IN THE SUPREME COURT
STATE OF FLORIDA

IN RE:	)	
	)	
ADVISORY OPINION TO	)	CASE NO.: 83,301
THE ATTORNEY GENERAL -	)	
SAVE OUR EVERGLADES	)	
	)	
	)	

REPLY BRIEF OF RESPONDENT UNITED STATES SUGAR CORPORATION

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I. The Amendment's Broad Agenda Goes Far Beyond the More Limited Initiatives Which Were Approved by this Court in Prior Cases

A. The Standard of Review is Strict Scrutiny

The Everglades are without question a vital natural resource and worthy of preservation. But the attractiveness of such an effort cannot divert this Court from its constitutional responsibility of reviewing initiative petitions for compliance with the single subject limitation of Article XI, section 3 of the Florida Constitution and the ballot title and summary requirements of section 101.161, Florida Statutes. Nor can any predisposition to let the voters decide. No one has any right to put before the electorate an initiative proposal to amend the Florida Constitution which does not satisfy those demands. The resolution of those two issues, as distinct from the wisdom or lure of the underlying proposal, is all that is before the Court in this proceeding.

The proponents of the Everglades Amendment assiduously avoid any discussion of the standard of review which the Court's recent decisions have articulated. The Court requires "strict compliance" with the single subject limitation, "because our constitution is the basic document which controls our governmental functions". Fine v. Firestone, 448 So. 2d 984, 989 (Fla. 1984).

In a separate concurring opinion in Fine, Justice McDonald described the standard of review for initiatives, stating that they should be "strictly scrutinized". Justices Ehrlich, McDonald, and Shaw have all criticized the broader view of the single subject rule taken in Weber v. Smathers, 338 So.2d 819 (Fla. 1976) and

Floridians Against Casino Takeover v. Let's Help Florida, 363 So. 2d 337 (Fla. 1978). Fine, 448 So. 2d at 995. Justice Shaw's concurring opinion decried the Floridians and Weber approach, saying that it served to "largely nullify the one subject limitation by forswearing appellate review". Fine, 448 So. 2d at 997.

The governing standard of review is thus one of strict appellate scrutiny, reading the one subject constraint restrictively. That standard obtains without regard to the popularity or relative merits of the proposal in question.

B. The Proponents of the Everglades Amendment Employ the Wrong Test for Determining its Validity

The Save Our Everglades Committee ("S.O.E. Committee") and the Florida Audubon Society would have the Court approve any initiative, regardless of multiple impacts on diverse functions of government, so long as all of the topics within the initiative are logically connected to one broad theme.

The single subject test, however, is not whether an intricate and sweeping measure can be generalized by an all-encompassing thematic description. If the test were whether the measures proposed by an initiative could be characterized by some broadly conceived theme, then the Fine Court would have reached a different result. That initiative would have passed muster as pertaining only to "revenue". The Court's recent decision in Advisory Opinion to the Attorney General -- Restrict Laws Related to Discrimination, 19 Fla. L. Weekly S109 (Fla. March 3, 1994), would also have gone

the other way, with the characterization of the amendment's sole subject as being limits on discrimination laws.[1]

The S.O.E. Committee brief characterizes the purpose of the Everglades Amendment as being "to create a trust fund to assist in cleaning up the Everglades." The oversimplification is gross. It is apparent that the proposal would create a new entity, not merely a trust fund, and imbue that entity with powers which reach into the executive, legislative and judicial branches of government in Florida. The designation of a trust fund may, without more, be a single subject. The creation of this new citizen panel, however, is an unnecessary and entirely separate matter because any number of agencies now in existence, from the Department of Environmental Protection to the South Florida Water Management District, could be given the responsibility for such trust funds.

The S.O.E. Committee concedes that the Trustees would perform "executive" functions. (S.O.E. Committee Brief at page 11).[2] While the proponents deny any involvement in the legislative arena (since that would admit a prohibited second subject), they clearly

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[1] In truth, if the test were whether an initiative had a single theme, then a measure to re-write the entire Florida Constitution would be sent to the voters on grounds that it deals only with the allocation of governmental power. This is precisely the point made by Justice Shaw in footnote one of his concurrence in Fine, 448 So. 2d at 998.

[2] Further, it acknowledges that additional government functions are affected, but dismisses them as "minimal impacts" (S.O.E. Committee Brief at pages i and 12). The Court has not announced any de minimus exception to the single subject rule - to do so would permit two subjects in initiative petitions as long as the second subject has some unquantified but smaller effect than the first.

recognize that the imposition of taxes is a legislative function. Part III of the S.O.E. Committee brief is replete with citations to legislative enactments levying taxes for various purposes. The Everglades Amendment indisputably performs a legislative function in levying the sugar tax.[3]

The test urged by the S.O.E. Committee would permit multiple impacts on government functions provided only that they are "logically" related to some overall theme. This argument ignores the express language of Article XI, section 3, of the Florida Constitution. It directs that initiatives must deal with only "one subject and matter directly connected therewith." The test, therefore, is not one of reasonable or logical relation, but one of "direct" connection.

If logical connection were all that were required, the amendment could affect all manner and number of legislative, judicial, and executive functions, so long as they bore some general relationship to the broad theme of Everglades restoration. In suggesting this test, the proponents are effectively asking the Court to return to the Weber test, equating the single subject

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[3] The proponents' third argument, enumerating taxes already in effect, addresses neither the single subject requirement nor the ballot summary issue. The question in this proceeding is not the propriety of the tax or the similarity of a tax on sugar to a tax on petroleum products, solvents or chemicals. And the listing of statutory taxes already in place merely reinforces the truth that it is the Legislature to which the duty for imposing taxes is committed by the Florida Constitution. This argument is apparently included with the intentions of convincing the Court that sugar farming is the sole source of pollution in the Everglades and of comforting the Court with the notion that the Everglades Amendment is just another tax on pollutants. Neither argument is relevant to the issues at hand.

requirement which applies to statutes (requiring merely a rational relationship among the parts of a statute) with the narrower single subject requirement applicable to initiative petitions. This approach, however, was expressly abandoned in the Fine opinion.

