

Bill No. CS for SB 54-A

Amendment No. ____ Barcode 124274

CHAMBER ACTION

Senate

House

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11 Senator Campbell moved the following amendment:

Senate Amendment (with title amendment)

14 On page 35, line 25, through
15 page 42, line 28, delete those lines

17 and insert:

18 Section 18. Subsections (2), (3), and (4), paragraphs
19 (c) and (h) of subsection (6), and subsections (7), (10), and
20 (16), of section 373.4592, Florida Statutes, as amended by
21 section 1 of chapter 2003-12, Laws of Florida, are amended,
22 and subsection (17) of that section is reenacted, to read:

23 373.4592 Everglades improvement and management.--

24 (2) DEFINITIONS.--As used in this section:

25 ~~(a) "Best available phosphorus reduction technology"~~
26 ~~or "BAPRT" means a combination of BMPs and STAs which includes~~
27 ~~a continuing research and monitoring program to reduce outflow~~
28 ~~concentrations of phosphorus so as to achieve the phosphorus~~
29 ~~criterion in the Everglades Protection Area at the earliest~~
30 ~~practicable date.~~

31 ~~(a)~~(b) "Best management practice" or "BMP" means a

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1 practice or combination of practices determined by the
2 district, in cooperation with the department, based on
3 research, field-testing, and expert review, to be the most
4 effective and practicable, including economic and
5 technological considerations, on-farm means of improving water
6 quality in agricultural discharges to a level that balances
7 water quality improvements and agricultural productivity.

8 ~~(b)(c)~~ "C-139 Basin" or "Basin" means those lands
9 described in subsection (16).

10 ~~(c)(d)~~ "Department" means the Florida Department of
11 Environmental Protection.

12 ~~(d)(e)~~ "District" means the South Florida Water
13 Management District.

14 ~~(e)(f)~~ "Everglades Agricultural Area" or "EAA" means
15 the Everglades Agricultural Area, which are those lands
16 described in subsection (15).

17 ~~(f)(g)~~ "Everglades Construction Project" means the
18 project described in the February 15, 1994, conceptual design
19 document together with construction and operation schedules on
20 file with the South Florida Water Management District, except
21 as modified by this section.

22 ~~(g)(h)~~ "Everglades Program" means the program of
23 projects, regulations, and research provided by this section,
24 including the Everglades Construction Project.

25 ~~(h)(i)~~ "Everglades Protection Area" means Water
26 Conservation Areas 1, 2A, 2B, 3A, and 3B, the Arthur R.
27 Marshall Loxahatchee National Wildlife Refuge, and the
28 Everglades National Park.

29 ~~(j)~~ ~~"Long Term Plan" or "Plan" means the district's~~
30 ~~"Everglades Protection Area Tributary Basins Conceptual Plan~~
31 ~~for Achieving Long Term Water Quality Goals Final Report"~~

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1 ~~dated March 2003, as modified herein.~~

2 *(i)(k)* "Master permit" means a single permit issued to
3 a legally responsible entity defined by rule, authorizing the
4 construction, alteration, maintenance, or operation of
5 multiple stormwater management systems that may be owned or
6 operated by different persons and which provides an
7 opportunity to achieve collective compliance with applicable
8 department and district rules and the provisions of this
9 section.

10 ~~(l) "Optimization" shall mean maximizing the potential~~
11 ~~treatment effectiveness of the STAs through measures such as~~
12 ~~additional compartmentalization, improved flow control,~~
13 ~~vegetation management, or operation refinements, in~~
14 ~~combination with improvements where practicable in urban and~~
15 ~~agricultural BMPs, and includes integration with~~
16 ~~Congressionally authorized components of the Comprehensive~~
17 ~~Everglades Restoration Plan or "CERP".~~

18 *(j)(m)* "Phosphorus criterion" means a numeric
19 interpretation for phosphorus of the Class III narrative
20 nutrient criterion.

21 *(k)(n)* "Stormwater management program" shall have the
22 meaning set forth in s. 403.031(15).

23 ~~(l)(o)~~ "Stormwater treatment areas" or "STAs" means
24 those treatment areas described and depicted in the district's
25 conceptual design document of February 15, 1994, and any
26 modifications as provided in this section.

27 ~~(p) "Technology-based effluent limitation" or "TBEL"~~
28 ~~means the technology-based treatment requirements as defined~~
29 ~~in Rule 62-650.200, Florida Administrative Code.~~

30 (3) EVERGLADES SWIM ~~LONG-TERM~~ PLAN.--

31 ~~(a)~~ The Legislature finds that the Everglades Program

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1 required by this section establishes more extensive and
2 comprehensive requirements for surface water improvement and
3 management within the Everglades than the SWIM plan
4 requirements provided in ss. 373.451-373.456. In order to
5 avoid duplicative requirements, and in order to conserve the
6 resources available to the district, the SWIM plan
7 requirements of those sections shall not apply to the
8 Everglades Protection Area and the EAA during the term of the
9 Everglades Program, and the district will neither propose, nor
10 take final agency action on, any Everglades SWIM plan for
11 those areas until the Everglades Program is fully implemented;
12 however, funds under s. 259.101(3)(b) may be used for
13 acquisition of lands necessary to implement the Everglades
14 Construction Project, to the extent these funds are identified
15 in the Statement of Principles of July 1993. The district's
16 actions in implementing the Everglades Construction Project
17 relating to the responsibilities of the EAA and C-139 Basin
18 for funding and water quality compliance in the EAA and the
19 Everglades Protection Area shall be governed by this section.
20 Other strategies or activities in the March 1992 ~~Everglades~~
21 SWIM plan may be implemented if otherwise authorized by law.

22 ~~(b) The Legislature finds that the most reliable means~~
23 ~~of optimizing the performance of STAs and achieving reasonable~~
24 ~~further progress in reducing phosphorus entering the~~
25 ~~Everglades Protection Area is to utilize a long-term planning~~
26 ~~process. The Legislature finds that the Long-Term Plan~~
27 ~~provides the best available phosphorus reduction technology~~
28 ~~based upon a combination of the BMPs and STAs described in the~~
29 ~~Plan provided that the Plan shall seek to achieve the~~
30 ~~phosphorus criterion in the Everglades Protection Area. The~~
31 ~~Long-Term Plan will be implemented and revised with the~~

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1 ~~planning goal and objective of achieving the phosphorus~~
2 ~~criterion to be adopted pursuant to subparagraph (4)(e)2. in~~
3 ~~the Everglades Protection Area, and not based on any planning~~
4 ~~goal or objective in the Plan that is inconsistent with this~~
5 ~~section. Revisions to the Long-Term Plan shall be incorporated~~
6 ~~through an adaptive management approach including a process~~
7 ~~development and engineering component to identify and~~
8 ~~implement incremental optimization measures for further~~
9 ~~phosphorus reductions.~~

10 ~~(c) It is the intent of the Legislature that~~
11 ~~implementation of the Long-Term Plan shall be integrated and~~
12 ~~consistent with the implementation of the projects and~~
13 ~~activities in the Congressionally authorized components of the~~
14 ~~CERP so that unnecessary and duplicative costs will be~~
15 ~~avoided. Nothing in this section shall modify any existing~~
16 ~~cost share or responsibility provided for projects listed in~~
17 ~~s. 528 of the Water Resources Development Act of 1996 (110~~
18 ~~Stat. 3769) or provided for projects listed in section 601 of~~
19 ~~the Water Resources Development Act of 2000 (114 Stat. 2572).~~
20 ~~The Legislature does not intend for the provisions of this~~
21 ~~section to diminish commitments made by the State of Florida~~
22 ~~to restore and maintain water quality in the Everglades~~
23 ~~Protection Area, including the federal lands in the settlement~~
24 ~~agreement referenced in paragraph (4)(e).~~

25 ~~(d) The Legislature recognizes that the Long-Term Plan~~
26 ~~contains an initial phase and a 10-year second phase. The~~
27 ~~Legislature intends that a review of this act at least 10~~
28 ~~years after implementation of the initial phase is appropriate~~
29 ~~and necessary to the public interest. The review is the best~~
30 ~~way to ensure that discharges to the Everglades Protection~~
31 ~~Area are achieving state water quality standards, including~~

