



841176

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
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The Committee on Environmental Preservation and Conservation (Simpson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

373.4592 Everglades improvement and management.—

(1) FINDINGS AND INTENT.—



841176

13 (g) The Legislature finds that the Statement of Principles
14 of July 1993, the Everglades Construction Project, and the
15 regulatory requirements of this section provide a sound basis
16 for the state's long-term cleanup and restoration objectives for
17 the Everglades. It is the intent of the Legislature to provide a
18 sufficient period of time for construction, testing, and
19 research, so that the benefits of the Long-Term Plan Everglades
20 Construction Project will be determined and maximized prior to
21 requiring additional measures. The Legislature finds that STAs
22 and BMPs are currently the best available technology for
23 achieving the ~~interim~~ water quality goals of the Everglades
24 Program and that implementation of BMPs, funded by the owners
25 and users of land in the EAA, effectively reduces nutrients in
26 waters flowing into the Everglades Protection Area. A combined
27 program of agricultural BMPs, STAs, and requirements of this
28 section is a reasonable method of achieving ~~interim~~ total
29 phosphorus discharge reductions. The Everglades Program is an
30 appropriate foundation on which to build a long-term program to
31 ultimately achieve restoration and protection of the Everglades
32 Protection Area.

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

34 (j) "Long-Term Plan" or "Plan" means the district's
35 "Everglades Protection Area Tributary Basins Conceptual Plan for
36 Achieving Long-Term Water Quality Goals Final Report" dated
37 March 2003, as subsequently modified in accordance with
38 paragraph (3) (b), and the district's "Restoration Strategies
39 Regional Water Quality Plan" dated April 27, 2012, as may be
40 subsequently modified pursuant to paragraph (3) (b) modified
41 herein.



841176

42 (3) EVERGLADES LONG-TERM PLAN.—

43 (d) ~~The Legislature recognizes that the Long-Term Plan~~
44 ~~contains an initial phase and a 10-year second phase. The~~
45 ~~Legislature intends that a review of this act at least 10 years~~
46 ~~after implementation of the Long-Term Plan initial phase is~~
47 ~~appropriate and necessary to the public interest. The review is~~
48 ~~the best way to ensure that the Everglades Protection Area is~~
49 ~~achieving state water quality standards, including phosphorus~~
50 ~~reduction, and the Long-Term Plan is using the best technology~~
51 ~~available. A 10-year second phase of the Long-Term Plan must be~~
52 ~~approved by the Legislature and codified in this act prior to~~
53 ~~implementation of projects, but not prior to development,~~
54 ~~review, and approval of projects by the department.~~

55 (e) The Long-Term Plan shall be implemented ~~for an initial~~
56 ~~13-year phase (2003-2016)~~ and shall achieve water quality
57 standards relating to the phosphorus criterion in the Everglades
58 Protection Area as determined by a network of monitoring
59 stations established for this purpose. Not later than December
60 31, 2008, and each 5 years thereafter, the department shall
61 review and approve incremental phosphorus reduction measures.

62 (4) EVERGLADES PROGRAM.—

63 (a) *Everglades Construction Project.*—The district shall
64 implement the Everglades Construction Project. By the time of
65 completion of the project, the state, district, or other
66 governmental authority shall purchase the inholdings in the
67 Rotenberger and such other lands necessary to achieve a 2:1
68 mitigation ratio for the use of Brown's Farm and other similar
69 lands, including those needed for the STA 1 Inflow and
70 Distribution Works. The inclusion of public lands as part of the



841176

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



841176

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

124 1. The district must complete the final design of the STA 1
125 East and West and pursue STA 1 East project components as part
126 of a cost-shared program with the Federal Government. The
127 district must be the local sponsor of the federal project that
128 will include STA 1 East, and STA 1 West if so authorized by



841176

129 federal law;

130 2. Construction of STA 1 East is to be completed under the
131 direction of the United States Army Corps of Engineers in
132 conjunction with the currently authorized C-51 flood control
133 project;

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

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

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

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

148 7. East Beach Water Control District, South Shore Drainage
149 District, South Florida Conservancy District, East Shore Water
150 Control District, and the lessee of agricultural lease number
151 3420 shall complete any system modifications described in the
152 Everglades Construction Project to the extent that funds are
153 available from the Everglades Fund. These entities shall divert
154 the discharges described within the Everglades Construction
155 Project within 60 days of completion of construction of the
156 appropriate STA. Such required modifications shall be deemed to
157 be a part of each district's plan of reclamation pursuant to



841176

158 chapter 298.

159 (h) After completion of all projects and improvements in
160 the Long-Term Plan, the district shall complete a use
161 attainability analysis to determine if those projects and
162 improvements will achieve the water quality based effluent
163 limits established in permits and orders authorizing the
164 operation of those facilities.

