  
 5           goals; revising the definition of the term "Long-Term  
 6           Plan"; revising provisions for use of certain ad  
 7           valorem tax proceeds; providing that certain  
 8           discharges do not constitute violations of water  
 9           quality standards; directing the South Florida Water  
 10          Management District to complete a specified analysis;  
 11          extending the period time for collection of the  
 12          agricultural privilege tax; providing that payment of  
 13          the tax and certain costs fulfills certain  
 14          constitutional obligations; providing an effective  
 15          date.

16  
 17 Be It Enacted by the Legislature of the State of Florida:  
 18

19           Section 1. Paragraph (g) of subsection (1), paragraph (j)  
 20           of subsection (2), paragraphs (d) and (e) of subsection (3),  
 21           paragraphs (a) and (f) of subsection (4), and paragraphs (c) and  
 22           (h) of subsection (6) of section 373.4592, Florida Statutes, are  
 23           amended, and paragraph (h) is added to subsection (4) of that  
 24           section, to read:

25           373.4592 Everglades improvement and management.—

26           (1) FINDINGS AND INTENT.—

27           (g) The Legislature finds that the Long-Term Plan  
 28           ~~Statement of Principles of July 1993, the Everglades~~

HB 7065

2013

29 | ~~Construction Project,~~ and the regulatory requirements of this  
30 | section provide a sound basis for the state's long-term cleanup  
31 | and restoration objectives for the Everglades. It is the intent  
32 | of the Legislature to provide a sufficient period of time for  
33 | construction, testing, and research, so that the benefits of the  
34 | Long-Term Plan ~~Everglades Construction Project~~ will be  
35 | determined and maximized prior to requiring additional measures.  
36 | The Legislature finds that STAs and BMPs are currently the best  
37 | available technology for achieving the ~~interim~~ water quality  
38 | goals of the Everglades Program and that implementation of BMPs,  
39 | funded by the owners and users of land in the EAA, effectively  
40 | reduces nutrients in waters flowing into the Everglades  
41 | Protection Area. A combined program of agricultural BMPs, STAs,  
42 | and requirements of this section is a reasonable method of  
43 | achieving ~~interim~~ total phosphorus discharge reductions. The  
44 | Everglades Program is an appropriate foundation on which to  
45 | build a long-term program to ultimately achieve restoration and  
46 | protection of the Everglades Protection Area.

47 | (2) DEFINITIONS.—As used in this section:

48 | (j) "Long-Term Plan" or "Plan" means the district's  
49 | "Everglades Protection Area Tributary Basins Conceptual Plan for  
50 | Achieving Long-Term Water Quality Goals Final Report" dated  
51 | March 2003, as subsequently modified in accordance with  
52 | paragraph (3) (b), and the district's "Restoration Strategies  
53 | Regional Water Quality Plan" dated April 27, 2012, as may be  
54 | subsequently modified pursuant to paragraph (3) (b) modified  
55 | herein.

56 | (3) EVERGLADES LONG-TERM PLAN.—

HB 7065

2013

57           (d) ~~The Legislature recognizes that the Long-Term Plan~~  
58 ~~contains an initial phase and a 10-year second phase.~~ The  
59 Legislature intends that a review of this act at least 10 years  
60 after implementation of the Long-Term Plan ~~initial phase~~ is  
61 appropriate and necessary to the public interest. The review is  
62 the best way to ensure that the Everglades Protection Area is  
63 achieving state water quality standards, including phosphorus  
64 reduction, and the Long-Term Plan is using the best technology  
65 available. ~~A 10-year second phase of the Long-Term Plan must be~~  
66 ~~approved by the Legislature and codified in this act prior to~~  
67 ~~implementation of projects, but not prior to development,~~  
68 ~~review, and approval of projects by the department.~~

69           (e) The Long-Term Plan shall be implemented ~~for an initial~~  
70 ~~13-year phase (2003-2016)~~ and shall achieve water quality  
71 standards relating to the phosphorus criterion in the Everglades  
72 Protection Area as determined by a network of monitoring  
73 stations established for this purpose. Not later than December  
74 31, 2008, and each 5 years thereafter, the department shall  
75 review and approve incremental phosphorus reduction measures.