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1 ~~phosphorus reduction, to the maximum extent practicable, and~~
2 ~~are using the best technology available. A 10-year second~~
3 ~~phase of the Long-Term Plan must be approved by the~~
4 ~~Legislature and codified in this act prior to implementation~~
5 ~~of projects, but not prior to development, review, and~~
6 ~~approval of projects by the department.~~

7 ~~(e) The Long-Term Plan shall be implemented for an~~
8 ~~initial 13-year phase (2003-2016) and shall, to the maximum~~
9 ~~extent practicable, achieve water quality standards relating~~
10 ~~to the phosphorus criterion in the Everglades Protection Area~~
11 ~~as determined by a network of monitoring stations established~~
12 ~~for this purpose. Not later than December 31, 2008, and each 5~~
13 ~~years thereafter, the department shall review and approve~~
14 ~~incremental phosphorus reduction measures to be implemented at~~
15 ~~the earliest practicable date.~~

16 (4) EVERGLADES PROGRAM.--

17 (a) Everglades Construction Project.--The district
18 shall implement the Everglades Construction Project. By the
19 time of completion of the project, the state, district, or
20 other governmental authority shall purchase the inholdings in
21 the Rotenberger and such other lands necessary to achieve a
22 2:1 mitigation ratio for the use of Brown's Farm and other
23 similar lands, including those needed for the STA 1 Inflow and
24 Distribution Works. The inclusion of public lands as part of
25 the project is for the purpose of treating waters not coming
26 from the EAA for hydroperiod restoration. It is the intent of
27 the Legislature that the district aggressively pursue the
28 implementation of the Everglades Construction Project in
29 accordance with the schedule in this subsection. The
30 Legislature recognizes that adherence to the schedule is
31 dependent upon factors beyond the control of the district,

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1 including the timely receipt of funds from all contributors.
2 The district shall take all reasonable measures to complete
3 timely performance of the schedule in this section in order to
4 finish the Everglades Construction Project. The district shall
5 not delay implementation of the project beyond the time delay
6 caused by those circumstances and conditions that prevent
7 timely performance. The district shall not levy ad valorem
8 taxes in excess of 0.1 mill within the Okeechobee Basin for
9 the purposes of the design, construction, and acquisition of
10 the Everglades Construction Project. The ad valorem tax
11 proceeds not exceeding 0.1 mill levied within the Okeechobee
12 Basin for such purposes shall ~~also be used for design,~~
13 ~~construction, and implementation of the initial phase of the~~
14 ~~Long-Term Plan, including operation and maintenance, and~~
15 ~~research for the projects and strategies in the initial phase~~
16 ~~of the Long-Term Plan, and including the enhancements and~~
17 ~~operation and maintenance of the Everglades Construction~~
18 ~~Project and shall be~~ the sole direct district contribution
19 from district ad valorem taxes appropriated or expended for
20 the design, construction, and acquisition of the Everglades
21 Construction Project unless the Legislature by specific
22 amendment to this section increases the 0.1 mill ad valorem
23 tax contribution, increases the agricultural privilege taxes,
24 or otherwise reallocates the relative contribution by ad
25 valorem taxpayers and taxpayers paying the agricultural
26 privilege taxes toward the funding of the design,
27 construction, and acquisition of the Everglades Construction
28 Project. Notwithstanding the provisions of s. 200.069 to the
29 contrary, any millage levied under the 0.1 mill limitation in
30 this paragraph shall be included as a separate entry on the
31 Notice of Proposed Property Taxes pursuant to s. 200.069. Once

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1 the STAs are completed, the district shall allow these areas
2 to be used by the public for recreational purposes in the
3 manner set forth in s. 373.59(11) ~~s. 373.1391(1)~~, considering
4 the suitability of these lands for such uses. These lands
5 shall be made available for recreational use unless the
6 district governing board can demonstrate that such uses are
7 incompatible with the restoration goals of the Everglades
8 Construction Project or the water quality and hydrological
9 purposes of the STAs or would otherwise adversely impact the
10 implementation of the project. The district shall give
11 preferential consideration to the hiring of agricultural
12 workers displaced as a result of the Everglades Construction
13 Project, consistent with their qualifications and abilities,
14 for the construction and operation of these STAs. The
15 following milestones apply to the completion of the Everglades
16 Construction Project as depicted in the February 15, 1994,
17 conceptual design document:

18 1. The district must complete the final design of the
19 STA 1 East and West and pursue STA 1 East project components
20 as part of a cost-shared program with the Federal Government.
21 The district must be the local sponsor of the federal project
22 that will include STA 1 East, and STA 1 West if so authorized
23 by federal law. Land acquisition shall be completed for STA 1
24 West by April 1, 1996, and for STA 1 East by July 1, 1998;

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

29 3. The district must complete construction of STA 1
30 West and STA 1 Inflow and Distribution Works under the
31 direction of the United States Army Corps of Engineers, if the

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1 direction is authorized under federal law, in conjunction with
2 the currently authorized C-51 flood control project, by
3 January 1, 1999;

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

6 ~~5.4. The district must complete construction of STA~~
7 ~~3/4 by October 1, 2003; however, the district may modify this~~
8 ~~schedule to incorporate and accelerate enhancements to STA 3/4~~
9 ~~as directed in the Long-Term Plan;~~

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

12 ~~7.5. The district must complete construction of STA 6~~
13 ~~by October 1, 1997.†~~

14 ~~6. The district must, by December 31, 2006, complete~~
15 ~~construction of enhancements to the Everglades Construction~~
16 ~~Project recommended in the Long-Term Plan and initiate other~~
17 ~~pre-2006 strategies in the plan; and~~

18 8.7. East Beach Water Control District, South Shore
19 Drainage District, South Florida Conservancy District, East
20 Shore Water Control District, and the lessee of agricultural
21 lease number 3420 shall complete any system modifications
22 described in the Everglades Construction Project to the extent
23 that funds are available from the Everglades Fund. These
24 entities shall divert the discharges described within the
25 Everglades Construction Project within 60 days of completion
26 of construction of the appropriate STA. Such required
27 modifications shall be deemed to be a part of each district's
28 plan of reclamation pursuant to chapter 298.

29 (b) Everglades water supply and hydroperiod
30 improvement and restoration.--

31 1. A comprehensive program to revitalize the

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1 Everglades shall include programs and projects to improve the
2 water quantity reaching the Everglades Protection Area at
3 optimum times and improve hydroperiod deficiencies in the
4 Everglades ecosystem. To the greatest extent possible,
5 wasteful discharges of fresh water to tide shall be reduced,
6 and water conservation practices and reuse measures shall be
7 implemented by water users, consistent with law. Water supply
8 management must include improvement of water quantity reaching
9 the Everglades, correction of long-standing hydroperiod
10 problems, and an increase in the total quantity of water
11 flowing through the system. Water supply management must
12 provide water supply for the Everglades National Park, the
13 urban and agricultural areas, and the Florida Bay and must
14 replace water previously available from the coastal ridge
15 areas of southern Dade County. The Everglades Construction
16 Project redirects some water currently lost to tide. It is an
17 important first step in completing hydroperiod improvement.

18 2. The district shall operate the Everglades
19 Construction Project as specified in the February 15, 1994,
20 conceptual design document, to provide additional inflows to
21 the Everglades Protection Area. The increased flow from the
22 project shall be directed to the Everglades Protection Area as
23 needed to achieve an average annual increase of 28 percent
24 compared to the baseline years of 1979 to 1988. Consistent
25 with the design of the Everglades Construction Project and
26 without demonstratively reducing water quality benefits, the
27 regulatory releases will be timed and distributed to the
28 Everglades Protection Area to maximize environmental benefits.

29 3. The district shall operate the Everglades
30 Construction Project in accordance with the February 15, 1994,
31 conceptual design document to maximize the water quantity

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1 benefits and improve the hydroperiod of the Everglades
2 Protection Area. All reductions of flow to the Everglades
3 Protection Area from BMP implementation will be replaced. The
4 district shall develop a model to be used for quantifying the
5 amount of water to be replaced. The district shall publish in
6 the Florida Administrative Weekly a notice of rule development
7 on the model no later than July 1, 1994, and a notice of
8 rulemaking no later than July 1, 1995. The timing and
9 distribution of this replaced water will be directed to the
10 Everglades Protection Area to maximize the natural balance of
11 the Everglades Protection Area.