C. The Proponents' Reliance on Weber, Floridians and Carroll is Misplaced

1. The Rationale for those Decisions has Been Rejected

The proponents rely primarily on three cases, Weber, Floridians, and Carroll v. Firestone, 497 So. 2d 1204 (Fla. 1986). In Weber, the Court approved an ethics in government amendment which calls for financial disclosure by public officials, places limitations on lobbying, and authorizes penalties for convictions based on breach of the public trust. Justice England's concurring opinion analyzed the single subject limitation in Article XI, section 3 of the Florida Constitution and concluded that it should be interpreted in the same manner as that governing legislative enactments. FLA. CONST., Art. III, s. 6. Under that "reasonably related" standard, "widely divergent rights and requirements can be included without challenge in statutes covering a single subject **area**". Id. at 823 (emphasis added). The Court has since expressly receded from that overly expansive view of the single subject limitation. It does not now tolerate the inclusion of "widely divergent" provisions as a single initiative subject. It is clear that the rationale for the Weber decision has been repudiated.

The Floridians decision, concerning a proposed amendment authorizing casino gambling, is expressly grounded on the Weber

decision and its finding that the initiative petition and statutory single subject limitations are to be construed in the same manner. Floridians, 363 So. 2d at 340. Like Weber, the Floridians opinion is not just suspect authority; the underlying rationale for the decision has been explicitly rejected by this Court. In short, the single subject limitation applicable to initiative petitions is no longer given the expansive run it once had.[4]

With respect to the Carroll decision, which was rendered after the Court handed down its opinion in the Fine case, this Respondent recognizes that the Court referred to the Weber and Floridians decisions in upholding the lottery amendment. It did not, however, reinstate the rule that initiative petitions and statutes were to be measured by the same single subject standard. Rather the opinion merely recited the Court's view that there was "no essential distinction between the amendment here and the one we

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[4] Even under the old test, the Everglades Amendment would fail because of its multiplicity of changes in existing government functions. None of the initiatives recently approved by the Court entailed any real changes in the operations or responsibilities of existing governmental bodies. The Weber amendment merely added disclosure requirements and anti-lobbying restrictions to the conditions attending government employment. The Floridians and Carroll amendments simply permitted casino gambling and State lotteries, respectively. The English language, cap on non-economic damages, term limits, homestead valuation and net fishing amendments also had singular purposes and represented no shifting or usurpation of existing government functions. Advisory Opinion to the Attorney General, English-The Official Language of Florida, 520 So. 2d 11 (Fla. 1988), Advisory Opinion to the Attorney General, Limitation of Non-Economic Damages in Civil Actions, 520 So. 2d 284 (Fla. 1988), Advisory Opinion to the Attorney General - Limited Political Terms in Certain Elective Offices, 592 So. 2d 228 (Fla. 1991), Advisory Opinion to the Attorney General - Homestead Valuation Limitation, 581 So. 2d 586 (Fla. 1991) and Advisory Opinion to the Attorney General - Limited Marine Net Fishing, 620 So. 2d 997 (Fla. 1993).

approved in Floridians . . .". Carroll, 497 So. 2d at 1206. The Floridians amendment permitted casino gambling, and authorized the use of any taxes imposed thereon for public education and law enforcement. The Carroll amendment authorized State lotteries and allowed the use of the resulting revenues for education or other purposes. That the amendments were thus similar should not be taken as any resurrection by the Court of the Floridians analysis or rationale.

2. The Everglades Amendment Bears No Resemblance to the Ballot Proposals in Earlier Cases

The initiatives presented in Carroll, Floridians, and Weber, are all completely unlike the Everglades Amendment. The initiative in Weber accommodated traditional legislative and judicial functions. For example,it provides that violations could lead to forfeiture of government retirement benefits "in such manner as may be provided by law". The Weber initiative also expressly disavowed any jurisdiction which would conflict with the existing jurisdiction of the Judicial Qualifications Commission. Weber, 338 So. 2d at 820-21.

In contrast, the Everglades Amendment disavows implementing legislation and makes no effort to accommodate the existing roles of the executive agencies which have responsibilities for pollution, water quality, water supply and the like in South Florida. Instead, it aggregates executive, judicial and legislative functions in the Trustees without regard for the participation of existing government bodies.

Neither Weber, Carroll nor Floridians involved the creation of

any new entity.[5] None of those initiatives committed to any existing or new agency the power to define its own jurisdiction. In the Everglades Amendment, the Trustees are empowered to declare where the boundaries of the Everglades Ecosystem are and to change them from time to time. They may deem the area to stretch from the headwaters of the Kissimmee River southward for miles into the Gulf of Mexico beyond Key West. The voters will have no subsequent opportunity to disapprove their decision if the Trustees define the Everglades Ecosystem in terms which the electorate considers overreaching.[6]

Neither Carroll, Floridians, nor Weber involved the imposition of new taxes.[7] The Carroll amendment merely effected a partial repeal of the Article X, section 7 prohibition against lotteries. The Legislature was left complete discretion to decide whether to institute lotteries in Florida, how many to have, what agency would

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[5] The Florida Ethics Commission, mentioned in the Weber amendment, had been previously established by the Legislature. Ch. 74-176, § 2, Laws of Florida.

[6] In Askew v. Cross Key Waterways, 372 So. 2d 913, 919 (Fla. 1978), this Court described the function of determining geographic areas in greatest need of environmental protection as a "fundamental legislative task". In fact, the Legislature has just this date enacted comprehensive legislation (CS/CS/SB 1350) which addresses the restoration of the Everglades. The delineation of the Everglades to be protected (defined as a separate area from Florida Bay), inclusion of funding mechanisms paid for by farming and other interests, specification of construction projects, and involvement of numerous agencies is compelling substantiation of the multiple subjects which the Everglades Amendment embraces. The April 13, 1994, Senate Journal version of the bill is attached to this brief as Appendix A.

