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

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

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

373.4592 Everglades improvement and management.—
(1) FINDINGS AND INTENT.—
(g) The Legislature finds that the Long Term Plan Statement of Principles of July 1993, the Everglades
Construction Project, and the regulatory requirements of this section provide a sound basis for the state’s long-term cleanup and restoration objectives for the Everglades. It is the intent of the Legislature to provide a sufficient period of time for construction, testing, and research, so that the benefits of the Long Term Plan Everglades Construction Project will be determined and maximized prior to requiring additional measures. The Legislature finds that STAs and BMPs are currently the best available technology for achieving the interim water quality goals of the Everglades Program and that implementation of BMPs, funded by the owners and users of land in the EAA, effectively reduces nutrients in waters flowing into the Everglades Protection Area. A combined program of agricultural BMPs, STAs, and requirements of this section is a reasonable method of achieving interim total phosphorus discharge reductions. The Everglades Program is an appropriate foundation on which to build a long-term program to ultimately achieve restoration and protection of the Everglades Protection Area.

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

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

(3) EVERGLADES LONG-TERM PLAN.—
(d) The Legislature recognizes that the Long-Term Plan contains an initial phase and a 10-year second phase. The Legislature intends that a review of this act at least 10 years after implementation of the Long-Term Plan initial phase is appropriate and necessary to the public interest. The review is the best way to ensure that the Everglades Protection Area is achieving state water quality standards, including phosphorus reduction, and the Long-Term Plan is using the best technology available. A 10-year second phase of the Long-Term Plan must be approved by the Legislature and codified in this act prior to implementation of projects, but not prior to development, review, and approval of projects by the department.

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

(4) EVERGLADES PROGRAM.—

(a) Everglades Construction Project.—The district shall implement the Everglades Construction Project. By the time of completion of the project, the state, district, or other governmental authority shall purchase the inholdings in the Rotenberger and such other lands necessary to achieve a 2:1 mitigation ratio for the use of Brown’s Farm and other similar lands, including those needed for the STA 1 Inflow and Distribution Works. The inclusion of public lands as part of the
project is for the purpose of treating waters not coming from
the EAA for hydroperiod restoration. It is the intent of the
Legislature that the district aggressively pursue the
implementation of the Everglades Construction Project in
accordance with the schedule in this subsection. The Legislature
recognizes that adherence to the schedule is dependent upon
factors beyond the control of the district, including the timely
receipt of funds from all contributors. The district shall take
all reasonable measures to complete timely performance of the
schedule in this section in order to finish the Everglades
Construction Project. The district shall not delay
implementation of the project beyond the time delay caused by
those circumstances and conditions that prevent timely
performance. The district shall not levy ad valorem taxes in
excess of 0.1 mill within the Okeechobee Basin for the purposes
of the design, construction, and acquisition of the Everglades
Construction Project. The ad valorem tax proceeds not exceeding
0.1 mill levied within the Okeechobee Basin for such purposes
shall also be used for design, construction, and implementation
of the initial phase of the Long-Term Plan, including operation
and maintenance, and research for the projects and strategies in
the initial phase of the Long-Term Plan, and including the
enhancements and operation and maintenance of the Everglades
Construction Project and shall be the sole direct district
contribution from district ad valorem taxes appropriated or
expended for the design, construction, and acquisition of the
Everglades Construction Project unless the Legislature by
specific amendment to this section increases the 0.1 mill ad
valorem tax contribution, increases the agricultural privilege
taxes, or otherwise reallocates the relative contribution by ad
valorem taxpayers and taxpayers paying the agricultural
privilege taxes toward the funding of the design, construction,
and acquisition of the Everglades Construction Project.
Notwithstanding the provisions of s. 200.069 to the contrary,
any millage levied under the 0.1 mill limitation in this
paragraph shall be included as a separate entry on the Notice of
Proposed Property Taxes pursuant to s. 200.069. Once the STAs
are completed, the district shall allow these areas to be used
by the public for recreational purposes in the manner set forth
in s. 373.1391(1), considering the suitability of these lands
for such uses. These lands shall be made available for
recreational use unless the district governing board can
demonstrate that such uses are incompatible with the restoration
goals of the Everglades Construction Project or the water
quality and hydrological purposes of the STAs or would otherwise
adversely impact the implementation of the project. The district
shall give preferential consideration to the hiring of
agricultural workers displaced as a result of the Everglades
Construction Project, consistent with their qualifications and
abilities, for the construction and operation of these STAs. The
following milestones apply to the completion of the Everglades
Construction Project as depicted in the February 15, 1994,
conceptual design document:
1. The district must complete the final design of the STA 1
East and West and pursue STA 1 East project components as part
of a cost-shared program with the Federal Government. The
district must be the local sponsor of the federal project that will include STA 1 East, and STA 1 West if so authorized by federal law;

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

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

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

5. The district must complete construction of STA 6;

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

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

(f) EAA best management practices.—

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

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

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

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

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

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

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

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

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

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

5. Effective immediately, landowners within the C-139 Basin shall not collectively exceed an annual average loading of phosphorus based proportionately on the historical rainfall for the C-139 Basin over the period of October 1, 1978, to September 30, 1988. New surface inflows shall not increase the annual average loading of phosphorus stated above. Provided that the C-139 Basin does not exceed this annual average loading, all landowners within the Basin shall be in compliance for that year. Compliance determinations for individual landowners within the C-139 Basin for remedial action, if the Basin is determined
by the district to be out of compliance for that year, shall be 
based on the landowners' proportional share of the total 
phosphorus loading. The total phosphorus discharge load shall be 
determined as set forth in Appendix B2 of Rule 40E-63, 
Everglades Program, Florida Administrative Code.

