

By the Committee on Environmental Preservation and Conservation;
and Senator Simpson

592-02851-13

2013768c1

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; directing the South Florida
8 Water Management District to complete a specified
9 analysis; revising provisions for collection of the
10 agricultural privilege tax; providing for the use of
11 such tax proceeds; providing that payment of the tax
12 and certain costs fulfills certain constitutional
13 obligations; providing appropriations; providing
14 effective dates.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Paragraph (g) of subsection (1), paragraph (j)
19 of subsection (2), paragraphs (d) and (e) of subsection (3),
20 paragraph (a) of subsection (4), and paragraphs (c) and (h) of
21 subsection (6) of section 373.4592, Florida Statutes, are
22 amended, and paragraph (h) is added to subsection (4) of that
23 section, to read:

24 373.4592 Everglades improvement and management.—

25 (1) FINDINGS AND INTENT.—

26 (g) The Legislature finds that the Statement of Principles
27 of July 1993, the Everglades Construction Project, and the
28 regulatory requirements of this section provide a sound basis
29 for the state's long-term cleanup and restoration objectives for

592-02851-13

2013768c1

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

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

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

55 (3) EVERGLADES LONG-TERM PLAN.—

56 (d) ~~The Legislature recognizes that the Long-Term Plan~~
57 ~~contains an initial phase and a 10-year second phase.~~ The
58 Legislature intends that a review of this act at least 10 years

592-02851-13

2013768c1

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

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

75 (4) EVERGLADES PROGRAM.—

76 (a) *Everglades Construction Project.*—The district shall
77 implement the Everglades Construction Project. By the time of
78 completion of the project, the state, district, or other
79 governmental authority shall purchase the inholdings in the
80 Rotenberger and such other lands necessary to achieve a 2:1
81 mitigation ratio for the use of Brown's Farm and other similar
82 lands, including those needed for the STA 1 Inflow and
83 Distribution Works. The inclusion of public lands as part of the
84 project is for the purpose of treating waters not coming from
85 the EAA for hydroperiod restoration. It is the intent of the
86 Legislature that the district aggressively pursue the
87 implementation of the Everglades Construction Project in

592-02851-13

2013768c1

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

592-02851-13

2013768c1

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

137 1. The district must complete the final design of the STA 1
138 East and West and pursue STA 1 East project components as part
139 of a cost-shared program with the Federal Government. The
140 district must be the local sponsor of the federal project that
141 will include STA 1 East, and STA 1 West if so authorized by
142 federal law;

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

592-02851-13

2013768c1

146 project;

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

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

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

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

161 7. East Beach Water Control District, South Shore Drainage
162 District, South Florida Conservancy District, East Shore Water
163 Control District, and the lessee of agricultural lease number
164 3420 shall complete any system modifications described in the
165 Everglades Construction Project to the extent that funds are
166 available from the Everglades Fund. These entities shall divert
167 the discharges described within the Everglades Construction
168 Project within 60 days of completion of construction of the
169 appropriate STA. Such required modifications shall be deemed to
170 be a part of each district's plan of reclamation pursuant to
171 chapter 298.

172 (h) After completion of all projects and improvements in
173 the Long-Term Plan, the district shall complete a use
174 attainability analysis to determine if those projects and

592-02851-13

2013768c1

175 improvements will achieve the water quality based effluent
176 limits established in permits and orders authorizing the
177 operation of those facilities.

178 (6) EVERGLADES AGRICULTURAL PRIVILEGE TAX.—

179 (c) The initial Everglades agricultural privilege tax roll
180 shall be certified for the tax notices mailed in November 1994.
181 Incentive credits to the Everglades agricultural privilege taxes
182 to be included on the initial Everglades agricultural privilege
183 tax roll, if any, shall be based upon the total phosphorus load
184 reduction for the year ending April 30, 1993. The Everglades
185 agricultural privilege taxes for each year shall be computed in
186 the following manner:

187 1. Annual Everglades agricultural privilege taxes shall be
188 charged for the privilege of conducting an agricultural trade or
189 business on each acre of real property or portion thereof. The
190 annual Everglades agricultural privilege tax shall be \$24.89 per
191 acre for the tax notices mailed in November 1994 through
192 November 1997; \$27 per acre for the tax notices mailed in
193 November 1998 through November 2001; \$31 per acre for the tax
194 notices mailed in November 2002 through November 2005; and \$35
195 per acre for the tax notices mailed in November 2006 through
196 November 2013.