76           (4) EVERGLADES PROGRAM.—

77           (a) Everglades Construction Project.—The district shall  
78 implement the Everglades Construction Project. By the time of  
79 completion of the project, the state, district, or other  
80 governmental authority shall purchase the inholdings in the  
81 Rotenberger and such other lands necessary to achieve a 2:1  
82 mitigation ratio for the use of Brown's Farm and other similar  
83 lands, including those needed for the STA 1 Inflow and  
84 Distribution Works. The inclusion of public lands as part of the

HB 7065

2013

85 | project is for the purpose of treating waters not coming from  
86 | the EAA for hydroperiod restoration. It is the intent of the  
87 | Legislature that the district aggressively pursue the  
88 | implementation of the Everglades Construction Project in  
89 | accordance with the schedule in this subsection. The Legislature  
90 | recognizes that adherence to the schedule is dependent upon  
91 | factors beyond the control of the district, including the timely  
92 | receipt of funds from all contributors. The district shall take  
93 | all reasonable measures to complete timely performance of the  
94 | schedule in this section in order to finish the Everglades  
95 | Construction Project. The district shall not delay  
96 | implementation of the project beyond the time delay caused by  
97 | those circumstances and conditions that prevent timely  
98 | performance. The district shall not levy ad valorem taxes in  
99 | excess of 0.1 mill within the Okeechobee Basin for the purposes  
100 | of the design, construction, and acquisition of the Everglades  
101 | Construction Project. The ad valorem tax proceeds not exceeding  
102 | 0.1 mill levied within the Okeechobee Basin for such purposes  
103 | shall also be used for design, construction, and implementation  
104 | ~~of the initial phase~~ of the Long-Term Plan, including operation  
105 | and maintenance, and research for the projects and strategies in  
106 | ~~the initial phase of~~ the Long-Term Plan, and including the  
107 | enhancements and operation and maintenance of the Everglades  
108 | Construction Project and shall be the sole direct district  
109 | contribution from district ad valorem taxes appropriated or  
110 | expended for the design, construction, and acquisition of the  
111 | Everglades Construction Project unless the Legislature by  
112 | specific amendment to this section increases the 0.1 mill ad

HB 7065

2013

113 | valorem tax contribution, increases the agricultural privilege  
114 | taxes, or otherwise reallocates the relative contribution by ad  
115 | valorem taxpayers and taxpayers paying the agricultural  
116 | privilege taxes toward the funding of the design, construction,  
117 | and acquisition of the Everglades Construction Project.  
118 | Notwithstanding the provisions of s. 200.069 to the contrary,  
119 | any millage levied under the 0.1 mill limitation in this  
120 | paragraph shall be included as a separate entry on the Notice of  
121 | Proposed Property Taxes pursuant to s. 200.069. Once the STAs  
122 | are completed, the district shall allow these areas to be used  
123 | by the public for recreational purposes in the manner set forth  
124 | in s. 373.1391(1), considering the suitability of these lands  
125 | for such uses. These lands shall be made available for  
126 | recreational use unless the district governing board can  
127 | demonstrate that such uses are incompatible with the restoration  
128 | goals of the Everglades Construction Project or the water  
129 | quality and hydrological purposes of the STAs or would otherwise  
130 | adversely impact the implementation of the project. The district  
131 | shall give preferential consideration to the hiring of  
132 | agricultural workers displaced as a result of the Everglades  
133 | Construction Project, consistent with their qualifications and  
134 | abilities, for the construction and operation of these STAs. The  
135 | following milestones apply to the completion of the Everglades  
136 | Construction Project as depicted in the February 15, 1994,  
137 | conceptual design document:

138 |       1. The district must complete the final design of the STA  
139 | 1 East and West and pursue STA 1 East project components as part  
140 | of a cost-shared program with the Federal Government. The

HB 7065

2013

141 district must be the local sponsor of the federal project that  
142 will include STA 1 East, and STA 1 West if so authorized by  
143 federal law;