[7] The S.O.E. Committee acknowledges that the sugar "fee" in the Everglades Amendment is a tax. S.O.E. Brief at pages 18 and 23.

run them, and how to spend the resulting State revenues. The Legislature was and is free to spend the money generated by State lotteries "for any purpose", a fact this Court expressly noted in its decision. Carroll, 497 So. 2d at 1208. The Floridians initiative authorized casino gambling, but did not impose or demand any new tax. It merely required the State to collect any taxes that were levied. The Legislature was free to tax casino gambling or to refrain from doing so. If the amendment had passed and the Legislature elected to tax gambling, decisions as to the tax base, tax rate, periodicity of payment, and whether to discontinue the tax would have been the Legislature's to make. Not so with the Everglades Amendment. The base and rate are fixed, for 25 years, and beyond the reach of the Legislature. So too is "control" of the expenditure of the sugar tax revenues - that is given to "citizen Trustees".[8]

Although the S.O.E. Committee compares the Trustees with the Florida Game and Fresh Water Fish Commission (the "Commission"), the Commission operates on license fees enacted by statute. Article IV, Section 9, of the Florida Constitution states that "all

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[8] The Everglades Amendment seeks to rob the Legislature of its historical tax and spend functions. The initiative not only creates a new tax, it automatically appropriates all of the revenue. The initiative directs the State to collect the tax and deposit the proceeds in full into the Trust. Given the facts that the Trustees will "control" the fund, "adopt their own operating rules" and that "implementing legislation will not be required", it seems clear that the Trustees "operating rules" will (1) declare how often and when the tax is due (2) specify tax return forms and record keeping requirements; and (3) deal with such issues as auditing, penalties and interest, among other things. These matters are properly subjects for legislative and executive action under the existing constitutional scheme.

license fees ... shall be prescribed by specific statute." FLA. CONST. art. IV, section 9. Thus, the Legislature controls the purse strings for the Commission. The Legislature is not directed to impose **any** license fees for the Commission and can increase or decrease those fees or abolish them altogether if it chooses.

The Everglades Amendment, by comparison, describes no legislative discretion. Nor does the ballot summary. Page 2 of the "Ballot Initiative Form", attached as Appendix IV to the S.O.E. brief, responds to the question "Who is going to control the spending of this money?" with the answer that the panel of citizens will spend the money. The voters are told that Legislature has no real role in deciding how the sugar tax revenues will be spent. Thus, unlike Game and Fresh Water Fish Commission expenditures, the legislative appropriations function will be stripped to a bare formality by the Everglades Amendment. [9]

The S.O.E. Committee's argument that constitutional references

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[9] The cases from other states cited by the proponents are not on point. In both cases, the initiative proposals created statutes, not constitutional amendments. In Sunbehm Gas v. Conrad, 310 N.W. 2d 766 (N.D. 1981), the initiative provided that "the legislative assembly shall make any appropriation of money that may be necessary to accomplish the purposes of the act." If not appropriated, excess funds would be transferred to general state funds. In Associated Industries of Massachusetts v. Secretary of the Commonwealth, 595 N.E. 2d 282 (Mass. 1992), the court held that the funding of a trust proposed in an initiative was subject to legislative appropriation. It distinguished Opinion of the Justices, 297 Mass. 577, 580 9 N.E. 2d 186 (Mass. 1937) in which the amendment was found to constitute a prohibited appropriation because "Its direct purpose is to seize upon all the revenue received from the designated sources and to appropriate it permanently to a specified public use. If it were adopted, the Legislature would be powerless to appropriate any revenue from that source to any other public use." The Everglades Amendment reflects the same flaw.

to pari-mutuel, motor vehicle fuel, and motor vehicle license taxes somehow validate the Everglades Amendment is also unavailing. First, none of those provisions was adopted by initiative so as to be governed by the single subject rule. Secondly, the taxes were enacted by the Legislature. Pari-mutuel taxes, for example, appear at section 550.001, Florida Statutes, et. seq. (1993). The Legislature could therefore abolish pari-mutuel taxes, but it will be powerless to do so with the proposed sugar tax. While Article XII, section 9(c) of the 1968 Florida Constitution refers to the "second gas tax" as being "levied by Article IX, Section 16" of the 1885 Constitution, a review of the latter reveals that the tax was in fact "levied by state law". In any event, the provisions of the 1885 Constitution which are incorporated into the 1968 Constitution, and which carry forward the second gas tax (for roads) and the motor vehicle license taxes (for school bonds), specifically acknowledge that they are limiting the prerogatives of the Legislature. Article IX, section 16(d) of the 1885 Florida Constitution states that

> The Legislature shall continue the levies of said taxes during the life of this Amendment, and shall not enact any law having the effect of withdrawing the proceeds of said two (2¢) cents of said taxes from the operation of this amendment.

Similar language is found in Article XII, section 18(f) of the 1885 Florida Constitution with respect to the motor vehicle license taxes. The effect of these amendments and of the Everglades Amendment are virtually identical in their elimination of legislative discretion to abolish or lower the subject taxes.

Even if the Everglades Amendment was similar to some measure in the current Florida Constitution, that fact would be immaterial. The Respondent's argument is not that the proposal violates the Florida Constitution, but that it affects more than one government function as those functions are now constitutionally allocated. Its impairment of the Legislature's power of the purse is plainly a second subject to the executive functions which the proponents concede.

The proposal also stirs executive and judicial functions into the mix. It indicts the sugar farming industry with the label of "polluter". The clear intent of the initiative is to punish the sugar industry for what the S.O.E. Committee has summarily found to be past misconduct. This is unprecedented in prior initiatives.

In seeking to penalize a targeted group, this proposal robs the executive branch of its historical function to investigate and prosecute and, in turn, robs the judicial branch of its corresponding duty to decide what responses, if any, are in order. The very fact that the initiative would assign blame, on the one hand, and establish a mechanism for Everglades remediation, on the other, is proof that it affects more than one constitutional function.

Judicial approval of constitutional finger-pointing, of measures targeting one discrete group for wrathful public reaction based on emotional appeals, would set a dangerous precedent. The Everglades Amendment tests the proposition that the courts will protect the minority from majority tyranny. The sugar industry is

but 40,000 employees and a handful of mills, but it would be told to bear the entire financial responsibility for Everglades water problems, or go out of existence trying. If the initiative process can be used to assign blame and assess destructive penalties at the direction of one faction, there will be no end to the stream of similar special interest petitions in the future. A group disgusted with the juvenile justice system may lay the blame at the feet of lawyers and judges and so propose a tax on their incomes for use in effecting a cure. Finding an industry, profession or other minority group to target, and some worthy cause on which to spend money, are both easy enough tasks. This type of factional condemnation and punishment was never contemplated by the initiative process and it cannot withstand single subject scrutiny precisely because it is an abuse which intrudes on both executive and judicial functions.

