

By Senator Campbell

33-1395-98

1 A bill to be entitled
2 An act relating to the Everglades Program;
3 creating s. 373.45921, F.S.; creating the
4 "Everglades Restoration and Property Tax
5 Reduction Act"; providing legislative findings
6 with respect to the funding of the costs of
7 pollution abatement for Everglades restoration;
8 defining terms; directing the South Florida
9 Water Management District to create an
10 Everglades Program Stormwater Utility;
11 authorizing the imposition of a stormwater
12 utility fee; amending s. 373.4592, F.S.;
13 providing for a reduction in the ad valorem tax
14 millage rate cap in the Okeechobee Basin;
15 providing an expiration date for the tax;
16 providing for a refund of taxes collected;
17 providing an effective date.

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19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Section 373.45921, Florida Statutes, is
22 created to read:

23 373.45921 Everglades pollution abatement funding.--

24 (1) This section may be cited as the "Everglades
25 Restoration and Property Tax Reduction Act."

26 (2) FINDINGS AND INTENT.--

27 (a) The Legislature finds that phosphorous contained
28 in discharges from the Everglades Agricultural Area represents
29 pollution that causes imbalances in the natural populations of
30 aquatic flora and fauna of the Everglades Protection Area and

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1 the Everglades Agricultural Area and contributes significantly
2 to the degradation of the Everglades ecosystem.

3 (b) The Legislature finds that the 1988 federal
4 lawsuit that led to the passage of the Marjory Stoneman
5 Douglas Everglades Protection Act in 1991 and the Everglades
6 Forever Act in 1994 was brought against the state for failure
7 to enforce state water quality standards and that this failure
8 resulted in significant water quality deterioration in
9 Everglades National Park and the Loxahatchee National Wildlife
10 Refuge from phosphorus pollution.

11 (c) The Legislature finds that the primary purpose of
12 the Everglades Program, created as part of the Everglades
13 Forever Act in 1994, is to construct stormwater treatment
14 areas and to develop research, technology, and projects for
15 the purpose of removing phosphorus from Everglades
16 Agricultural Area discharges.

17 (d) The Legislature finds that the Everglades
18 agricultural privilege tax, created as part of the Everglades
19 Forever Act in 1994, does not require the property owners and
20 lessees in the Everglades Agricultural Area to pay a share of
21 the costs of the Everglades Program which is proportional to
22 the full costs of abating pollution attributable to such
23 owners and lessees.

24 (e) The Legislature finds that subsequent to the
25 effective date of amendments that became s. 7, Article II of
26 the State Constitution, and notwithstanding the provisions of
27 s. 373.4592 to the contrary, property owners and lessees in
28 the Everglades Agricultural Area must now be required to pay
29 100 percent of the cost of abating pollution that they cause.

30 (f) The Legislature finds that additional projects
31 will likely be needed in order to proceed with Phase II of

1 Everglades restoration in order to meet the phosphorus
2 criterion in the Everglades Protection Area and Everglades
3 Agricultural Area, or the 10 parts per billion "default
4 standard" contained in s. 373.4592. A significant amount of
5 the cost of these additional measures will be for the purpose
6 of abating pollution attributable to property owners and
7 lessees in the Everglades Agricultural Area.

8 (g) It is the intent of the Legislature to require
9 additional payments from property owners and lessees in the
10 Everglades Agricultural Area to supplement payments made under
11 the Everglades agricultural privilege tax toward the cost of
12 abating pollution attributable to the Everglades Agricultural
13 Area.

14 (h) The Legislature finds that any property owner who
15 contributes to the need for stormwater management systems and
16 programs, as determined for each individual property owner by
17 the district under this section, benefits from the systems and
18 programs, and the benefits are deemed to be directly
19 proportional to the relative contribution of the property
20 owner to the need.

21 (i) The Legislature finds that the creation of
22 stormwater utilities in the Everglades Agricultural Area is an
23 appropriate method to equitably charge those in the Everglades
24 Agricultural Area for the costs of abating pollution that they
25 cause in the Everglades Protection Area and the Everglades
26 Agricultural Area.

27 (j) The Legislature finds that in order to fairly
28 implement s. 7(b), Article II of the State Constitution, ad
29 valorem property taxes within the Okeechobee Basin of the
30 South Florida Water Management District used for the purpose
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1 of funding the Everglades Construction Project should be
2 capped at 0.5 mills.

3 (2) DEFINITIONS.--As used in this section, the term:

4 (a) "Best management practice" or "BMP" has the
5 meaning set forth in s. 373.4592(2)(a). However, nothing in
6 this section precludes the South Florida Water Management
7 District from amending its rules to modify the Best Management
8 Practices provided for in this section to increase its
9 effectiveness in removing phosphorus.