12 4. The Legislature recognizes the complexity of the
13 Everglades watershed, as well as legal mandates under Florida
14 and federal law. As local sponsor of the Central and Southern
15 Florida Flood Control Project, the district must coordinate
16 its water supply and hydroperiod programs with the Federal
17 Government. Federal planning, research, operating guidelines,
18 and restrictions for the Central and Southern Florida Flood
19 Control Project now under review by federal agencies will
20 provide important components of the district's Everglades
21 Program. The department and district shall use their best
22 efforts to seek the amendment of the authorized purposes of
23 the project to include water quality protection, hydroperiod
24 restoration, and environmental enhancement as authorized
25 purposes of the Central and Southern Florida Flood Control
26 Project, in addition to the existing purposes of water supply,
27 flood protection, and allied purposes. Further, the department
28 and the district shall use their best efforts to request that
29 the Federal Government include in the evaluation of the
30 regulation schedule for Lake Okeechobee a review of the
31 regulatory releases, so as to facilitate releases of water

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1 into the Everglades Protection Area which further improve
2 hydroperiod restoration.

3 5. The district, through cooperation with the federal
4 and state agencies, shall develop other programs and methods
5 to increase the water flow and improve the hydroperiod of the
6 Everglades Protection Area.

7 6. Nothing in this section is intended to provide an
8 allocation or reservation of water or to modify the provisions
9 of part II. All decisions regarding allocations and
10 reservations of water shall be governed by applicable law.

11 7. The district shall proceed to expeditiously
12 implement the minimum flows and levels for the Everglades
13 Protection Area as required by s. 373.042 and shall
14 expeditiously complete the Lower East Coast Water Supply Plan.

15 (c) STA 3/4 modification.--The Everglades Program will
16 contribute to the restoration of the Rotenberger and Holey
17 Land tracts. The Everglades Construction Project provides a
18 first step toward restoration by improving hydroperiod with
19 treated water for the Rotenberger tract and by providing a
20 source of treated water for the Holey Land. It is further the
21 intent of the Legislature that the easternmost tract of the
22 Holey Land, known as the "Toe of the Boot," be removed from
23 STA 3/4 under the circumstances set forth in this paragraph.
24 The district shall proceed to modify the Everglades
25 Construction Project, provided that the redesign achieves at
26 least as many environmental and hydrological benefits as are
27 included in the original design, including treatment of waters
28 from sources other than the EAA, and does not delay
29 construction of STA 3/4. The district is authorized to use
30 eminent domain to acquire alternative lands, only if such
31 lands are located within 1 mile of the northern border of STA

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1 3/4.

2 (d) Everglades research and monitoring program.--

3 1. By January 1996, the department and the district
4 shall review and evaluate available water quality data for the
5 Everglades Protection Area and tributary waters and identify
6 any additional information necessary to adequately describe
7 water quality in the Everglades Protection Area and tributary
8 waters. By such date, the department and the district shall
9 also initiate a research and monitoring program to generate
10 such additional information identified and to evaluate the
11 effectiveness of the BMPs and STAs, as they are implemented,
12 in improving water quality and maintaining designated and
13 existing beneficial uses of the Everglades Protection Area and
14 tributary waters. As part of the program, the district shall
15 monitor all discharges into the Everglades Protection Area for
16 purposes of determining compliance with state water quality
17 standards.

18 2. The research and monitoring program shall evaluate
19 the ecological and hydrological needs of the Everglades
20 Protection Area, including the minimum flows and levels.
21 Consistent with such needs, the program shall also evaluate
22 water quality standards for the Everglades Protection Area and
23 for the canals of the EAA, so that these canals can be
24 classified in the manner set forth in paragraph (e) and
25 protected as an integral part of the water management system
26 which includes the STAs of the Everglades Construction Project
27 and allows landowners in the EAA to achieve applicable water
28 quality standards compliance by BMPs and STA treatment to the
29 extent this treatment is available and effective.

30 3. The research and monitoring program shall include
31 research seeking to optimize the design and operation of the

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1 STAs, including research to reduce outflow concentrations, and
2 to identify other treatment and management methods and
3 regulatory programs that are superior to STAs in achieving the
4 intent and purposes of this section.

5 4. The research and monitoring program shall be
6 conducted to allow completion by December 2001 of any research
7 necessary to allow the department to propose a phosphorus
8 criterion in the Everglades Protection Area, and to evaluate
9 existing state water quality standards applicable to the
10 Everglades Protection Area and existing state water quality
11 standards and classifications applicable to the EAA canals. In
12 developing the phosphorus criterion, the department shall also
13 consider the minimum flows and levels for the Everglades
14 Protection Area and the district's water supply plans for the
15 Lower East Coast.

16 5. The district, in cooperation with the department,
17 shall prepare a peer-reviewed interim report regarding the
18 research and monitoring program, which shall be submitted no
19 later than January 1, 1999, to the Governor, the President of
20 the Senate, and the Speaker of the House of Representatives
21 for their review. The interim report shall summarize all data
22 and findings available as of July 1, 1998, on the
23 effectiveness of STAs and BMPs in improving water quality. The
24 interim report shall also include a summary of the
25 then-available data and findings related to the following: the
26 Lower East Coast Water Supply Plan of the district, the United
27 States Environmental Protection Agency Everglades Mercury
28 Study, the United States Army Corps of Engineers South Florida
29 Ecosystem Restoration Study, the results of research and
30 monitoring of water quality and quantity in the Everglades
31 region, the degree of phosphorus discharge reductions achieved

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1 by BMPs and agricultural operations in the region, the current
2 information on the ecological and hydrological needs of the
3 Everglades, and the costs and benefits of phosphorus reduction
4 alternatives. Prior to finalizing the interim report, the
5 district shall conduct at least one scientific workshop and
6 two public hearings on its proposed interim report. One public
7 hearing must be held in Palm Beach County and the other must
8 be held in either Dade or Broward County. The interim report
9 shall be used by the department and the district in making any
10 decisions regarding the implementation of the Everglades
11 Construction Project subsequent to the completion of the
12 interim report. The construction of STAs 3/4 shall not be
13 commenced until 90 days after the interim report has been
14 submitted to the Governor and the Legislature.

15 ~~6.5.~~ Beginning January 1, 2000, the district and the
16 department shall annually issue a peer-reviewed report
17 regarding the research and monitoring program that summarizes
18 all data and findings. The department shall provide copies of
19 the report to the Governor, the President of the Senate, and
20 the Speaker of the House of Representatives. The report shall
21 identify water quality parameters, in addition to phosphorus,
22 which exceed state water quality standards or are causing or
23 contributing to adverse impacts in the Everglades Protection
24 Area.

25 ~~7.6.~~ The district shall continue research seeking to
26 optimize the design and operation of STAs and to identify
27 other treatment and management methods that are superior to
28 STAs in achieving optimum water quality and water quantity for
29 the benefit of the Everglades. The district shall optimize the
30 design and operation of the STAs described in the Everglades
31 Construction Project prior to expanding their size. Additional

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1 methods to achieve compliance with water quality standards
 2 shall not be limited to more intensive management of the STAs.

3 (e) Evaluation of water quality standards.--

4 1. The department and the district shall employ all
 5 means practicable to complete by December 31, 1998, any
 6 additional research necessary to:

7 a. Numerically interpret for phosphorus the Class III
 8 narrative nutrient criterion necessary to meet water quality
 9 standards in the Everglades Protection Area; and

10 b. Evaluate existing water quality standards
 11 applicable to the Everglades Protection Area and EAA canals.

12
 13 This research shall be completed no later than December 31,
 14 2001.