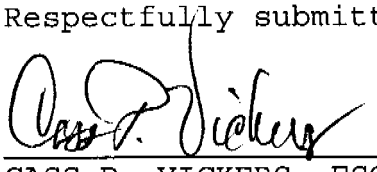
II. The Ballot Summary does not Provide an Explanatory Statement of the Proposal

On this issue, the proponents' briefs say little requiring any reply. They do not address the political campaign character of the ballot title and summary. They also fail to address the enormous breadth of the initiative and its many effects. The statute requires " clear and unambiguous language". In so many vital particulars, the title and summary have elected to leave the purposes and consequences of the Everglades Amendment uncommunicated. It is anything but "clear and unambiguous" in conveying to voters the changes which it would bring to Florida law and government.

CONCLUSION

For the reasons stated above, Respondent United States Sugar Corporation asks that the Court enter its order finding the Everglades Amendment in violation of the single subject limitation and the ballot title and summary requirements and enjoining the proposed amendment from inclusion on the November ballot.

Respectfully submitted,



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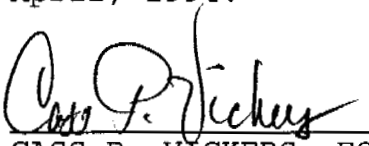
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing REPLY BRIEF was furnished to the following by United States Mail, this 15th day of April, 1994.



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APPENDIX

MOTIONS

On motions by Senator Kirkpatrick, by two-thirds vote CS for CS for SB 1350, together with the House Message, and CS for CS for SB 3060 were placed on the Special and Continuing Order Calendar this day.

SPECIAL AND CONTINUING ORDER

RETURNING MESSAGE ON CS FOR CS FOR SB 1350

The Honorable Pat Thomas, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for CS for SB 1350 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 1350—A bill to be entitled An act relating to Everglades restoration; amending s. 373.4592, F.S.; providing legislative findings and intent with respect to restoring the Everglades; providing definitions; exempting the Everglades Protection Area and the Everglades Agricultural Area from the Everglades SWIM Plan during the term of the Everglades Program; providing that the district is not prohibited from adopting a SWIM for Florida Bay and C-111 Basin; deleting provisions requiring the adoption of an Everglades SWIM Plan directing the South Florida Water Management District to implement the Everglades Construction Project; limiting ad valorem expenditures in the Okeechobee Basin for the project; providing a preference for displaced workers; providing milestones for completion of the project; requiring the district to improve the hydroperiod of the Everglades Protection Area; reducing wasteful discharge to tide and requiring water conservation and reuse; requiring a specified increased flow to the Everglades Protection Area; requiring the district to develop a model for quantifying the amount of water to be replaced; requiring coordination with the Federal Government; removing certain tracts from STA 3/4; requiring a monitoring program to evaluate effectiveness of the stormwater treatment areas and best management practices for these areas; requiring the district to submit certain reports to the Governor and Legislature; requiring the Department of Environmental Protection and the district to determine long-term water quality standards and criteria; providing for evaluation of water quality standards; providing for permittees in compliance with best-management practices permit conditions to be exempted from other water-quality improvement measures until December 31, 2006; providing exceptions; providing for water-supply and hydroperiod improvement; providing that certain landowners may not exceed a specified phophorous loading; requiring the department and the district to implement a water-quality monitoring program; requiring the implementation of BMP's for certain areas; requiring monitoring and control of exotic species; providing for farmers adversely impacted by land acquisition to have priority in leasing state and water management district lands; providing for a specified lease renewal by the Department of Corrections; providing for an Everglades agricultural privilege tax and a C-139 agricultural privilege tax; providing for tax deferments; requiring the Department of Agriculture and Consumer Services to prepare a report; providing procedures for challenging these taxes; providing for special assessments; deleting provisions providing for the creation of stormwater utilities; allowing the district to levy special assessments within stormwater management system benefit areas; allowing the district to begin construction and operation of the Everglades Construction Project prior to receiving a department permit; requiring the district to apply for a permit to construct, operate, and maintain the Everglades Construction Project; authorizing stormwater-treatment-area discharges into the Everglades Protection Area under certain conditions; allowing the district to apply for permit modifications; providing criteria for stormwater-treatment-area compliance; providing for long-term compliance permits; requiring the district to submit to the department certain permit modifications; specifying what the permit application must include; providing that certain water-quality standards are not altered; providing that certain relief mechanisms may not be granted for certain discharges except under certain circumstances; providing that certain landowners or permittees must meet a specified phosphorous-discharge limit; preserving the rights of the Seminole Tribe of Florida under the Water Rights Compact; directing the district to establish an Everglades Fund; providing uses for the fund; amending s. 298.22, F.S.; authorizing the condemnation or acquisition of land to implement s. 373.4592, F.S.; continuing the collection of tolls on Alligator Alley; providing uses for tolls; authorizing the South Florida Water Management District to issue revenue bonds or notes using toll revenues as security; providing uses for the proceeds from said lands or notes; amending s. 338.165, F.S.; authorizing the Department of Transportation to request the issuance of bonds secured by toll revenues collected on Alligator Alley to fund specified transportation projects; creating s. 373.4593, F.S.; providing legislative intent regarding the restoration of the Florida Bay; directing the district to implement an emergency interim plan; providing elements of said plan; authorizing the South Florida Water Management District to acquire specified lands by eminent domain; directing the district to take certain actions to promote the restoration of the Florida Bay; waiving certain permit requirements; authorizing the acquisition of certain lands needed to restore the historical hydrology of Florida Bay using funds from the Conservation and Recreation Lands Trust Fund; allocating not more than $25 million in said funds to be used by the South Florida Water Management District for said purpose; repealing s. 1 of ch. 91-80, Laws of Florida, which prescribes a short title for ch. 91-80, Laws of Florida; providing an appropriation; providing an effective date.