197 2. It is the intent of the Legislature to encourage the
198 performance of best management practices to maximize the
199 reduction of phosphorus loads at points of discharge from the
200 EAA by providing an incentive credit against the Everglades
201 agricultural privilege taxes set forth in subparagraph 1. The
202 total phosphorus load reduction shall be measured for the entire
203 EAA by comparing the actual measured total phosphorus load

592-02851-13

2013768c1

204 attributable to the EAA for each annual period ending on April
205 30 to the total estimated phosphorus load that would have
206 occurred during the 1979-1988 base period using the model for
207 total phosphorus load determinations provided in chapter 40E-63,
208 Florida Administrative Code, utilizing the technical information
209 and procedures contained in Section IV-EAA Period of Record Flow
210 and Phosphorus Load Calculations; Section V-Monitoring
211 Requirements; and Section VI-Phosphorus Load Allocations and
212 Compliance Calculations of the Draft Technical Document in
213 Support of chapter 40E-63, Florida Administrative Code - Works
214 of the District within the Everglades, March 3, 1992, and the
215 Standard Operating Procedures for Water Quality Collection in
216 Support of the Everglades Water Condition Report, dated February
217 18, 1994. The model estimates the total phosphorus load that
218 would have occurred during the 1979-1988 base period by
219 substituting the rainfall conditions for such annual period
220 ending April 30 for the conditions that were used to calibrate
221 the model for the 1979-1988 base period. The data utilized to
222 calculate the actual loads attributable to the EAA shall be
223 adjusted to eliminate the effect of any load and flow that were
224 not included in the 1979-1988 base period as defined in chapter
225 40E-63, Florida Administrative Code. The incorporation of the
226 method of measuring the total phosphorus load reduction provided
227 in this subparagraph is intended to provide a legislatively
228 approved aid to the governing board of the district in making an
229 annual ministerial determination of any incentive credit.

230 3. Phosphorus load reductions calculated in the manner
231 described in subparagraph 2. and rounded to the nearest whole
232 percentage point for each annual period beginning on May 1 and

592-02851-13

2013768c1

233 ending on April 30 shall be used to compute incentive credits to
234 the Everglades agricultural privilege taxes to be included on
235 the annual tax notices mailed in November of the next ensuing
236 calendar year. Incentive credits, if any, will reduce the
237 Everglades agricultural privilege taxes set forth in
238 subparagraph 1. only to the extent that the phosphorus load
239 reduction exceeds 25 percent. Subject to subparagraph 4., the
240 reduction of phosphorus load by each percentage point in excess
241 of 25 percent, computed for the 12-month period ended on April
242 30 of the calendar year immediately preceding certification of
243 the Everglades agricultural privilege tax, shall result in the
244 following incentive credits: \$0.33 per acre for the tax notices
245 mailed in November 1994 through November 1997; \$0.54 per acre
246 for the tax notices mailed in November 1998 through November
247 2001; \$0.61 per acre for the tax notices mailed in November 2002
248 through November 2005, and \$0.65 per acre for the tax notices
249 mailed in November 2006 through November 2013. The determination
250 of incentive credits, if any, shall be documented by resolution
251 of the governing board of the district adopted prior to or at
252 the time of the adoption of its resolution certifying the annual
253 Everglades agricultural privilege tax roll to the appropriate
254 tax collector.

255 4. Notwithstanding subparagraph 3., incentive credits for
256 the performance of best management practices shall not reduce
257 the minimum annual Everglades agricultural privilege tax to less
258 than \$24.89 per acre, which annual Everglades agricultural
259 privilege tax as adjusted in the manner required by paragraph
260 (e) shall be known as the "minimum tax." To the extent that the
261 application of incentive credits for the performance of best

592-02851-13

2013768c1

262 management practices would reduce the annual Everglades
263 agricultural privilege tax to an amount less than the minimum
264 tax, then the unused or excess incentive credits for the
265 performance of best management practices shall be carried
266 forward, on a phosphorus load percentage basis, to be applied as
267 incentive credits in subsequent years. Any unused or excess
268 incentive credits remaining after certification of the
269 Everglades agricultural privilege tax roll for the tax notices
270 mailed in November 2013 shall be canceled.