144 2. Construction of STA 1 East is to be completed under the  
145 direction of the United States Army Corps of Engineers in  
146 conjunction with the currently authorized C-51 flood control  
147 project;

148 3. The district must complete construction of STA 1 West  
149 and STA 1 Inflow and Distribution Works under the direction of  
150 the United States Army Corps of Engineers, if the direction is  
151 authorized under federal law, in conjunction with the currently  
152 authorized C-51 flood control project;

153 4. The district must complete construction of STA 3/4 by  
154 October 1, 2003; however, the district may modify this schedule  
155 to incorporate and accelerate enhancements to STA 3/4 as  
156 directed in the Long-Term Plan;

157 5. The district must complete construction of STA 6;

158 6. The district must, by December 31, 2006, complete  
159 construction of enhancements to the Everglades Construction  
160 Project recommended in the Long-Term Plan and initiate other  
161 pre-2006 strategies in the plan; and

162 7. East Beach Water Control District, South Shore Drainage  
163 District, South Florida Conservancy District, East Shore Water  
164 Control District, and the lessee of agricultural lease number  
165 3420 shall complete any system modifications described in the  
166 Everglades Construction Project to the extent that funds are  
167 available from the Everglades Fund. These entities shall divert  
168 the discharges described within the Everglades Construction

169 Project within 60 days of completion of construction of the  
170 appropriate STA. Such required modifications shall be deemed to  
171 be a part of each district's plan of reclamation pursuant to  
172 chapter 298.

173 (f) EAA best management practices.—

174 1. The district, in cooperation with the department, shall  
175 develop and implement a water quality monitoring program to  
176 evaluate the effectiveness of the BMPs in achieving and  
177 maintaining compliance with state water quality standards and  
178 restoring and maintaining designated and existing beneficial  
179 uses. The program shall include an analysis of the effectiveness  
180 of the BMPs in treating constituents that are not being  
181 significantly improved by the STAs. The monitoring program shall  
182 include monitoring of appropriate parameters at representative  
183 locations.

184 2. The district shall continue to require and enforce the  
185 BMP and other requirements of chapters 40E-61 and 40E-63,  
186 Florida Administrative Code, during the terms of the existing  
187 permits issued pursuant to those rules. Chapter 40E-61, Florida  
188 Administrative Code, may be amended to include the BMPs required  
189 by chapter 40E-63, Florida Administrative Code. Prior to the  
190 expiration of existing permits, and during each 5-year term of  
191 subsequent permits as provided for in this section, those rules  
192 shall be amended to implement a comprehensive program of  
193 research, testing, and implementation of BMPs that will address  
194 all water quality standards within the EAA and Everglades  
195 Protection Area. Under this program:

196 a. EAA landowners, through the EAA Environmental

197 Protection District or otherwise, shall sponsor a program of BMP  
 198 research with qualified experts to identify appropriate BMPs.

199 b. Consistent with the water quality monitoring program,  
 200 BMPs will be field-tested in a sufficient number of  
 201 representative sites in the EAA to reflect soil and crop types  
 202 and other factors that influence BMP design and effectiveness.

203 c. BMPs as required for varying crops and soil types shall  
 204 be included in permit conditions in the 5-year permits issued  
 205 pursuant to this section.

206 d. The district shall conduct research in cooperation with  
 207 EAA landowners to identify water quality parameters that are not  
 208 being significantly improved either by the STAs or the BMPs, and  
 209 to identify further BMP strategies needed to address these  
 210 parameters.