15 2. By December 31, 2001, the department shall file a
 16 notice of rulemaking in the Florida Administrative Weekly to
 17 establish a phosphorus criterion in the Everglades Protection
 18 Area. In no case shall such phosphorus criterion allow waters
 19 in the Everglades Protection Area to be altered so as to cause
 20 an imbalance in the natural populations of aquatic flora or
 21 fauna. The phosphorus criterion shall be 10 parts per billion
 22 (ppb) in the Everglades Protection Area in the event the
 23 department does not adopt by rule such criterion by December
 24 31, 2003. However, in the event the department fails to adopt
 25 a phosphorus criterion on or before December 31, 2002, any
 26 person whose substantial interests would be affected by the
 27 rulemaking shall have the right, on or before February 28,
 28 2003, to petition for a writ of mandamus to compel the
 29 department to adopt by rule such criterion. Venue for the
 30 mandamus action must be Leon County. The court may stay
 31 implementation of the 10 parts per billion (ppb) criterion

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1 during the pendency of the mandamus proceeding upon a
2 demonstration by the petitioner of irreparable harm in the
3 absence of such relief. The department's phosphorus criterion,
4 whenever adopted, shall supersede the 10 parts per billion
5 (ppb) criterion otherwise established by this section, but
6 shall not be lower than the natural conditions of the
7 Everglades Protection Area and shall take into account spatial
8 and temporal variability. ~~The department's rule adopting a
9 phosphorus criterion may include moderating provisions during
10 the implementation of the initial phase of the Long-Term Plan
11 authorizing discharges based upon BAPRT providing net
12 improvement to impacted areas. Discharges to unimpacted areas
13 may also be authorized by moderating provisions, which shall
14 require BAPRT, and which must be based upon a determination by
15 the department that the environmental benefits of the
16 discharge clearly outweigh potential adverse impacts.~~

17 3. The department shall use the best available
18 information to define relationships between waters discharged
19 to, and the resulting water quality in, the Everglades
20 Protection Area. The department or the district shall use
21 these relationships to establish discharge limits in permits
22 for discharges into the EAA canals and the Everglades
23 Protection Area necessary to prevent an imbalance in the
24 natural populations of aquatic flora or fauna in the
25 Everglades Protection Area, and to provide a net improvement
26 in the areas already impacted. ~~During the implementation of
27 the initial phase of the Long-Term Plan, permits issued by the
28 department shall be based on BAPRT, and shall include
29 technology-based effluent limitations consistent with the
30 Long-Term Plan.~~ Compliance with the phosphorus criterion shall
31 be based upon a long-term geometric mean of concentration

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1 levels to be measured at sampling stations recognized from the
2 research to be reasonably representative of receiving waters
3 in the Everglades Protection Area, and so located so as to
4 assure that the Everglades Protection Area is not altered so
5 as to cause an imbalance in natural populations of aquatic
6 flora and fauna and to assure a net improvement in the areas
7 already impacted. For the Everglades National Park and the
8 Arthur R. Marshall Loxahatchee National Wildlife Refuge, the
9 method for measuring compliance with the phosphorus criterion
10 shall be in a manner consistent with Appendices A and B,
11 respectively, of the settlement agreement dated July 26, 1991,
12 entered in case No. 88-1886-Civ-Hoeveler, United States
13 District Court for the Southern District of Florida, that
14 recognizes and provides for incorporation of relevant
15 research.

16 4. The department's evaluation of any other water
17 quality standards must include the department's
18 antidegradation standards and EAA canal classifications. In
19 recognition of the special nature of the conveyance canals of
20 the EAA, as a component of the classification process, the
21 department is directed to formally recognize by rulemaking
22 existing actual beneficial uses of the conveyance canals in
23 the EAA. This shall include recognition of the Class III
24 designated uses of recreation, propagation and maintenance of
25 a healthy, well-balanced population of fish and wildlife, the
26 integrated water management purposes for which the Central and
27 Southern Florida Flood Control Project was constructed, flood
28 control, conveyance of water to and from Lake Okeechobee for
29 urban and agricultural water supply, Everglades hydroperiod
30 restoration, conveyance of water to the STAs, and navigation.

31 (f) EAA best management practices.--

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1 1. The district, in cooperation with the department,
2 shall develop and implement a water quality monitoring program
3 to evaluate the effectiveness of the BMPs in achieving and
4 maintaining compliance with state water quality standards and
5 restoring and maintaining designated and existing beneficial
6 uses. The program shall include an analysis of the
7 effectiveness of the BMPs in treating constituents that are
8 not being significantly improved by the STAs. The monitoring
9 program shall include monitoring of appropriate parameters at
10 representative locations.

11 2. The district shall continue to require and enforce
12 the BMP and other requirements of chapters 40E-61 and 40E-63,
13 Florida Administrative Code, during the terms of the existing
14 permits issued pursuant to those rules. Chapter 40E-61,
15 Florida Administrative Code, may be amended to include the
16 BMPs required by chapter 40E-63, Florida Administrative Code.
17 Prior to the expiration of existing permits, and during each
18 5-year term of subsequent permits as provided for in this
19 section, those rules shall be amended to implement a
20 comprehensive program of research, testing, and implementation
21 of BMPs that will address all water quality standards within
22 the EAA and Everglades Protection Area. Under this program:

23 a. EAA landowners, through the EAA Environmental
24 Protection District or otherwise, shall sponsor a program of
25 BMP research with qualified experts to identify appropriate
26 BMPs.

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

31 c. BMPs as required for varying crops and soil types

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1 shall be included in permit conditions in the 5-year permits
2 issued pursuant to this section.

3 d. The district shall conduct research in cooperation
4 with EAA landowners to identify water quality parameters that
5 are not being significantly improved either by the STAs or the
6 BMPs, and to identify further BMP strategies needed to address
7 these parameters.

8 3. The Legislature finds that through the
9 implementation of the Everglades BMPs Program and the
10 implementation of the Everglades Construction Project,
11 reasonable further progress will be made towards addressing
12 water quality requirements of the EAA canals and the
13 Everglades Protection Area. Permittees within the EAA and the
14 C-139 Basin who are in full compliance with the conditions of
15 permits under chapters 40E-61 and 40E-63, Florida
16 Administrative Code, have made all payments required under the
17 Everglades Program, and are in compliance with subparagraph
18 (a)8., if applicable, shall not be required to implement
19 additional water quality improvement measures, prior to
20 December 31, 2006, other than those required by subparagraph
21 2., with the following exceptions:

22 a. Nothing in this subparagraph shall limit the
23 existing authority of the department or the district to limit
24 or regulate discharges that pose a significant danger to the
25 public health and safety; and

26 b. New land uses and new stormwater management
27 facilities other than alterations to existing agricultural
28 stormwater management systems for water quality improvements
29 shall not be accorded the compliance established by this
30 section. Permits may be required to implement improvements or
31 alterations to existing agricultural water management systems.

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1 4. As of December 31, 2006, all permits, including
2 those issued prior to that date, shall require implementation
3 of additional water quality measures, taking into account the
4 water quality treatment actually provided by the STAs and the
5 effectiveness of the BMPs. As of that date, no permittee's
6 discharge shall cause or contribute to any violation of water
7 quality standards in the Everglades Protection Area.

8 5. Effective immediately, landowners within the C-139
9 Basin shall not collectively exceed an annual average loading
10 of phosphorus of 28.7 metric tons based proportionately on the
11 historical rainfall for the C-139 Basin over the period of
12 October 1, 1978, to September 30, 1988. New surface inflows
13 shall not increase the annual average loading of phosphorus
14 stated above. Provided that the C-139 Basin does not exceed
15 this annual average loading, all landowners within the Basin
16 shall be in compliance for that year. Compliance
17 determinations for individual landowners within the C-139
18 Basin for remedial action, if the Basin is determined by the
19 district to be out of compliance for that year, shall be based
20 on the landowners' proportional share of the total phosphorus
21 loading of 28.7 metric tons. The total phosphorus discharge
22 load shall be determined by a method consistent with Appendix
23 40E-63-3, Florida Administrative Code, disregarding the
24 25-percent phosphorus reduction factor as set forth in
25 Appendix B2 of Rule 40E-63, Everglades Program, Florida
26 Administrative Code,.

27 6. The district, in cooperation with the department,
28 shall develop and implement a water quality monitoring program
29 to evaluate the quality of the discharge from the C-139 Basin.
30 Upon determination by the department or the district that the
31 C-139 Basin is exceeding any presently existing water quality

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1 standards, the district shall require landowners within the
2 C-139 Basin to implement BMPs appropriate to the land uses
3 within the C-139 Basin consistent with subparagraph 2.
4 Thereafter, the provisions of subparagraphs 2.-4. shall apply
5 to the landowners within the C-139 Basin.