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

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

(6) EVERGLADES AGRICULTURAL PRIVILEGE TAX.—
(c) The initial Everglades agricultural privilege tax roll 
shall be certified for the tax notices mailed in November 1994. 
Incentive credits to the Everglades agricultural privilege taxes 
to be included on the initial Everglades agricultural privilege 
tax roll, if any, shall be based upon the total phosphorus load 
reduction for the year ending April 30, 1993. The Everglades
agricultural privilege taxes for each year shall be computed in the following manner:

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

2. It is the intent of the Legislature to encourage the performance of best management practices to maximize the reduction of phosphorus loads at points of discharge from the EAA by providing an incentive credit against the Everglades agricultural privilege taxes set forth in subparagraph 1. The total phosphorus load reduction shall be measured for the entire EAA by comparing the actual measured total phosphorus load attributable to the EAA for each annual period ending on April 30 to the total estimated phosphorus load that would have occurred during the 1979-1988 base period using the model for total phosphorus load determinations provided in chapter 40E-63, Florida Administrative Code, utilizing the technical information and procedures contained in Section IV-EAA Period of Record Flow and Phosphorus Load Calculations; Section V-Monitoring Requirements; and Section VI-Phosphorus Load Allocations and Compliance Calculations of the Draft Technical Document in...
3. Phosphorus load reductions calculated in the manner described in subparagraph 2. and rounded to the nearest whole percentage point for each annual period beginning on May 1 and ending on April 30 shall be used to compute incentive credits to the Everglades agricultural privilege taxes to be included on the annual tax notices mailed in November of the next ensuing calendar year. Incentive credits, if any, will reduce the Everglades agricultural privilege taxes set forth in subparagraph 1. only to the extent that the phosphorus load reduction exceeds 25 percent. Subject to subparagraph 4., the reduction of phosphorus load by each percentage point in excess
of 25 percent, computed for the 12-month period ended on April 30 of the calendar year immediately preceding certification of the Everglades agricultural privilege tax, shall result in the following incentive credits: $0.33 per acre for the tax notices mailed in November 1994 through November 1997; $0.54 per acre for the tax notices mailed in November 1998 through November 2001; $0.61 per acre for the tax notices mailed in November 2002 through November 2005, and $0.65 per acre for the tax notices mailed in November 2006 through November 2013. The determination of incentive credits, if any, shall be documented by resolution of the governing board of the district adopted prior to or at the time of the adoption of its resolution certifying the annual Everglades agricultural privilege tax roll to the appropriate tax collector.

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

5. Notwithstanding the schedule of Everglades agricultural privilege taxes set forth in subparagraph 1., the owner, lessee, or other appropriate interestholder of any property shall be entitled to have the Everglades agricultural privilege tax for any parcel of property reduced to the minimum tax, commencing with the tax notices mailed in November 1996 for parcels of property participating in the early baseline option as defined in chapter 40E-63, Florida Administrative Code, and with the tax notices mailed in November 1997 for parcels of property not participating in the early baseline option, upon compliance with the requirements set forth in this subparagraph. The owner, lessee, or other appropriate interestholder shall file an application with the executive director of the district prior to July 1 for consideration of reduction to the minimum tax on the Everglades agricultural privilege tax roll to be certified for the tax notice mailed in November of the same calendar year and shall have the burden of proving the reduction in phosphorus load attributable to such parcel of property. The phosphorus load reduction for each discharge structure serving the parcel shall be measured as provided in chapter 40E-63, Florida Administrative Code, and the permit issued for such property pursuant to chapter 40E-63, Florida Administrative Code. A parcel of property which has achieved the following annual phosphorus load reduction standards shall have the minimum tax included on the annual tax notice mailed in November of the next ensuing calendar year: 30 percent or more for the tax notices.
mailed in November 1994 through November 1997; 35 percent or more for the tax notices mailed in November 1998 through November 2001; 40 percent or more for the tax notices mailed in November 2002 through November 2005; and 45 percent or more for the tax notices mailed in November 2006 through November 2013.

In addition, any parcel of property that achieves an annual flow weighted mean concentration of 50 parts per billion (ppb) of phosphorus at each discharge structure serving the property for any year ending April 30 shall have the minimum tax included on the annual tax notice mailed in November of the next ensuing calendar year. Any annual phosphorus reductions that exceed the amount necessary to have the minimum tax included on the annual tax notice for any parcel of property shall be carried forward to the subsequent years' phosphorus load reduction to determine if the minimum tax shall be included on the annual tax notice.

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

6. The annual Everglades agricultural privilege tax for the tax notices mailed in November 2014 through November 2024 shall be $25 per acre and for tax notices mailed in November 2025 and thereafter shall be $10 per acre.

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

Section 2. This act shall take effect upon becoming law.