

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

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

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

25 373.4592 Everglades improvement and management.—

26 (1) FINDINGS AND INTENT.—

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

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

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

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

56 | (3) EVERGLADES LONG-TERM PLAN.—

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

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

76 (4) EVERGLADES PROGRAM.—

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

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

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

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

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

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

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

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

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

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

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

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

173 (f) EAA best management practices.—

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

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

196 a. EAA landowners, through the EAA Environmental

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

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

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

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

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

224 a. Nothing in this subparagraph shall limit the existing

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

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

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

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

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

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

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

274 | (6) EVERGLADES AGRICULTURAL PRIVILEGE TAX.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

427 Section 2. Beginning in the 2013-2014 fiscal year and each
428 year thereafter through the 2023-2024 fiscal year, the sum of
429 \$12 million in recurring general revenue funds and \$20 million
430 in recurring funds from the Water Management Lands Trust Fund is
431 appropriated to the Department of Environmental Protection for
432 the Restoration Strategies Regional Water Quality Plan. This
433 section shall take effect July 1, 2013.

434 Section 3. Except as otherwise expressly provided in this
435 act, this act shall take effect upon becoming a law.