6 (g) Monitoring and control of exotic species.--

7 1. The district shall establish a biological
8 monitoring network throughout the Everglades Protection Area
9 and shall prepare a survey of exotic species at least every 2
10 years.

11 2. In addition, the district shall establish a program
12 to coordinate with federal, state, or other governmental
13 entities the control of continued expansion and the removal of
14 these exotic species. The district's program shall give high
15 priority to species affecting the largest areal extent within
16 the Everglades Protection Area.

17 (6) EVERGLADES AGRICULTURAL PRIVILEGE TAX.--

18 (c) The initial Everglades agricultural privilege tax
19 roll shall be certified for the tax notices mailed in November
20 1994. Incentive credits to the Everglades agricultural
21 privilege taxes to be included on the initial Everglades
22 agricultural privilege tax roll, if any, shall be based upon
23 the total phosphorus load reduction for the year ending April
24 30, 1993. The Everglades agricultural privilege taxes for each
25 year shall be computed in the following manner:

26 1. Annual Everglades agricultural privilege taxes
27 shall be charged for the privilege of conducting an
28 agricultural trade or business on each acre of real property
29 or portion thereof. The annual Everglades agricultural
30 privilege tax shall be \$24.89 per acre for the tax notices
31 mailed in November 1994 through November 1997; \$27 per acre

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1 for the tax notices mailed in November 1998 through November
2 2001; \$31 per acre for the tax notices mailed in November 2002
3 through November 2005; and \$35 per acre for the tax notices
4 mailed in November 2006 through November 2013.

5 2. It is the intent of the Legislature to encourage
6 the performance of best management practices to maximize the
7 reduction of phosphorus loads at points of discharge from the
8 EAA by providing an incentive credit against the Everglades
9 agricultural privilege taxes set forth in subparagraph 1. The
10 total phosphorus load reduction shall be measured for the
11 entire EAA by comparing the actual measured total phosphorus
12 load attributable to the EAA for each annual period ending on
13 April 30 to the total estimated phosphorus load that would
14 have occurred during the 1979-1988 base period using the model
15 for total phosphorus load determinations provided in chapter
16 40E-63, Florida Administrative Code, utilizing the technical
17 information and procedures contained in Section IV-EAA Period
18 of Record Flow and Phosphorus Load Calculations; Section
19 V-Monitoring Requirements; and Section VI-Phosphorus Load
20 Allocations and Compliance Calculations of the Draft Technical
21 Document in Support of chapter 40E-63, Florida Administrative
22 Code - Works of the District within the Everglades, March 3,
23 1992, and the Standard Operating Procedures for Water Quality
24 Collection in Support of the Everglades Water Condition
25 Report, dated February 18, 1994. The model estimates the total
26 phosphorus load that would have occurred during the 1979-1988
27 base period by substituting the rainfall conditions for such
28 annual period ending April 30 for the conditions that were
29 used to calibrate the model for the 1979-1988 base period. The
30 data utilized to calculate the actual loads attributable to
31 the EAA shall be adjusted to eliminate the effect of any load

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1 and flow that were not included in the 1979-1988 base period
2 as defined in chapter 40E-63, Florida Administrative Code. The
3 incorporation of the method of measuring the total phosphorus
4 load reduction provided in this subparagraph is intended to
5 provide a legislatively approved aid to the governing board of
6 the district in making an annual ministerial determination of
7 any incentive credit.

8 3. Phosphorus load reductions calculated in the manner
9 described in subparagraph 2. and rounded to the nearest whole
10 percentage point for each annual period beginning on May 1 and
11 ending on April 30 shall be used to compute incentive credits
12 to the Everglades agricultural privilege taxes to be included
13 on the annual tax notices mailed in November of the next
14 ensuing calendar year. Incentive credits, if any, will reduce
15 the Everglades agricultural privilege taxes set forth in
16 subparagraph 1. only to the extent that the phosphorus load
17 reduction exceeds 25 percent. Subject to subparagraph 4., the
18 reduction of phosphorus load by each percentage point in
19 excess of 25 percent, computed for the 12-month period ended
20 on April 30 of the calendar year immediately preceding
21 certification of the Everglades agricultural privilege tax,
22 shall result in the following incentive credits: \$0.33 per
23 acre for the tax notices mailed in November 1994 through
24 November 1997; \$0.54 per acre for the tax notices mailed in
25 November 1998 through November 2001; \$0.61 per acre for the
26 tax notices mailed in November 2002 through November 2005, and
27 \$0.65 per acre for the tax notices mailed in November 2006
28 through November 2013. The determination of incentive credits,
29 if any, shall be documented by resolution of the governing
30 board of the district adopted prior to or at the time of the
31 adoption of its resolution certifying the annual Everglades

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1 agricultural privilege tax roll to the appropriate tax
2 collector.

3 4. Notwithstanding subparagraph 3., incentive credits
4 for the performance of best management practices shall not
5 reduce the minimum annual Everglades agricultural privilege
6 tax to less than \$24.89 per acre, which annual Everglades
7 agricultural privilege tax as adjusted in the manner required
8 by paragraph (e) shall be known as the "minimum tax." To the
9 extent that the application of incentive credits for the
10 performance of best management practices would reduce the
11 annual Everglades agricultural privilege tax to an amount less
12 than the minimum tax, then the unused or excess incentive
13 credits for the performance of best management practices shall
14 be carried forward, on a phosphorus load percentage basis, to
15 be applied as incentive credits in subsequent years. Any
16 unused or excess incentive credits remaining after
17 certification of the Everglades agricultural privilege tax
18 roll for the tax notices mailed in November 2013 shall be
19 canceled.

20 5. Notwithstanding the schedule of Everglades
21 agricultural privilege taxes set forth in subparagraph 1., the
22 owner, lessee, or other appropriate interestholder of any
23 property shall be entitled to have the Everglades agricultural
24 privilege tax for any parcel of property reduced to the
25 minimum tax, commencing with the tax notices mailed in
26 November 1996 for parcels of property participating in the
27 early baseline option as defined in chapter 40E-63, Florida
28 Administrative Code, and with the tax notices mailed in
29 November 1997 for parcels of property not participating in the
30 early baseline option, upon compliance with the requirements
31 set forth in this subparagraph. The owner, lessee, or other

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1 appropriate interestholder shall file an application with the
2 executive director of the district prior to July 1 for
3 consideration of reduction to the minimum tax on the
4 Everglades agricultural privilege tax roll to be certified for
5 the tax notice mailed in November of the same calendar year
6 and shall have the burden of proving the reduction in
7 phosphorus load attributable to such parcel of property. The
8 phosphorus load reduction for each discharge structure serving
9 the parcel shall be measured as provided in chapter 40E-63,
10 Florida Administrative Code, and the permit issued for such
11 property pursuant to chapter 40E-63, Florida Administrative
12 Code. A parcel of property which has achieved the following
13 annual phosphorus load reduction standards shall have the
14 minimum tax included on the annual tax notice mailed in
15 November of the next ensuing calendar year: 30 percent or more
16 for the tax notices mailed in November 1994 through November
17 1997; 35 percent or more for the tax notices mailed in
18 November 1998 through November 2001; 40 percent or more for
19 the tax notices mailed in November 2002 through November 2005;
20 and 45 percent or more for the tax notices mailed in November
21 2006 through November 2013. In addition, any parcel of
22 property that achieves an annual flow weighted mean
23 concentration of 50 parts per billion (ppb) of phosphorus at
24 each discharge structure serving the property for any year
25 ending April 30 shall have the minimum tax included on the
26 annual tax notice mailed in November of the next ensuing
27 calendar year. Any annual phosphorus reductions that exceed
28 the amount necessary to have the minimum tax included on the
29 annual tax notice for any parcel of property shall be carried
30 forward to the subsequent years' phosphorus load reduction to
31 determine if the minimum tax shall be included on the annual

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1 tax notice. The governing board of the district shall deny or
 2 grant the application by resolution adopted prior to or at the
 3 time of the adoption of its resolution certifying the annual
 4 Everglades agricultural privilege tax roll to the appropriate
 5 tax collector.