271 5. Notwithstanding the schedule of Everglades agricultural
272 privilege taxes set forth in subparagraph 1., the owner, lessee,
273 or other appropriate interestholder of any property shall be
274 entitled to have the Everglades agricultural privilege tax for
275 any parcel of property reduced to the minimum tax, commencing
276 with the tax notices mailed in November 1996 for parcels of
277 property participating in the early baseline option as defined
278 in chapter 40E-63, Florida Administrative Code, and with the tax
279 notices mailed in November 1997 for parcels of property not
280 participating in the early baseline option, upon compliance with
281 the requirements set forth in this subparagraph. The owner,
282 lessee, or other appropriate interestholder shall file an
283 application with the executive director of the district prior to
284 July 1 for consideration of reduction to the minimum tax on the
285 Everglades agricultural privilege tax roll to be certified for
286 the tax notice mailed in November of the same calendar year and
287 shall have the burden of proving the reduction in phosphorus
288 load attributable to such parcel of property. The phosphorus
289 load reduction for each discharge structure serving the parcel
290 shall be measured as provided in chapter 40E-63, Florida

592-02851-13

2013768c1

291 Administrative Code, and the permit issued for such property
292 pursuant to chapter 40E-63, Florida Administrative Code. A
293 parcel of property which has achieved the following annual
294 phosphorus load reduction standards shall have the minimum tax
295 included on the annual tax notice mailed in November of the next
296 ensuing calendar year: 30 percent or more for the tax notices
297 mailed in November 1994 through November 1997; 35 percent or
298 more for the tax notices mailed in November 1998 through
299 November 2001; 40 percent or more for the tax notices mailed in
300 November 2002 through November 2005; and 45 percent or more for
301 the tax notices mailed in November 2006 through November 2013.
302 In addition, any parcel of property that achieves an annual flow
303 weighted mean concentration of 50 parts per billion (ppb) of
304 phosphorus at each discharge structure serving the property for
305 any year ending April 30 shall have the minimum tax included on
306 the annual tax notice mailed in November of the next ensuing
307 calendar year. Any annual phosphorus reductions that exceed the
308 amount necessary to have the minimum tax included on the annual
309 tax notice for any parcel of property shall be carried forward
310 to the subsequent years' phosphorus load reduction to determine
311 if the minimum tax shall be included on the annual tax notice.
312 The governing board of the district shall deny or grant the
313 application by resolution adopted prior to or at the time of the
314 adoption of its resolution certifying the annual Everglades
315 agricultural privilege tax roll to the appropriate tax
316 collector.

317 6. The annual Everglades agricultural privilege tax shall
318 be: for the tax notices mailed in November 2014 through November
319 2026, 2016 shall be \$25 per acre; for the tax notices mailed in

592-02851-13

2013768c1

320 November 2027 through 2029, \$20 per acre; for the tax notices
321 mailed in November 2030 through 2035, \$15 per acre; and for the
322 tax notices mailed in November 2036 2017 and thereafter, shall
323 be \$10 per acre. Proceeds from the tax shall be used for design,
324 construction, and implementation of the Long-Term Plan,
325 including operation and maintenance, and research for the
326 projects and strategies in the Long-Term Plan, including the
327 enhancements and operation and maintenance of the Everglades
328 Construction Project.

329 (h) In recognition of the findings set forth in subsection
330 (1), the Legislature finds that the assessment and use of the
331 Everglades agricultural privilege tax is a matter of concern to
332 all areas of Florida. ~~and~~ The Legislature intends this act to be
333 a general law authorization of the Everglades agricultural
334 privilege tax within the meaning of s. 9, Art. VII of the State
335 Constitution and further intends that payment of the tax, in
336 addition to payment of the cost of continuing implementation of
337 BMPs, fulfills ~~complies with~~ the obligations of owners and users
338 of land under s. 7(b), Art. II of the State Constitution.

339 Section 2. Beginning in the 2013-2014 fiscal year and each
340 year thereafter through the 2023-2024 fiscal year, the sum of
341 \$12 million in recurring general revenue funds and \$20 million
342 in recurring funds from the Water Management Lands Trust Fund is
343 appropriated to the Department of Environmental Protection for
344 the Restoration Strategies Regional Water Quality Plan. This
345 section shall take effect July 1, 2013.

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