House Amendment 1—Strike everything after the enacting clause and insert:

Section 1. Section 373.4592, Florida Statutes, is amended to read:

373.4592 Everglades improvement and management.—

(1) FINDINGS AND INTENT.—

(a) The Legislature finds that the Everglades ecological system not only contributes to South Florida's water supply, flood control, and recreation, but serves as the habitat for diverse species of wildlife and plant life. The system is unique in the world and one of Florida's great treasures. *The Everglades ecological system is endangered as a result of adverse changes in water quality, and in the quantity, distribution, and timing of flows, and, therefore, must be restored and protected.*

(b) The Legislature finds that, although the district and the department have developed plans and programs for the improvement and management of the surface waters tributary to the Everglades Protection Area, implementation of those plans and programs has not been as timely as is necessary to restore and protect unique flora and fauna of the Everglades, including the Everglades National Park and the Arthur R. Marshall Loxahatchee National Wildlife Refuge. Therefore, the Legislature determines that an appropriate method to proceed with Everglades restoration and protection is to authorize the district to proceed expeditiously with implementation of the Everglades Program.

(c) The Legislature finds that, in the last decade, people have come to realize the tremendous cost the alteration of natural systems has exacted on the region. The Statement of Principles of July 1993 among the Federal Government, the South Florida Water Management District, the Department of Environmental Protection, and certain agricultural industry representatives formed a basis to bring to a close 5 years of costly litigation. That agreement should be used to begin the cleanup and renewal of the Everglades ecosystem.

(d) It is the intent of the Legislature to promote Everglades restoration and protection through certain legislative findings and determinations. The Legislature finds that waters flowing into the Everglades Protection Area contain excessive levels of phosphorus. A reduction in levels of phosphorus will benefit the ecology of the Everglades Protection Area.

(e) It is the intent of the Legislature to pursue comprehensive and innovative solutions to issues of water quality, water quantity, hydroperiod, and invasion of exotic species which face the Everglades ecosystem. The Legislature recognizes that the Everglades ecosystem must be restored both in terms of water quality and water quantity and must be preserved and protected in a manner that is long term and comprehensive. The Legislature further recognizes that the EAA and adjacent areas provide a base for an agricultural industry, which in turn provides important products, jobs, and income regionally and nationally. It is the intent of the Legislature to preserve natural values in the Everglades while also maintaining the quality of life for all residents of South Florida, including those in agriculture, and to minimize the impact on South Florida jobs, including agricultural, tourism, and natural resource-related jobs, all of which contribute to a robust regional economy.

(f) The Legislature finds that improved water supply and hydroperiod management are crucial elements to overall revitalization of the Everglades ecosystem, including Florida Bay. It is the intent of the Legislature to expedite plans and programs for improving water quantity reaching the Everglades, correcting long-standing hydroperiod problems, increasing the total quantity of water flowing through the system, providing water supply for the Everglades National Park, urban and agricultural areas, and Florida Bay, and replacing water previously available from the coastal ridge in areas of southern Dade County. Whenever possible, wasteful discharges of fresh water to tide shall be reduced, and the water shall be stored for delivery at more optimum times. Additionally, reuse and conservation measures shall be implemented consistent with law. The Legislature further recognizes that additional water storage may be an appropriate use of Lake Okeechobee.

(g) The Legislature finds that the 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 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. 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.

(h) The Everglades Construction Project represents by far the largest environmental cleanup and restoration program of this type ever undertaken, and the returns from substantial public and private investment must be maximized so that available resources are managed responsibly. To that end, the Legislature directs that the Everglades Construction Project and regulatory requirements associated with the Statement of Principles of July 1993 be pursued expeditiously, but with flexibility, so that superior technology may be utilized when available. Consistent with the implementation of the Everglades Construction Project, landowners shall be provided the maximum opportunity to provide treatment on their land.

~~(b) The Legislature further recognizes the efforts of the South Florida Water Management District to implement a comprehensive plan pursuant to the Surface Water Improvement and Management Act which will provide strategies, programs, and projects for the restoration and protection of water quality in the Everglades. The Legislature does not intend by this section to limit the authority of the district in the implementation of such plan.~~

~~(c) It is the intent of the Legislature to facilitate the surface water improvement and management process, to assist the district and the Department of Environmental Regulation in the performance of their duties and responsibilities, and to provide funding mechanisms which will contribute to the implementation of the strategies incorporated in the Everglades Surface Water Improvement and Management Plan or contribute to projects or facilities determined necessary to meet water quality requirements established by rulemaking or permit proceedings.~~

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

(a) "Best management practice" or "BMP" means a practice or combination of practices determined by the district, in cooperation with the department, based on research, field-testing, and expert review, to be the most effective and practicable, including economic and technological considerations, on-farm means of improving water quality in agricultural discharges to a level that balances water quality improvements and agricultural productivity.

(b) "C-139 Basin" or "Basin" means those lands described in subsection (16)

(c) "Department" means the Florida Department of Environmental Protection.

(d)~~(a)~~ "District" means the South Florida Water Management District.

(e)~~(b)~~ "Everglades Agricultural Area" *or "EAA" means the Everglades Agricultural Area, which are those lands described in subsection (15).* ~~shall have the meaning set forth in the Everglades Surface Water Improvement and Management Plan or interim permit issued pursuant to subsection (6).~~

(f) "Everglades Construction Project" means the project described in the February 15, 1994, conceptual design document together with construction and operation schedules on file with the South Florida Water Management District, except as modified by this section.

(g) "Everglades Program" means the program of projects, regulations, and research provided by this section, including the Everglades Construction Project.

(h)~~(c)~~ "Everglades Protection Area" means Water Conservation Areas 1, 2A, 2B, 3A, and 3B, the Arthur R. Marshall Loxahatchee National Wildlife Refuge, and the Everglades National Park.

(i)~~(d)~~ "Master permit" means a single permit issued to a legally responsible entity defined by rule, authorizing the construction, alteration, maintenance, or operation of multiple stormwater management systems *that* ~~which~~ may be owned or operated by different persons and which provides an opportunity to achieve collective compliance with applicable department and district rules and the provisions of this section.

(j) "Phosphorus criterion" means a numeric interpretation for phosphorus of the Class III narrative nutrient criterion.

~~(e) "Plan" shall, except as otherwise indicated, refer to the Everglades Surface Water Improvement and Management Plan adopted by the South Florida Water Management District, as amended from time to time.~~

(k)~~(f)~~ "Stormwater management program" shall have the meaning set forth in s. 403.031(15).

(l) "Stormwater treatment areas" or "STAs" means those treatment areas described and depicted in the district's conceptual design document of February 15, 1994, and any modifications as provided in this section.