165 (6) EVERGLADES AGRICULTURAL PRIVILEGE TAX.—

166 (c) The initial Everglades agricultural privilege tax roll
167 shall be certified for the tax notices mailed in November 1994.
168 Incentive credits to the Everglades agricultural privilege taxes
169 to be included on the initial Everglades agricultural privilege
170 tax roll, if any, shall be based upon the total phosphorus load
171 reduction for the year ending April 30, 1993. The Everglades
172 agricultural privilege taxes for each year shall be computed in
173 the following manner:

174 1. Annual Everglades agricultural privilege taxes shall be
175 charged for the privilege of conducting an agricultural trade or
176 business on each acre of real property or portion thereof. The
177 annual Everglades agricultural privilege tax shall be \$24.89 per
178 acre for the tax notices mailed in November 1994 through
179 November 1997; \$27 per acre for the tax notices mailed in
180 November 1998 through November 2001; \$31 per acre for the tax
181 notices mailed in November 2002 through November 2005; and \$35
182 per acre for the tax notices mailed in November 2006 through
183 November 2013.

184 2. It is the intent of the Legislature to encourage the
185 performance of best management practices to maximize the
186 reduction of phosphorus loads at points of discharge from the



841176

187 EAA by providing an incentive credit against the Everglades
188 agricultural privilege taxes set forth in subparagraph 1. The
189 total phosphorus load reduction shall be measured for the entire
190 EAA by comparing the actual measured total phosphorus load
191 attributable to the EAA for each annual period ending on April
192 30 to the total estimated phosphorus load that would have
193 occurred during the 1979-1988 base period using the model for
194 total phosphorus load determinations provided in chapter 40E-63,
195 Florida Administrative Code, utilizing the technical information
196 and procedures contained in Section IV-EAA Period of Record Flow
197 and Phosphorus Load Calculations; Section V-Monitoring
198 Requirements; and Section VI-Phosphorus Load Allocations and
199 Compliance Calculations of the Draft Technical Document in
200 Support of chapter 40E-63, Florida Administrative Code - Works
201 of the District within the Everglades, March 3, 1992, and the
202 Standard Operating Procedures for Water Quality Collection in
203 Support of the Everglades Water Condition Report, dated February
204 18, 1994. The model estimates the total phosphorus load that
205 would have occurred during the 1979-1988 base period by
206 substituting the rainfall conditions for such annual period
207 ending April 30 for the conditions that were used to calibrate
208 the model for the 1979-1988 base period. The data utilized to
209 calculate the actual loads attributable to the EAA shall be
210 adjusted to eliminate the effect of any load and flow that were
211 not included in the 1979-1988 base period as defined in chapter
212 40E-63, Florida Administrative Code. The incorporation of the
213 method of measuring the total phosphorus load reduction provided
214 in this subparagraph is intended to provide a legislatively
215 approved aid to the governing board of the district in making an



841176

216 annual ministerial determination of any incentive credit.

217 3. Phosphorus load reductions calculated in the manner
218 described in subparagraph 2. and rounded to the nearest whole
219 percentage point for each annual period beginning on May 1 and
220 ending on April 30 shall be used to compute incentive credits to
221 the Everglades agricultural privilege taxes to be included on
222 the annual tax notices mailed in November of the next ensuing
223 calendar year. Incentive credits, if any, will reduce the
224 Everglades agricultural privilege taxes set forth in
225 subparagraph 1. only to the extent that the phosphorus load
226 reduction exceeds 25 percent. Subject to subparagraph 4., the
227 reduction of phosphorus load by each percentage point in excess
228 of 25 percent, computed for the 12-month period ended on April
229 30 of the calendar year immediately preceding certification of
230 the Everglades agricultural privilege tax, shall result in the
231 following incentive credits: \$0.33 per acre for the tax notices
232 mailed in November 1994 through November 1997; \$0.54 per acre
233 for the tax notices mailed in November 1998 through November
234 2001; \$0.61 per acre for the tax notices mailed in November 2002
235 through November 2005, and \$0.65 per acre for the tax notices
236 mailed in November 2006 through November 2013. The determination
237 of incentive credits, if any, shall be documented by resolution
238 of the governing board of the district adopted prior to or at
239 the time of the adoption of its resolution certifying the annual
240 Everglades agricultural privilege tax roll to the appropriate
241 tax collector.

242 4. Notwithstanding subparagraph 3., incentive credits for
243 the performance of best management practices shall not reduce
244 the minimum annual Everglades agricultural privilege tax to less



841176

245 than \$24.89 per acre, which annual Everglades agricultural
246 privilege tax as adjusted in the manner required by paragraph
247 (e) shall be known as the "minimum tax." To the extent that the
248 application of incentive credits for the performance of best
249 management practices would reduce the annual Everglades
250 agricultural privilege tax to an amount less than the minimum
251 tax, then the unused or excess incentive credits for the
252 performance of best management practices shall be carried
253 forward, on a phosphorus load percentage basis, to be applied as
254 incentive credits in subsequent years. Any unused or excess
255 incentive credits remaining after certification of the
256 Everglades agricultural privilege tax roll for the tax notices
257 mailed in November 2013 shall be canceled.