6 6. The annual Everglades agricultural privilege tax
 7 for the tax notices mailed in November 2014 ~~through November~~
 8 ~~2016 shall be \$25 per acre and for tax notices mailed in~~
 9 ~~November 2017~~ and thereafter shall be \$10 per acre.

10 (h) In recognition of the findings set forth in
 11 subsection (1), the Legislature finds that the assessment and
 12 use of the Everglades agricultural privilege tax is a matter
 13 of concern to all areas of Florida and the Legislature intends
 14 this act to be a general law authorization of the tax within
 15 the meaning of s. 9, Art. VII of the State Constitution ~~and~~
 16 ~~that payment of the tax complies with the obligations of~~
 17 ~~owners and users of land under s. 7(b), Art. II of the State~~
 18 ~~Constitution.~~

19 (7) C-139 AGRICULTURAL PRIVILEGE TAX.--

20 (a) There is hereby imposed an annual C-139
 21 agricultural privilege tax for the privilege of conducting an
 22 agricultural trade or business on:

23 1. All real property located within the C-139 Basin
 24 that is classified as agricultural under the provisions of
 25 chapter 193; and

26 2. Leasehold or other interests in real property
 27 located within the C-139 Basin owned by the United States, the
 28 state, or any agency thereof permitting the property to be
 29 used for agricultural purposes in a manner that would result
 30 in such property being classified as agricultural under the
 31 provisions of chapter 193 if not governmentally owned, whether

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1 or not such property is actually classified as agricultural
2 under the provisions of chapter 193.

3

4 It is hereby determined by the Legislature that the privilege
5 of conducting an agricultural trade or business on such
6 property constitutes a reasonable basis for imposing the C-139
7 agricultural privilege tax and that logical differences exist
8 between the agricultural use of such property and the use of
9 other property within the C-139 Basin for residential or
10 nonagricultural commercial use. The C-139 agricultural
11 privilege tax shall constitute a lien against the property, or
12 the leasehold or other interest in governmental property
13 permitting such property to be used for agricultural purposes,
14 described on the C-139 agricultural privilege tax roll. The
15 lien shall be in effect from January 1 of the year the tax
16 notice is mailed until discharged by payment and shall be
17 equal in rank and dignity with the liens of all state, county,
18 district, or municipal taxes and non-ad valorem assessments
19 imposed pursuant to general law, special act, or local
20 ordinance and shall be superior in dignity to all other liens,
21 titles, and claims.

22 (b) The C-139 agricultural privilege tax, other than
23 for leasehold or other interests in governmental property
24 permitting such property to be used for agricultural purposes,
25 shall be collected in the manner provided for ad valorem
26 taxes. By September 15 of each year, the governing board of
27 the district shall certify by resolution a C-139 agricultural
28 privilege tax roll on compatible electronic medium to the tax
29 collector of each county in which a portion of the C-139 Basin
30 is located. The district shall also produce one copy of the
31 roll in printed form which shall be available for inspection

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1 by the public. The district shall post the C-139 agricultural
2 privilege tax for each parcel on the roll. The tax collector
3 shall not accept any such roll that is not certified on
4 compatible electronic medium and that does not contain the
5 posting of the C-139 agricultural privilege tax for each
6 parcel. It is the responsibility of the district that such
7 rolls be free of errors and omissions. Alterations to such
8 rolls may be made by the executive director of the district,
9 or a designee, up to 10 days before certification. If the tax
10 collector or any taxpayer discovers errors or omissions on
11 such roll, such person may request the district to file a
12 corrected roll or a correction of the amount of any C-139
13 agricultural privilege tax. Other than for leasehold or other
14 interests in governmental property permitting such property to
15 be used for agricultural purposes, C-139 agricultural
16 privilege taxes collected pursuant to this section shall be
17 included in the combined notice for ad valorem taxes and
18 non-ad valorem assessments provided for in s. 197.3635. Such
19 C-139 agricultural privilege taxes shall be listed in the
20 portion of the combined notice utilized for non-ad valorem
21 assessments. A separate mailing is authorized only as a
22 solution to the most exigent factual circumstances. However,
23 if a tax collector cannot merge a C-139 agricultural privilege
24 tax roll to produce such a notice, the tax collector shall
25 mail a separate notice of C-139 agricultural privilege taxes
26 or shall direct the district to mail such a separate notice.
27 In deciding whether a separate mailing is necessary, the tax
28 collector shall consider all costs to the district and
29 taxpayers of such a separate mailing and the adverse effects
30 to the taxpayers of delayed and multiple notices. The district
31 shall bear all costs associated with any separate notice.

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1 C-139 agricultural privilege taxes collected pursuant to this
2 section shall be subject to all collection provisions of
3 chapter 197, including provisions relating to discount for
4 early payment, prepayment by installment method, deferred
5 payment, penalty for delinquent payment, and issuance and sale
6 of tax certificates and tax deeds for nonpayment. C-139
7 agricultural privilege taxes for leasehold or other interests
8 in property owned by the United States, the state, or any
9 agency thereof permitting such property to be used for
10 agricultural purposes shall be included on the notice provided
11 pursuant to s. 196.31, a copy of which shall be provided to
12 lessees or other interestholders registering with the
13 district, and shall be collected from the lessee or other
14 appropriate interestholder and remitted to the district
15 immediately upon collection. C-139 agricultural privilege
16 taxes included on the statement provided pursuant to s. 196.31
17 shall be due and collected on or prior to the next April 1
18 following provision of the notice. Proceeds of the C-139
19 agricultural privilege taxes shall be distributed by the tax
20 collector to the district. Each tax collector shall be paid a
21 commission equal to the actual cost of collection, not to
22 exceed 2 percent, on the amount of C-139 agricultural
23 privilege taxes collected and remitted. Notwithstanding any
24 general law or special act to the contrary, C-139 agricultural
25 privilege taxes shall not be included on the notice of
26 proposed property taxes provided in s. 200.069.

27 (c)~~†~~. The initial C-139 agricultural privilege tax
28 roll shall be certified for the tax notices mailed in November
29 1994. The C-139 agricultural privilege taxes for the tax
30 notices mailed in November 1994 through November 2013 ~~2002~~
31 shall be computed by dividing \$654,656 by the number of acres

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1 included on the C-139 agricultural privilege tax roll for such
2 year, excluding any property located within the C-139 Annex.

3 ~~2. The C-139 agricultural privilege taxes for the tax~~
4 ~~notices mailed in November 2003 through November 2013 shall be~~
5 ~~computed by dividing \$654,656 by the number of acres included~~
6 ~~on the C-139 agricultural privilege tax roll for November~~
7 ~~2001, excluding any property located within the C-139 Annex.~~

8 ~~3. The C-139 agricultural privilege taxes for the tax~~
9 ~~notices mailed in November 2014 and thereafter shall be \$1.80~~
10 ~~per acre.~~

11 (d) For purposes of this paragraph, "vegetable
12 acreage" means, for each tax year, any portion of a parcel of
13 property used for a period of not less than 8 months for the
14 production of vegetable crops, including sweet corn, during
15 the 12 months ended September 30 of the year preceding the tax
16 year. Land preparation, crop rotation, and fallow periods
17 shall not disqualify property from classification as vegetable
18 acreage if such property is actually used for the production
19 of vegetable crops.

20 1. If either the Governor, the President of the United
21 States, or the United States Department of Agriculture
22 declares the existence of a state of emergency or disaster
23 resulting from extreme natural conditions impairing the
24 ability of vegetable acreage to produce crops, payment of the
25 C-139 agricultural privilege taxes imposed for the privilege
26 of conducting an agricultural trade or business on such
27 property shall be deferred for a period of 1 year, and all
28 subsequent annual payments shall be deferred for the same
29 period.

30 a. If the declaration occurs between April 1 and
31 October 31, the C-139 agricultural privilege tax to be

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1 included on the next annual tax notice will be deferred to the
2 subsequent annual tax notice.