~~(g) "Stormwater utility" shall have the meaning set forth in s. 403.031(17).~~

(3) *EVERGLADES* ~~ADOPTION OF~~ SWIM PLAN.—*The Legislature finds that the Everglades Program required by this section establishes more extensive and comprehensive requirements for surface water improvement and management within the Everglades than the SWIM plan requirements provided in ss. 373.451-373.456. In order to avoid duplicative requirements, and in order to conserve the resources available to the district, the SWIM plan requirements of those sections shall not apply to the Everglades Protection Area and the EAA during the term of the Everglades Program, and the district will neither propose, nor take final agency action on, any Everglades SWIM plan for those areas until the Everglades Program is fully implemented; however, funds under s. 259.101(3)(b) may be used for acquisition of lands necessary to implement the Everglades Construction Project. The district's actions in implementing the Everglades Construction Project relating to the responsibilities of the EAA and C-139 Basin for funding and water quality compliance in the EAA and the Everglades Protection Area shall be governed by this section. Other strategies or activities in the March 1992 SWIM plan may be implemented if otherwise authorized by law.*

~~(a) The district shall adopt the Everglades Surface Water Improvement and Management Plan pursuant to the provisions of ss. 373.451-373.456. In addition to the criteria contained in s. 373.453, the plan shall include:~~

~~1. Strategies for developing programs and projects designed to bring facilities into compliance with applicable water quality standards and restore the Everglades hydroperiod, including the identification and acquisition of lands for the purpose of water treatment or implementation of stormwater management systems, the development of funding mechanisms, and the development of a permitting system for discharges into waters managed by the district.~~

~~2. Specific goals for stormwater management systems funded pursuant to subsection (5) and a periodic evaluation process to determine whether such goals are being achieved.~~

~~3. Strategies for establishing monitoring protocols to ensure the accuracy of data.~~

~~4. Strategies for establishing research programs to measure program and project effectiveness.~~

~~(b) The plan shall not be reviewable as a rule under s. 120.54 or s. 120.56. However, the final agency action of the governing board of the district under s. 373.456(4) or (5)(b) shall constitute an order of the district subject to review as provided in s. 373.456(5)(b). The order shall also be subject to the provisions of s. 120.57. If a provision of the plan is to be implemented through permits for which there is no existing rule requirement, the district shall engage in rulemaking procedures pursuant to chapter 120 for the adoption of the requirement. To the extent feasible, any review proceeding under chapter 373 or any administrative proceeding under s. 120.57, with respect to a challenge to the plan, shall be expedited and shall be consolidated with any pending review proceedings relating to an interim permit issued pursuant to subsection (6).~~

~~(c) This section shall not be construed to prohibit the district prior to approval of the plan from pursuing interim permits pursuant to subsection (6) or from engaging in restoration or protection measures, including the acquisition, construction, or operation of the Everglades Nutrient Removal Project or the project referred to as Water Management Area 3, as identified in the September 28, 1990, draft of the Everglades Surface Water Improvement and Management Plan. The department may release funds under ss. 373.451-373.456 for such projects.~~

(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 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. 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. 373.59(10), 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. Land acquisition shall be completed for STA 1 West by April 1, 1996, and for STA 1 East by July 1, 1998;

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 by July 1, 2002;

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, by January 1, 1999;

4. The district must complete construction of STA 2 by February 1, 1999;

5. The district must complete construction of STA 3/4 by October 1, 2003;

6. The district must complete construction of STA 5 by January 1, 1999; and

7. The district must complete construction of STA 6 by October 1, 1997.

8. 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.

(b) Everglades water supply and hydroperiod improvement and restoration.—

1. A comprehensive program to revitalize the Everglades shall include programs and projects to improve the water quantity reaching the Everglades Protection Area at optimum times and improve hydroperiod deficiencies in the Everglades ecosystem. To the greatest extent possible, wasteful discharges of fresh water to tide shall be reduced, and water conservation practices and reuse measures shall be implemented by water users, consistent with law. Water supply management must include improvement of water quantity reaching the Everglades, correction of long-standing hydroperiod problems, and an increase in the total quantity of water flowing through the system. Water supply management must provide water supply for the Everglades National Park, the urban and agricultural areas, and the Florida Bay and must replace water previously available from the coastal ridge areas of southern Dade County. The Everglades Construction Project redirects some water currently lost to tide. It is an important first step in completing hydroperiod improvement.

2. The district shall operate the Everglades Construction Project as specified in the February 15, 1994, conceptual design document, to provide additional inflows to the Everglades Protection Area. The increased flow from the project shall be directed to the Everglades Protection Area as needed to achieve an average annual increase of 28 percent compared to the baseline years of 1979 to 1988. Consistent with the design of the Everglades Construction Project and without demonstratively reducing water quality benefits, the regulatory releases will be timed and distributed to the Everglades Protection Area to maximize environmental benefits.

3. The district shall operate the Everglades Construction Project in accordance with the February 15, 1994, conceptual design document to maximize the water quantity benefits and improve the hydroperiod of the Everglades Protection Area. All reductions of flow to the Everglades Protection Area from BMP implementation will be replaced. The district shall develop a model to be used for quantifying the amount of water to be replaced. The district shall publish in the Florida Administrative Weekly a notice of rule development on the model no later than July 1, 1994, and a notice of rulemaking no later than July 1, 1995. The timing and distribution of this replaced water will be directed to the Everglades Protection Area to maximize the natural balance of the Everglades Protection Area.

4. The Legislature recognizes the complexity of the Everglades watershed, as well as legal mandates under Florida and federal law. As local sponsor of the Central and Southern Florida Flood Control Project, the district must coordinate its water supply and hydroperiod programs with the Federal Government. Federal planning, research, operating guidelines, and restrictions for the Central and Southern Florida Flood Control Project now under review by federal agencies will provide important components of the district's Everglades Program. The department and district shall use their best efforts to seek the amendment of the authorized purposes of the project to include water quality protection, hydroperiod restoration, and environmental enhancement as authorized purposes of the Central and Southern Florida Flood Control Project, in addition to the existing purposes of water supply, flood protection, and allied purposes. Further, the department and the district shall use their best efforts to request that the Federal Government include in the evaluation of the regulation schedule for Lake Okeechobee a review of the regulatory releases, so as to facilitate releases of water into the Everglades Protection Area which further improve hydroperiod restoration.

5. The district, through cooperation with the federal and state agencies, shall develop other programs and methods to increase the water flow and improve the hydroperiod of the Everglades Protection Area.