258 5. Notwithstanding the schedule of Everglades agricultural
259 privilege taxes set forth in subparagraph 1., the owner, lessee,
260 or other appropriate interestholder of any property shall be
261 entitled to have the Everglades agricultural privilege tax for
262 any parcel of property reduced to the minimum tax, commencing
263 with the tax notices mailed in November 1996 for parcels of
264 property participating in the early baseline option as defined
265 in chapter 40E-63, Florida Administrative Code, and with the tax
266 notices mailed in November 1997 for parcels of property not
267 participating in the early baseline option, upon compliance with
268 the requirements set forth in this subparagraph. The owner,
269 lessee, or other appropriate interestholder shall file an
270 application with the executive director of the district prior to
271 July 1 for consideration of reduction to the minimum tax on the
272 Everglades agricultural privilege tax roll to be certified for
273 the tax notice mailed in November of the same calendar year and



841176

274 shall have the burden of proving the reduction in phosphorus
275 load attributable to such parcel of property. The phosphorus
276 load reduction for each discharge structure serving the parcel
277 shall be measured as provided in chapter 40E-63, Florida
278 Administrative Code, and the permit issued for such property
279 pursuant to chapter 40E-63, Florida Administrative Code. A
280 parcel of property which has achieved the following annual
281 phosphorus load reduction standards shall have the minimum tax
282 included on the annual tax notice mailed in November of the next
283 ensuing calendar year: 30 percent or more for the tax notices
284 mailed in November 1994 through November 1997; 35 percent or
285 more for the tax notices mailed in November 1998 through
286 November 2001; 40 percent or more for the tax notices mailed in
287 November 2002 through November 2005; and 45 percent or more for
288 the tax notices mailed in November 2006 through November 2013.
289 In addition, any parcel of property that achieves an annual flow
290 weighted mean concentration of 50 parts per billion (ppb) of
291 phosphorus at each discharge structure serving the property for
292 any year ending April 30 shall have the minimum tax included on
293 the annual tax notice mailed in November of the next ensuing
294 calendar year. Any annual phosphorus reductions that exceed the
295 amount necessary to have the minimum tax included on the annual
296 tax notice for any parcel of property shall be carried forward
297 to the subsequent years' phosphorus load reduction to determine
298 if the minimum tax shall be included on the annual tax notice.
299 The governing board of the district shall deny or grant the
300 application by resolution adopted prior to or at the time of the
301 adoption of its resolution certifying the annual Everglades
302 agricultural privilege tax roll to the appropriate tax



841176

303 collector.

304 6. The annual Everglades agricultural privilege tax shall
305 be: for the tax notices mailed in November 2014 through November
306 2026, 2016 shall be \$25 per acre; for the tax notices mailed in
307 November 2027 through 2029, \$20 per acre; for the tax notices
308 mailed in November 2030 through 2035, \$15 per acre; and for the
309 tax notices mailed in November 2036 2017 and thereafter, shall
310 be \$10 per acre. Proceeds from the tax shall be used for design,
311 construction, and implementation of the Long-Term Plan,
312 including operation and maintenance, and research for the
313 projects and strategies in the Long-Term Plan, including the
314 enhancements and operation and maintenance of the Everglades
315 Construction Project.

316 (h) In recognition of the findings set forth in subsection
317 (1), the Legislature finds that the assessment and use of the
318 Everglades agricultural privilege tax is a matter of concern to
319 all areas of Florida. ~~and~~ The Legislature intends this act to be
320 a general law authorization of the Everglades agricultural
321 privilege tax within the meaning of s. 9, Art. VII of the State
322 Constitution and further intends that payment of the tax, in
323 addition to payment of the cost of continuing implementation of
324 BMPs, fulfills ~~complies with~~ the obligations of owners and users
325 of land under s. 7(b), Art. II of the State Constitution.

326 Section 2. Beginning in the 2013-2014 fiscal year and each
327 year thereafter through the 2023-2024 fiscal year, the sum of
328 \$12 million in recurring general revenue funds and \$20 million
329 in recurring funds from the Water Management Lands Trust Fund is
330 appropriated to the Department of Environmental Protection for
331 the Restoration Strategies Regional Water Quality Plan. This



841176

332 section shall take effect July 1, 2013.

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

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

338 And the title is amended as follows:

339 Delete everything before the enacting clause
340 and insert:

341 A bill to be entitled
342 An act relating to Everglades improvement and
343 management; amending s. 373.4592, F.S.; revising
344 legislative findings for achieving water quality
345 goals; revising the definition of the term "Long-Term
346 Plan"; revising provisions for use of certain ad
347 valorem tax proceeds; directing the South Florida
348 Water Management District to complete a specified
349 analysis; revising provisions for collection of the
350 agricultural privilege tax; providing for the use of
351 such tax proceeds; providing that payment of the tax
352 and certain costs fulfills certain constitutional
353 obligations; providing appropriations; providing
354 effective dates.