211 3. The Legislature finds that through the implementation  
 212 of the Everglades BMPs Program and the implementation of the  
 213 Everglades Construction Project, reasonable further progress  
 214 will be made towards addressing water quality requirements of  
 215 the EAA canals and the Everglades Protection Area. Permittees  
 216 within the EAA and the C-139 Basin who are in full compliance  
 217 with the conditions of permits under chapters 40E-61 and 40E-63,  
 218 Florida Administrative Code, have made all payments required  
 219 under the Everglades Program, and are in compliance with  
 220 subparagraph (a)7., if applicable, shall not be required to  
 221 implement additional water quality improvement measures, prior  
 222 to December 31, 2006, other than those required by subparagraph  
 223 2., with the following exceptions:

224 a. Nothing in this subparagraph shall limit the existing



HB 7065

2013

225 authority of the department or the district to limit or regulate  
226 discharges that pose a significant danger to the public health  
227 and safety; and

228       b. New land uses and new stormwater management facilities  
229 other than alterations to existing agricultural stormwater  
230 management systems for water quality improvements shall not be  
231 accorded the compliance established by this section. Permits may  
232 be required to implement improvements or alterations to existing  
233 agricultural water management systems.

234       4. As of December 31, 2006, all permits, including those  
235 issued prior to that date, shall require implementation of  
236 additional water quality measures, taking into account the water  
237 quality treatment actually provided by the STAs and the  
238 effectiveness of the BMPs. As of that date, no permittee's  
239 discharge shall be deemed to cause or contribute to any  
240 violation of water quality standards in the Everglades  
241 Protection Area if the discharge is in compliance with  
242 applicable permits and any associated orders.

243       5. Effective immediately, landowners within the C-139  
244 Basin shall not collectively exceed an annual average loading of  
245 phosphorus based proportionately on the historical rainfall for  
246 the C-139 Basin over the period of October 1, 1978, to September  
247 30, 1988. New surface inflows shall not increase the annual  
248 average loading of phosphorus stated above. Provided that the C-  
249 139 Basin does not exceed this annual average loading, all  
250 landowners within the Basin shall be in compliance for that  
251 year. Compliance determinations for individual landowners within  
252 the C-139 Basin for remedial action, if the Basin is determined

HB 7065

2013

253 | by the district to be out of compliance for that year, shall be  
254 | based on the landowners' proportional share of the total  
255 | phosphorus loading. The total phosphorus discharge load shall be  
256 | determined as set forth in Appendix B2 of Rule 40E-63,  
257 | Everglades Program, Florida Administrative Code.

258 |         6. The district, in cooperation with the department, shall  
259 | develop and implement a water quality monitoring program to  
260 | evaluate the quality of the discharge from the C-139 Basin. Upon  
261 | determination by the department or the district that the C-139  
262 | Basin is exceeding any presently existing water quality  
263 | standards, the district shall require landowners within the C-  
264 | 139 Basin to implement BMPs appropriate to the land uses within  
265 | the C-139 Basin consistent with subparagraph 2. Thereafter, the  
266 | provisions of subparagraphs 2.-4. shall apply to the landowners  
267 | within the C-139 Basin.

268 |         (h) Before the completion of all projects and improvements  
269 | in the Long-Term Plan, the district shall complete a use  
270 | attainability analysis to determine if those projects and  
271 | improvements will achieve the water quality based effluent  
272 | limits established in permits and orders authorizing the  
273 | operation of those facilities.

274 |         (6) EVERGLADES AGRICULTURAL PRIVILEGE TAX.—

275 |         (c) The initial Everglades agricultural privilege tax roll  
276 | shall be certified for the tax notices mailed in November 1994.  
277 | Incentive credits to the Everglades agricultural privilege taxes  
278 | to be included on the initial Everglades agricultural privilege  
279 | tax roll, if any, shall be based upon the total phosphorus load  
280 | reduction for the year ending April 30, 1993. The Everglades

HB 7065

2013

281 agricultural privilege taxes for each year shall be computed in  
282 the following manner:

283 1. Annual Everglades agricultural privilege taxes shall be  
284 charged for the privilege of conducting an agricultural trade or  
285 business on each acre of real property or portion thereof. The  
286 annual Everglades agricultural privilege tax shall be \$24.89 per  
287 acre for the tax notices mailed in November 1994 through  
288 November 1997; \$27 per acre for the tax notices mailed in  
289 November 1998 through November 2001; \$31 per acre for the tax  
290 notices mailed in November 2002 through November 2005; and \$35  
291 per acre for the tax notices mailed in November 2006 through  
292 November 2013.