6. Nothing in this section is intended to provide an allocation or reservation of water or to modify the provisions of part II of chapter 373. All decisions regarding allocations and reservations of water shall be governed by applicable law.

7. The district shall proceed to expeditiously implement the minimum flows and levels for the Everglades Protection Area as required by s. 373.042 and shall expeditiously complete the Lower East Coast Water Supply Plan.

(c) STA 3/4 modification.—The Everglades Program will contribute to the restoration of the Rotenberger and Holey Land tracts. The Everglades Construction Project provides a first step toward restoration by improving hydroperiod with treated water for the Rotenberger tract and by providing a source of treated water for the Holey Land. It is further the intent of the Legislature that the easternmost tract of the Holey Land, known as the "Toe of the Boot," be removed from STA 3/4 under the circumstances set forth in this paragraph. The district shall proceed to modify the Everglades Construction Project, provided that the redesign achieves at least as many environmental and hydrological benefits as are included in the original design, including treatment of waters from sources other than the EAA, and does not delay construction of STA 3/4. The district is authorized to use eminent domain to acquire alternative lands, only if such lands are located within 1 mile of the northern border of STA 3/4.

(d) Everglades research and monitoring program.—[mt]*1. By January 1996, the department and the district shall review and evaluate available water quality data for the Everglades Protection Area and tributary waters and identify any additional information necessary to adequately describe water quality in the Everglades Protection Area and tributary waters. By such date, the department and the district shall also initiate a research and monitoring program to generate such additional information identified and to evaluate the effectiveness of the BMPs and STAs, as they are implemented, in improving water quality and maintaining designated and existing beneficial uses of the Everglades Protection Area and tributary waters. As part of the program, the district shall monitor all discharges into the Everglades Protection Area for purposes of determining compliance with state water quality standards.*

2. The research and monitoring program shall evaluate the ecological and hydrological needs of the Everglades Protection Area, including the minimum flows and levels. Consistent with such needs, the program shall also evaluate water quality standards for the Everglades Protection Area and for the canals of the EAA, so that these canals can be classified in the manner set forth in paragraph (e) and protected as an integral part of the water management system which includes the STAs of the Everglades Construction Project and allows landowners in the EAA to achieve applicable water quality standards compliance by BMPs and STA treatment to the extent this treatment is available and effective.

3. The research and monitoring program shall include research seeking to optimize the design and operation of the STAs, including research to reduce outflow concentrations, and to identify other treatment and management methods and regulatory programs that are superior to STAs in achieving the intent and purposes of this section.

4. The research and monitoring program shall be conducted to allow completion by December 2001 of any research necessary to allow the department to propose a phosphorus criterion in the Everglades Protection Area, and to evaluate existing state water quality standards applicable to the Everglades Protection Area and existing state water quality standards and classifications applicable to the EAA canals. In developing the phosphorus criterion, the department shall also consider the minimum flows and levels for the Everglades Protection Area and the district's water supply plans for the Lower East Coast.

5. The district, in cooperation with the department, shall prepare a peer-reviewed interim report regarding the research and monitoring program, which shall be submitted no later than January 1, 1999, to the Governor, the President of the Senate, and the Speaker of the House of Representatives for their review. The interim report shall summarize all data and findings available as of July 1, 1998, on the effectiveness of STAs and BMPs in improving water quality. The interim report shall also include a summary of the then-available data and findings related to the following: the Lower East Coast Water Supply Plan of the district, the United States Environmental Protection Agency Everglades Mercury Study, the United States Army Corps of Engineers South Florida Ecosystem Restoration Study, the results of research and monitoring of water quality and quantity in the Everglades region, the degree of phosphorus discharge reductions achieved by BMPs and agricultural operations in the region, the current information on the ecological and hydrological needs of the Everglades, and the costs and benefits of phosphorus reduction alternatives. Prior to finalizing the interim report, the district shall conduct at least one scientific workshop and two public hearings on its proposed interim report. One public hearing must be held in Palm Beach County and the other must be held in either Dade or Broward County. The interim report shall be used by the department and the district in making any decisions regarding the implementation of the Everglades Construction Project subsequent to the completion of the interim report. The construction of STAs 3/4 shall not be commenced until 90 days after the interim report has been submitted to the Governor and the Legislature.

6. Beginning January 1, 2000, the district and the department shall annually issue a peer-reviewed report regarding the research and monitoring program that summarizes all data and findings. The department shall provide copies of the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report shall identify water quality parameters, in addition to phosphorus, which exceed state water quality standards or are causing or contributing to adverse impacts in the Everglades Protection Area.

7. The district shall continue research seeking to optimize the design and operation of STAs and to identify other treatment and management methods that are superior to STAs in achieving optimum water quality and water quantity for the benefit of the Everglades. The district shall optimize the design and operation of the STAs described in the Everglades Construction Project prior to expanding their size. Additional methods to achieve compliance with water quality standards shall not be limited to more intensive management of the STAs.

(e) Evaluation of water quality standards.—

1. The department and the district shall employ all means practicable to complete by December 31, 1998, any additional research necessary to:

a. Numerically interpret for phosphorus the Class III narrative nutrient criterion necessary to meet water quality standards in the Everglades Protection Area; and

b. Evaluate existing water quality standards applicable to the Everglades Protection Area and EAA canals.

This research shall be completed no later than December 31, 2001.

2. By December 31, 2001, the department shall file a notice of rulemaking in the Florida Administrative Weekly to establish a phosphorus criterion in the Everglades Protection Area. In no case shall such phosphorus criterion allow waters in the Everglades Protection Area to be altered so as to cause an imbalance in the natural populations of aquatic flora or fauna. The phosphorus criterion shall be 10 parts per

billion (ppb) in the Everglades Protection Area in the event the department does not adopt by rule such criterion by December 31, 2003. However, in the event the department fails to adopt a phosphorus criterion on or before December 31, 2002, any person whose substantial interests would be affected by the rulemaking shall have the right, on or before February 28, 2003, to petition for a writ of mandamus to compel the department to adopt by rule such criterion. Venue for the mandamus action must be Leon County. The court may stay implementation of the 10 parts per billion (ppb) criterion during the pendency of the mandamus proceeding upon a demonstration by the petitioner of irreparable harm in the absence of such relief. The department's phosphorus criterion, whenever adopted, shall supersede the 10 parts per billion (ppb) criterion otherwise established by this section, but shall not be lower than the natural conditions of the Everglades Protection Area and shall take into account spatial and temporal variability.