10 (b) "District" means the South Florida Water
11 Management District.

12 (c) "Everglades Agricultural Area" or "EAA" has the
13 meaning set forth in s. 373.4592(2)(e).

14 (d) "Everglades Program" has the meaning set forth in
15 s. 373.4592(2)(g).

16 (e) "Everglades Protection Area" has the meaning set
17 forth in s. 373.4592(2)(h).

18 (f) "Stormwater management program" has the meaning
19 set forth in s. 403.031(15).

20 (g) "Stormwater management system" has the meaning set
21 forth in s. 403.031(15).

22 (h) "Stormwater utility" has the meaning set forth in
23 s. 403.031(17).

24 (i) "Stormwater treatment areas" or "STAs" has the
25 meaning set forth in s. 373.4592(2)(l).

26 (3) EVERGLADES AGRICULTURAL AREA STORMWATER UTILITY.--

27 (a) Any other provisions of the law to the contrary
28 notwithstanding, the district shall create stormwater
29 utilities as may be required to fully fund the costs of
30 abating pollution in the Everglades Protection Area or the
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1 Everglades Agricultural Area attributable to property owners
2 or lessees in the Everglades Agricultural Area.

3 (b) The district shall create the Everglades Program
4 Stormwater Utility within the Everglades Agricultural Area and
5 the utility shall impose stormwater utility fees in an amount
6 to fully fund the Everglades Program as the program is defined
7 in s. 373.4592, including planning, acquisition, design,
8 construction, financing, operation, maintenance, research and
9 monitoring, regulation, and all other facets of the program.

10 Everglades Program Stormwater Utility fees shall be charged to
11 property owners or lessees in the Everglades Agricultural Area
12 in proportion to the phosphorus loads discharged by the
13 property owners or lessees.

14 1. The stormwater utility fees shall be charged
15 annually to Everglades Agricultural Area property owners or
16 lessees by the district in a fee notice mailed in November of
17 each year.

18 2. The district shall determine on an annual basis the
19 share of Everglades Program costs attributable to pollution
20 from Everglades Agricultural Area property owners or lessees.
21 The share shall be determined by calculating the percentage of
22 phosphorus loads to the Stormwater Treatment Areas that are
23 discharged by the Everglades Agricultural Area and applying
24 that percentage to total remaining Everglades Program costs.
25 In assessing the annual remaining Everglades Program costs,
26 the district shall account for any increases in program costs
27 that may occur from year to year.

28 3. The district shall determine the aggregate
29 phosphorus load produced in and discharged from the Everglades
30 Agricultural Area and the individual phosphorus loads produced
31 by each property owner or lessee in the Everglades

1 Agricultural Area, using the Best Management Practice
2 identification measuring points contained in the Everglades
3 Best Management Practice Report for Water Year 1996-97,
4 published by the district on September 11, 1997.

5 4. The annual stormwater utility fee must be
6 calculated on the basis of the amounts of phosphorous
7 discharged to the Stormwater Treatment Areas by individual
8 property owners or lessees and on a per-acre basis.

9 5. The district, by rule, shall adopt a system of
10 stormwater utility fee incentive credits for those landowners
11 and lessees in the Everglades Agricultural Area. The incentive
12 fee credits must be designed to reward Everglades Agricultural
13 Area landowners or lessees that annually reduce their
14 phosphorous loads on a per-acre basis.

15 6. All stormwater utility fees established under this
16 subsection shall be charged on an annual basis to property
17 owners or lessees in the Everglades Agricultural Area by the
18 district through a fee notice delivered contemporaneously with
19 the combined notice for ad valorem taxes and non-ad valorem
20 assessments provided for in s. 197.3635. The fees are due and
21 payable on November 1 of each year and become delinquent on
22 April 1 following the year in which they are charged or
23 immediately after 60 days have expired from the mailing of the
24 original fee notice, whichever is later.

25 7. Any utility fees charged under this subsection
26 constitute a lien against the property or the leasehold or
27 other interest in governmental property. The lien is in effect
28 from January 1 of the year the utility fee notice is mailed
29 until discharged by payment and is equal in rank and dignity
30 with the liens of all state, county, district, or municipal
31 taxes and non-ad valorem assessments imposed under general

1 law, special act, or local ordinance and is superior in
2 dignity to all other liens, titles, and claims. The district
3 may enforce the payment of utility fees charged under this
4 subsection through actions or proceedings in any court of
5 competent jurisdiction for unpaid deposits and charges.