293 2. It is the intent of the Legislature to encourage the  
294 performance of best management practices to maximize the  
295 reduction of phosphorus loads at points of discharge from the  
296 EAA by providing an incentive credit against the Everglades  
297 agricultural privilege taxes set forth in subparagraph 1. The  
298 total phosphorus load reduction shall be measured for the entire  
299 EAA by comparing the actual measured total phosphorus load  
300 attributable to the EAA for each annual period ending on April  
301 30 to the total estimated phosphorus load that would have  
302 occurred during the 1979-1988 base period using the model for  
303 total phosphorus load determinations provided in chapter 40E-63,  
304 Florida Administrative Code, utilizing the technical information  
305 and procedures contained in Section IV-EAA Period of Record Flow  
306 and Phosphorus Load Calculations; Section V-Monitoring  
307 Requirements; and Section VI-Phosphorus Load Allocations and  
308 Compliance Calculations of the Draft Technical Document in

HB 7065

2013

309 Support of chapter 40E-63, Florida Administrative Code - Works  
310 of the District within the Everglades, March 3, 1992, and the  
311 Standard Operating Procedures for Water Quality Collection in  
312 Support of the Everglades Water Condition Report, dated February  
313 18, 1994. The model estimates the total phosphorus load that  
314 would have occurred during the 1979-1988 base period by  
315 substituting the rainfall conditions for such annual period  
316 ending April 30 for the conditions that were used to calibrate  
317 the model for the 1979-1988 base period. The data utilized to  
318 calculate the actual loads attributable to the EAA shall be  
319 adjusted to eliminate the effect of any load and flow that were  
320 not included in the 1979-1988 base period as defined in chapter  
321 40E-63, Florida Administrative Code. The incorporation of the  
322 method of measuring the total phosphorus load reduction provided  
323 in this subparagraph is intended to provide a legislatively  
324 approved aid to the governing board of the district in making an  
325 annual ministerial determination of any incentive credit.

326 3. Phosphorus load reductions calculated in the manner  
327 described in subparagraph 2. and rounded to the nearest whole  
328 percentage point for each annual period beginning on May 1 and  
329 ending on April 30 shall be used to compute incentive credits to  
330 the Everglades agricultural privilege taxes to be included on  
331 the annual tax notices mailed in November of the next ensuing  
332 calendar year. Incentive credits, if any, will reduce the  
333 Everglades agricultural privilege taxes set forth in  
334 subparagraph 1. only to the extent that the phosphorus load  
335 reduction exceeds 25 percent. Subject to subparagraph 4., the  
336 reduction of phosphorus load by each percentage point in excess

HB 7065

2013

337 of 25 percent, computed for the 12-month period ended on April  
338 30 of the calendar year immediately preceding certification of  
339 the Everglades agricultural privilege tax, shall result in the  
340 following incentive credits: \$0.33 per acre for the tax notices  
341 mailed in November 1994 through November 1997; \$0.54 per acre  
342 for the tax notices mailed in November 1998 through November  
343 2001; \$0.61 per acre for the tax notices mailed in November 2002  
344 through November 2005, and \$0.65 per acre for the tax notices  
345 mailed in November 2006 through November 2013. The determination  
346 of incentive credits, if any, shall be documented by resolution  
347 of the governing board of the district adopted prior to or at  
348 the time of the adoption of its resolution certifying the annual  
349 Everglades agricultural privilege tax roll to the appropriate  
350 tax collector.

