

BILL

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to Everglades improvement and
 3 management; amending s. 373.4592, F.S.; providing
 4 findings; revising the definition of "Long Term Plan";
 5 revising the usage of the ad valorem tax proceeds;
 6 providing that certain discharges may not be deemed to
 7 cause or contribute to violations of water quality
 8 standards; directing the South Florida Water
 9 Management District to complete a use attainability
 10 analysis; requiring payment of an agricultural
 11 privilege tax of \$25 for an extended period of time;
 12 providing legislative intent that payment of the
 13 agricultural privilege tax and costs of continuing
 14 implementation of best management practices fulfills
 15 certain constitutional requirements; providing an
 16 effective date.

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

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

BILL

ORIGINAL

YEAR

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.—

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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) Prior to the completion of all projects and
 269 | improvements in the Long Term Plan, the district shall complete
 270 | a use 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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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. This act shall take effect upon becoming law.