6 Section 2. Paragraph (a) of subsection (4) of section
7 373.4592, Florida Statutes, is amended to read:

8 373.4592 Everglades improvement and management.--

9 (4) EVERGLADES PROGRAM.--

10 (a) Everglades Construction Project.--The district
11 shall implement the Everglades Construction Project. By the
12 time of completion of the project, the state, district, or
13 other governmental authority shall purchase the inholdings in
14 the Rotenberger and such other lands necessary to achieve a
15 2:1 mitigation ratio for the use of Brown's Farm and other
16 similar lands, including those needed for the STA 1 Inflow and
17 Distribution Works. The inclusion of public lands as part of
18 the project is for the purpose of treating waters not coming
19 from the EAA for hydroperiod restoration. It is the intent of
20 the Legislature that the district aggressively pursue the
21 implementation of the Everglades Construction Project in
22 accordance with the schedule in this subsection. The
23 Legislature recognizes that adherence to the schedule is
24 dependent upon factors beyond the control of the district,
25 including the timely receipt of funds from all contributors.
26 The district shall take all reasonable measures to complete
27 timely performance of the schedule in this section in order to
28 finish the Everglades Construction Project. The district shall
29 not delay implementation of the project beyond the time delay
30 caused by those circumstances and conditions that prevent
31 timely performance. The district shall not levy ad valorem

1 taxes in excess of 0.05 ~~0.1~~ mill within the Okeechobee Basin
2 for the purposes of the design, construction, and acquisition
3 of the Everglades Construction Project. The authority to levy
4 ad valorem taxes not in excess of 0.05 mill within the
5 Okeechobee Basin for the Everglades Construction Project
6 expires July 1, 2006.The ad valorem tax proceeds not
7 exceeding 0.05 ~~0.1~~ mill levied within the Okeechobee Basin for
8 such purposes shall be the sole direct district contribution
9 from district ad valorem taxes appropriated or expended for
10 the design, construction, and acquisition of the Everglades
11 Construction Project unless the Legislature by specific
12 amendment to this section increases the 0.05 ~~0.1~~ mill ad
13 valorem tax contribution, increases the agricultural privilege
14 taxes, or otherwise reallocates the relative contribution by
15 ad valorem taxpayers and taxpayers paying the agricultural
16 privilege taxes toward the funding of the design,
17 construction, and acquisition of the Everglades Construction
18 Project. Notwithstanding the provisions of s. 200.069 to the
19 contrary, any millage levied under the 0.05 ~~0.1~~ mill
20 limitation in this paragraph shall be included as a separate
21 entry on the Notice of Proposed Property Taxes pursuant to s.
22 200.069. Once the STAs are completed, the district shall allow
23 these areas to be used by the public for recreational purposes
24 in the manner set forth in s. 373.59(11)~~s. 373.59(10)~~,
25 considering the suitability of these lands for such uses.
26 These lands shall be made available for recreational use
27 unless the district governing board can demonstrate that such
28 uses are incompatible with the restoration goals of the
29 Everglades Construction Project or the water quality and
30 hydrological purposes of the STAs or would otherwise adversely
31 impact the implementation of the project. The district shall

1 give preferential consideration to the hiring of agricultural
2 workers displaced as a result of the Everglades Construction
3 Project, consistent with their qualifications and abilities,
4 for the construction and operation of these STAs. The
5 following milestones apply to the completion of the Everglades
6 Construction Project as depicted in the February 15, 1994,
7 conceptual design document:

8 1. The district must complete the final design of the
9 STA 1 East and West and pursue STA 1 East project components
10 as part of a cost-shared program with the Federal Government.
11 The district must be the local sponsor of the federal project
12 that will include STA 1 East, and STA 1 West if so authorized
13 by federal law. Land acquisition shall be completed for STA 1
14 West by April 1, 1996, and for STA 1 East by July 1, 1998;

15 2. Construction of STA 1 East is to be completed under
16 the direction of the United States Army Corps of Engineers in
17 conjunction with the currently authorized C-51 flood control
18 project by July 1, 2002;

19 3. The district must complete construction of STA 1
20 West and STA 1 Inflow and Distribution Works under the
21 direction of the United States Army Corps of Engineers, if the
22 direction is authorized under federal law, in conjunction with
23 the currently authorized C-51 flood control project, by
24 January 1, 1999;

25 4. The district must complete construction of STA 2 by
26 February 1, 1999;

27 5. The district must complete construction of STA 3/4
28 by October 1, 2003;

29 6. The district must complete construction of STA 5 by
30 January 1, 1999; and

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