351 4. Notwithstanding subparagraph 3., incentive credits for  
352 the performance of best management practices shall not reduce  
353 the minimum annual Everglades agricultural privilege tax to less  
354 than \$24.89 per acre, which annual Everglades agricultural  
355 privilege tax as adjusted in the manner required by paragraph  
356 (e) shall be known as the "minimum tax." To the extent that the  
357 application of incentive credits for the performance of best  
358 management practices would reduce the annual Everglades  
359 agricultural privilege tax to an amount less than the minimum  
360 tax, then the unused or excess incentive credits for the  
361 performance of best management practices shall be carried  
362 forward, on a phosphorus load percentage basis, to be applied as  
363 incentive credits in subsequent years. Any unused or excess  
364 incentive credits remaining after certification of the

HB 7065

2013

365 Everglades agricultural privilege tax roll for the tax notices  
366 mailed in November 2013 shall be canceled.

367 5. Notwithstanding the schedule of Everglades agricultural  
368 privilege taxes set forth in subparagraph 1., the owner, lessee,  
369 or other appropriate interestholder of any property shall be  
370 entitled to have the Everglades agricultural privilege tax for  
371 any parcel of property reduced to the minimum tax, commencing  
372 with the tax notices mailed in November 1996 for parcels of  
373 property participating in the early baseline option as defined  
374 in chapter 40E-63, Florida Administrative Code, and with the tax  
375 notices mailed in November 1997 for parcels of property not  
376 participating in the early baseline option, upon compliance with  
377 the requirements set forth in this subparagraph. The owner,  
378 lessee, or other appropriate interestholder shall file an  
379 application with the executive director of the district prior to  
380 July 1 for consideration of reduction to the minimum tax on the  
381 Everglades agricultural privilege tax roll to be certified for  
382 the tax notice mailed in November of the same calendar year and  
383 shall have the burden of proving the reduction in phosphorus  
384 load attributable to such parcel of property. The phosphorus  
385 load reduction for each discharge structure serving the parcel  
386 shall be measured as provided in chapter 40E-63, Florida  
387 Administrative Code, and the permit issued for such property  
388 pursuant to chapter 40E-63, Florida Administrative Code. A  
389 parcel of property which has achieved the following annual  
390 phosphorus load reduction standards shall have the minimum tax  
391 included on the annual tax notice mailed in November of the next  
392 ensuing calendar year: 30 percent or more for the tax notices

393 mailed in November 1994 through November 1997; 35 percent or  
 394 more for the tax notices mailed in November 1998 through  
 395 November 2001; 40 percent or more for the tax notices mailed in  
 396 November 2002 through November 2005; and 45 percent or more for  
 397 the tax notices mailed in November 2006 through November 2013.  
 398 In addition, any parcel of property that achieves an annual flow  
 399 weighted mean concentration of 50 parts per billion (ppb) of  
 400 phosphorus at each discharge structure serving the property for  
 401 any year ending April 30 shall have the minimum tax included on  
 402 the annual tax notice mailed in November of the next ensuing  
 403 calendar year. Any annual phosphorus reductions that exceed the  
 404 amount necessary to have the minimum tax included on the annual  
 405 tax notice for any parcel of property shall be carried forward  
 406 to the subsequent years' phosphorus load reduction to determine  
 407 if the minimum tax shall be included on the annual tax notice.  
 408 The governing board of the district shall deny or grant the  
 409 application by resolution adopted prior to or at the time of the  
 410 adoption of its resolution certifying the annual Everglades  
 411 agricultural privilege tax roll to the appropriate tax  
 412 collector.

413         6. The annual Everglades agricultural privilege tax for  
 414 the tax notices mailed in November 2014 through November 2024  
 415 ~~2016~~ shall be \$25 per acre and for tax notices mailed in  
 416 November 2025 ~~2017~~ and thereafter shall be \$10 per acre.

417         (h) In recognition of the findings set forth in subsection  
 418 (1), the Legislature finds that the assessment and use of the  
 419 Everglades agricultural privilege tax is a matter of concern to  
 420 all areas of Florida. ~~and~~ The Legislature intends this act to be

HB 7065

2013

421 a general law authorization of the Everglades agricultural  
422 privilege tax within the meaning of s. 9, Art. VII of the State  
423 Constitution and further intends that payment of the tax, in  
424 addition to payment of the cost of continuing implementation of  
425 BMPs, fulfills ~~complies with~~ the obligations of owners and users  
426 of land under s. 7(b), Art. II of the State Constitution.

427 Section 2. This act shall take effect upon becoming a law.