3 b. If the declaration occurs between November 1 and
4 March 31 and the C-139 agricultural privilege tax included on
5 the most recent tax notice has not been paid, such C-139
6 agricultural privilege tax will be deferred to the next annual
7 tax notice.

8 c. If the declaration occurs between November 1 and
9 March 31 and the C-139 agricultural privilege tax included on
10 the most recent tax notice has been paid, the C-139
11 agricultural privilege tax to be included on the next annual
12 tax notice will be deferred to the subsequent annual tax
13 notice.

14 2. In the event payment of C-139 agricultural
15 privilege taxes is deferred pursuant to this paragraph, the
16 district must record a notice in the official records of each
17 county in which vegetable acreage subject to such deferment is
18 located. The recorded notice must describe each parcel of
19 property as to which C-139 agricultural privilege taxes have
20 been deferred and the amount deferred for such property. If
21 all or any portion of the property as to which C-139
22 agricultural privilege taxes have been deferred ceases to be
23 classified as agricultural under the provisions of chapter 193
24 or otherwise subject to the C-139 agricultural privilege tax,
25 all deferred amounts must be included on the tax notice for
26 such property mailed in November of the first tax year for
27 which such property is not subject to the C-139 agricultural
28 privilege tax. After a property owner has paid all outstanding
29 C-139 agricultural privilege taxes, including any deferred
30 amounts, the district shall provide the property owner with a
31 recordable instrument evidencing the payment of all

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1 outstanding amounts.

2 3. The owner, lessee, or other appropriate
3 interestholder shall file an application with the executive
4 director of the district prior to July 1 for classification of
5 a portion of the property as vegetable acreage on the C-139
6 agricultural privilege tax roll to be certified for the tax
7 notice mailed in November of the same calendar year and shall
8 have the burden of proving the number of acres used for the
9 production of vegetable crops during the year in which
10 incentive credits are determined and the period of such use.
11 The governing board of the district shall deny or grant the
12 application by resolution adopted prior to or at the time of
13 the adoption of its resolution certifying the annual C-139
14 agricultural privilege tax roll to the appropriate tax
15 collector.

16 4. This paragraph does not relieve vegetable acreage
17 from the performance of best management practices specified in
18 chapter 40E-63, Florida Administrative Code.

19 (e) Any owner, lessee, or other appropriate
20 interestholder of property subject to the C-139 agricultural
21 privilege tax may contest the C-139 agricultural privilege tax
22 by filing an action in circuit court.

23 1. No action may be brought to contest the C-139
24 agricultural privilege tax after 60 days from the date the tax
25 notice that includes the C-139 agricultural privilege tax is
26 mailed by the tax collector. Before an action to contest the
27 C-139 agricultural privilege tax may be brought, the taxpayer
28 shall pay to the tax collector the amount of the C-139
29 agricultural privilege tax which the taxpayer admits in good
30 faith to be owing. The tax collector shall issue a receipt for
31 the payment and the receipt shall be filed with the complaint.

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1 Payment of an C-139 agricultural privilege tax shall not be
2 deemed an admission that such tax was due and shall not
3 prejudice the right to bring a timely action to challenge such
4 tax and seek a refund. No action to contest the C-139
5 agricultural privilege tax may be maintained, and such action
6 shall be dismissed, unless all C-139 agricultural privilege
7 taxes imposed in years after the action is brought, which the
8 taxpayer in good faith admits to be owing, are paid before
9 they become delinquent. The requirements of this paragraph are
10 jurisdictional.

11 2. In any action involving a challenge of the C-139
12 agricultural privilege tax, the court shall assess all costs.
13 If the court finds that the amount of tax owed by the taxpayer
14 is greater than the amount the taxpayer has in good faith
15 admitted and paid, it shall enter judgment against the
16 taxpayer for the deficiency and for interest on the deficiency
17 at the rate of 12 percent per year from the date the tax
18 became delinquent. If it finds that the amount of tax which
19 the taxpayer has admitted to be owing is grossly
20 disproportionate to the amount of tax found to be due and that
21 the taxpayer's admission was not made in good faith, the court
22 shall also assess a penalty at the rate of 25 percent of the
23 deficiency per year from the date the tax became delinquent.
24 The court may issue injunctions to restrain the sale of
25 property for any C-139 agricultural privilege tax which
26 appears to be contrary to law or equity.

27 (f) Notwithstanding any contrary provisions in chapter
28 120, or any provision of any other law, an action in circuit
29 court shall be the exclusive remedy to challenge the
30 assessment of an C-139 agricultural privilege tax and owners
31 of property subject to the C-139 agricultural privilege tax

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1 shall have no right or standing to initiate administrative
2 proceedings under chapter 120 to challenge the assessment of
3 an C-139 agricultural privilege tax including specifically,
4 and without limitation, the annual certification by the
5 district governing board of the C-139 agricultural privilege
6 tax roll to the appropriate tax collector, the denial of an
7 application for exclusion from the C-139 agricultural
8 privilege tax, and the denial of any application for
9 classification as vegetable acreage, deferment of payment for
10 vegetable acreage, or correction of any alleged error in the
11 C-139 agricultural privilege tax roll.

12 (g) In recognition of the findings set forth in
13 subsection (1), the Legislature finds that the assessment and
14 use of the C-139 agricultural privilege tax is a matter of
15 concern to all areas of Florida and the Legislature intends
16 this section to be a general law authorization of the tax
17 within the meaning of s. 9, Art. VII of the State
18 Constitution.

19 (10) LONG-TERM COMPLIANCE PERMITS.--By December 31,
20 2006, the department and the district shall take such action
21 as may be necessary ~~to implement the pre-2006 projects and~~
22 ~~strategies of the Long-Term Plan~~ so that water delivered to
23 the Everglades Protection Area achieves ~~in all parts of the~~
24 ~~Everglades Protection Area~~ state water quality standards,
25 including the phosphorus criterion in all parts of the
26 Everglades Protection Area. and moderating provisions.

27 (a) By December 31, 2003, the district shall submit to
28 the department a permit modification to incorporate proposed
29 changes to the Everglades Construction Project and the permits
30 issued pursuant to subsection (9). These changes shall be
31 designed to achieve compliance with the phosphorus criterion

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1 ~~and the other state water quality standards by December 31,~~
2 ~~2006. By December 31, 2003, the district shall submit to the~~
3 ~~department an application for permit modification to~~
4 ~~incorporate proposed changes to the Everglades Construction~~
5 ~~Project and other district works delivering water to the~~
6 ~~Everglades Protection Area as needed to implement the pre-2006~~
7 ~~projects and strategies of the Long-Term Plan in all permits~~
8 ~~issued by the department, including the permits issued~~
9 ~~pursuant to subsection (9). These changes shall be designed to~~
10 ~~achieve state water quality standards, including the~~
11 ~~phosphorus criterion and moderating provisions, to the maximum~~
12 ~~extent practicable. Under no circumstances shall the project~~
13 ~~or strategy cause or contribute to violation of state water~~
14 ~~quality standards. During the implementation of the initial~~
15 ~~phase of the Long-Term Plan, permits issued by the department~~
16 ~~shall be based on BAPRT, and shall include technology-based~~
17 ~~effluent limitations consistent with the Long-Term Plan, as~~
18 ~~provided in subparagraph (4)(e)3.~~

19 (b) If the Everglades Construction Project or other
20 discharges to the Everglades Protection Area are not in
21 compliance with state water quality standards, the permit
22 application shall include:

23 1. A plan for achieving compliance with the phosphorus
24 criterion in the Everglades Protection Area.

25 2. A plan for achieving compliance in the Everglades
26 Protection Area with state water quality standards other than
27 the phosphorus criterion.

28 3. Proposed cost estimates for the plans referred to
29 in subparagraphs 1. and 2.

30 4. Proposed funding mechanisms for the plans referred
31 to in subparagraphs 1. and 2.

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1 5. Proposed schedules for implementation of the plans
 2 referred to in subparagraphs 1. and 2.

3 ~~(c)(b)~~ If the Everglades Construction Project or other
 4 discharges to the Everglades Protection Area are in compliance
 5 with state water quality standards, including the phosphorus
 6 criterion, the permit application shall include:

7 1. A plan for maintaining compliance with the
 8 phosphorus criterion in the Everglades Protection Area.

9 2. A plan for maintaining compliance in the Everglades
 10 Protection Area with state water quality standards other than
 11 the phosphorus criterion.

12 (16) DEFINITION OF C-139 BASIN.--For purposes of this
 13 section:

14 (a) "C-139 Basin" or "Basin" means the following
 15 described property: beginning at the intersection of an
 16 easterly extension of the south bank of Deer Fence Canal with
 17 the center line of South Florida Water Management District's
 18 Levee 3 in Section 33, Township 46 South, Range 34 East,
 19 Hendry County, Florida; thence, westerly along said easterly
 20 extension and along the South bank of said Deer Fence Canal to
 21 where it intersects the center line of State Road 846 in
 22 Section 33, Township 46 South, Range 32 East; thence,
 23 departing from said top of bank to the center line of said
 24 State Road 846, westerly along said center line of said State
 25 Road 846 to the West line of Section 4, Township 47 South,
 26 Range 31 East; thence, northerly along the West line of said
 27 section 4, and along the west lines of Sections 33 and 28,
 28 Township 46 South, Range 31 East, to the northwest corner of
 29 said Section 28; thence, easterly along the North line of said
 30 Section 28 to the North one-quarter (N 1/4) corner of said
 31 Section 28; thence, northerly along the West line of the

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1 Southeast one-quarter (SE 1/4) of Section 21, Township 46
2 South, Range 31 East, to the northwest corner of said
3 Southeast one-quarter (SE 1/4) of Section 21; thence,
4 easterly along the North line of said Southeast one-quarter
5 (SE 1/4) of Section 21 to the northeast corner of said
6 Southeast one-quarter (SE 1/4) of Section 21; thence,
7 northerly along the East line of said Section 21 and the East
8 line of Section 16, Township 46 South, Range 31, East, to the
9 northeast corner thereof; thence, westerly along the North
10 line of said Section 16, to the northwest corner thereof;
11 thence, northerly along the West line of Sections 9 and 4,
12 Township 46 South, Range 31, East, to the northwest corner of
13 said Section 4; thence, westerly along the North lines of
14 Section 5 and Section 6, Township 46 South, Range 31 East, to
15 the South one-quarter (S 1/4) corner of Section 31, Township
16 45 South, Range 31 East; thence, northerly to the South
17 one-quarter (S 1/4) corner of Section 30, Township 45 South,
18 Range 31 East; thence, easterly along the South line of said
19 Section 30 and the South lines of Sections 29 and 28, Township
20 45 South, Range 31 East, to the Southeast corner of said
21 Section 28; thence, northerly along the East line of said
22 Section 28 and the East lines of Sections 21 and 16, Township
23 45 South, Range 31 East, to the Northwest corner of the
24 Southwest one-quarter of the Southwest one-quarter (SW 1/4 of
25 the SW 1/4) of Section 15, Township 45 South, Range 31 East;
26 thence, northeasterly to the east one-quarter (E 1/4) corner
27 of Section 15, Township 45 South, Range 31 East; thence,
28 northerly along the East line of said Section 15, and the East
29 line of Section 10, Township 45 South, Range 31 East, to the
30 center line of a road in the Northeast one-quarter (NE 1/4)
31 of said Section 10; thence, generally easterly and

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1 northeasterly along the center line of said road to its
 2 intersection with the center line of State Road 832; thence,
 3 easterly along said center line of said State Road 832 to its
 4 intersection with the center line of State Road 833; thence,
 5 northerly along said center line of said State Road 833 to the
 6 north line of Section 9, Township 44 South, Range 32 East;
 7 thence, easterly along the North line of said Section 9 and
 8 the north lines of Sections 10, 11 and 12, Township 44 South,
 9 Range 32 East, to the northeast corner of Section 12, Township
 10 44 South, Range 32 East; thence, easterly along the North line
 11 of Section 7, Township 44 South, Range 33 East, to the center
 12 line of Flaghole Drainage District Levee, as it runs to the
 13 east near the northwest corner of said Section 7, Township 44
 14 South, Range 33 East; thence, easterly along said center line
 15 of the Flaghole Drainage District Levee to where it meets the
 16 center line of South Florida Water Management District's Levee
 17 1 at Flag Hole Road; thence, continue easterly along said
 18 center line of said Levee 1 to where it turns south near the
 19 Northwest corner of Section 12, Township 44 South, Range 33
 20 East; thence, Southerly along said center line of said Levee 1
 21 to where the levee turns east near the Southwest corner of
 22 said Section 12; thence, easterly along said center line of
 23 said Levee 1 to where it turns south near the Northeast corner
 24 of Section 17, Township 44 South, Range 34 East; thence,
 25 southerly along said center line of said Levee 1 and the
 26 center line of South Florida Water Management District's Levee
 27 2 to the intersection with the north line of Section 33,
 28 Township 45 South, Range 34 East; thence, easterly along the
 29 north line of said Section 33 to the northeast corner of said
 30 Section 33; thence, southerly along the east line of said
 31 Section 33 to the southeast corner of said Section 33; thence,

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1 southerly along the east line of Section 4, Township 46 South,
 2 Range 34 East to the southeast corner of said Section 4;
 3 thence, westerly along the south line of said Section 4 to the
 4 intersection with the centerline of South Florida Water
 5 Management District's Levee 2; thence, southerly along said
 6 Levee 2 centerline and South Florida Water Management
 7 District's Levee 3 centerline to the POINT OF BEGINNING.

8 ~~(b) Sections 21, 28, and 33, Township 46 South, Range~~
 9 ~~31 East, are not included within the boundary of the C-139~~
 10 ~~Basin.~~

11 ~~(b)(c)~~ If the district issues permits in accordance
 12 with all applicable rules allowing water from the "C-139
 13 Annex" to flow into the drainage system for the C-139 Basin,
 14 the C-139 Annex shall be added to the C-139 Basin for all tax
 15 years thereafter, commencing with the next C-139 agricultural
 16 privilege tax roll certified after issuance of such permits.

17 "C-139 Annex" means the following described property: that
 18 part of the S.E. 1/4 of Section 32, Township 46 South, Range
 19 34 East and that portion of Sections 5 and 6, Township 47
 20 South, Range 34 East lying west of the L-3 Canal and South of
 21 the Deer Fence Canal; all of Sections 7, 17, 18, 19, 20, 28,
 22 29, 30, 31, 32, 33, and 34, and that portion of Sections 8, 9,
 23 16, 21, 22, 26, 27, 35, and 36 lying south and west of the L-3
 24 Canal, in Township 47 South, Range 34 East; and all of
 25 Sections 2, 3, 4, 5, 6, 8, 9, 10, and 11 and that portion of
 26 Section 1 lying south and west of the L-3 Canal all in
 27 Township 48 South, Range 34 East.

28 (17) SHORT TITLE.--This section shall be known as the
 29 "Everglades Forever Act."

30 Section 19. Notwithstanding section 2 of chapter
 31 2003-12, Laws of Florida, section 3 of chapter 96-412, Laws of

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1 Florida, is reenacted to read:

2 Section 3. Notwithstanding s. 373.4592(16), to the
3 contrary, Sections 21, 28, and 33, Township 46 South, Range 31
4 East shall not be included within the boundary of the C-139
5 Basin.

6 Section 20. Notwithstanding section 2 of chapter
7 2003-12, Laws of Florida, section 84 of chapter 96-321, Laws
8 of Florida, is reenacted to read:

9 Section 84. Notwithstanding subsection (16) of section
10 373.4592, Florida Statutes, to the contrary, Sections 21, 28,
11 and 33, Township 46 South, Range 31 East shall not be included
12 within the boundary of the C-139 Basin.

13
14 (Redesignate subsequent sections.)

15
16

17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 On page 3, lines 25-30, delete those lines

20

21 and insert:

22 F.S., as amended; abrogating the amendments to
23 that section by chapter 2003-12, Laws of
24 Florida; reenacting s. 3, chapter 96-412, Laws
25 of Florida; reenacting s. 3, chapter 96-412,
26 Laws of Florida, and s. 84, chapter 96-321,
27 Laws of Florida, to exclude certain lands from
28 the C-139 Basin; reenacting s.

29

30

31