3. The department shall use the best available information to define relationships between waters discharged to, and the resulting water quality in, the Everglades Protection Area. The department or the district shall use these relationships to establish discharge limits in permits for discharges into the EAA canals and the Everglades Protection Area necessary to prevent an imbalance in the natural populations of aquatic flora or fauna in the Everglades Protection Area, and to provide a net improvement in the areas already impacted. Compliance with the phosphorus criterion shall be based upon a long-term geometric mean of concentration levels to be measured at sampling stations recognized from the research to be reasonably representative of receiving waters in the Everglades Protection Area, and so located so as to assure that the Everglades Protection Area is not altered so as to cause an imbalance in natural populations of aquatic flora and fauna and to assure a net improvement in the areas already impacted. For the Everglades National Park and the Arthur R. Marshall Loxahatchee National Wildlife Refuge, the method for measuring compliance with the phosphorus criterion shall be in a manner consistent with Appendices A and B, respectively, of the settlement agreement dated July 26, 1991, entered in case No. 88-1886-Civ-Hoeveler, United States District Court for the Southern District of Florida, that recognizes and provides for incorporation of relevant research.

4. The department's evaluation of any other water quality standards must include the department's antidegradation standards and EAA canal classifications. In recognition of the special nature of the conveyance canals of the EAA, as a component of the classification process, the department is directed to formally recognize by rulemaking existing actual beneficial uses of the conveyance canals in the EAA. This shall include recognition of the Class III designated uses of recreation, propagation and maintenance of a healthy, well-balanced population of fish and wildlife, the integrated water management purposes for which the Central and Southern Florida Flood Control Project was constructed, flood control, conveyance of water to and from Lake Okeechobee for urban and agricultural water supply, Everglades hydroperiod restoration, conveyance of water to the STAs, and navigation.

(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 Rules 40E-61 and 40E-63, Florida Administrative Code, during the terms of the existing permits issued pursuant to those rules. Rule 40E-61, Florida Administrative Code, may be amended to include the BMPs required by Rule 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 Rules 40E-61 and 40E-63, Florida Administrative Code, have made all payments required under the Everglades Program, and are in compliance with subparagraph (a)8., 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 cause or contribute to any violation of water quality standards in the Everglades Protection Area.

5. Effective immediately, landowners within the C-139 Basin shall not collectively exceed an annual average loading of phosphorus of 28.7 metric tons 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 of 28.7 metric tons. The total phosphorus discharge load shall be determined by a method consistent with Appendix 40E-63-3, Florida Administrative Code, disregarding the 25-percent phosphorus reduction factor.

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.

(g) Monitoring and control of exotic species.—

1. The district shall establish a biological monitoring network throughout the Everglades Protection Area and shall prepare a survey of exotic species at least every 2 years.

2. In addition, the district shall establish a program to coordinate with federal, state or other governmental entities the control of continued expansion and the removal of these exotic species. The district's program shall give high priority to species affecting the largest areal extent within the Everglades Protection Area.

(5)~~(4)~~ ACQUISITION *AND LEASE* OF *STATE* LANDS.—

(a) As used in this subsection, the term:

1. "Available land" means land within the EAA owned by the board of trustees which is covered by any of the following leases: Numbers 3543, 3420, 1447, 1971-5, and 3433, and the southern one-third of number 2376 constituting 127 acres, more or less.

2. "Board of trustees" means the Board of Trustees of the Internal Improvement Trust Fund.

3. "Designated acre," as to any impacted farmer, means an acre of land which is designated for STAs or water retention or storage in the February 15, 1994, conceptual design document and which is owned or leased by the farmer or on which one or more agricultural products were produced which, during the period beginning October 1, 1992, and ending September 30, 1993, were processed at a facility owned by the farmer.

4. "Impacted farmer" means a producer or processor of agricultural commodities and includes subsidiaries and affiliates that have designated acres.

5. "Impacted vegetable farmer" means an impacted farmer in the EAA who uses more than 30 percent of the land farmed by that farmer, whether owned or leased, for the production of vegetables.

6. "Vegetable-area available land" means land within the EAA owned by the board of trustees which is covered by lease numbers 3422 and 1935/1935S.

(b)~~(a)~~ The Legislature declares that it is necessary for the public health and welfare that the Everglades water and water-related resources be conserved and protected. The Legislature further declares that certain lands may be needed for the treatment or storage of water prior to its release into the Everglades Protection Area. The acquisition of real property for this objective constitutes a public purpose for which public funds may be expended. In addition to other authority pursuant to this chapter to acquire real property, the governing board of the district is empowered and authorized to acquire fee title or easements by eminent domain for the limited purpose of implementing stormwater management systems, identified and described in the *Everglades Construction Project* ~~plan~~ or determined necessary to meet water quality requirements established by rule or permit.

(c) The Legislature determines it to be in the public interest to minimize the potential loss of land and related product supply to farmers and processors who are most affected by acquisition of land for Everglades restoration and hydroperiod purposes. Accordingly, subject to the priority established below for vegetable-area available land, impacted farmers shall have priority in the leasing of available land. An impacted farmer shall have the right to lease each parcel of available land, upon expiration of the existing lease, for a term of 20 years and at a rental rate determined by appraisal using established state procedures. For those parcels of land that have previously been competitively bid, the rental rate shall not be less than the rate the board of trustees currently receives. The board of trustees may also adjust the rental rate on an annual basis using an appropriate index, and update the appraisals at 5-year intervals. If more than one impacted farmer desires to lease a particular parcel of available land, the one that has the greatest number of designated acres shall have priority.

(d) Impacted vegetable farmers shall have priority in leasing vegetable-area available land. An impacted vegetable farmer shall have the right to lease vegetable-area available land, upon expiration of the existing lease, for a term of 20 years or a term ending August 25, 2018, whichever term first expires, and at a rental rate determined by appraisal using established state procedures. If the lessee elects, such terms may consist of an initial five-year term, with successive options to renew at the lessee's option for additional five-year terms. For extensions of leases on those parcels of land that have previously been competitively bid, the rental rate shall not be less than the rate the board of trustees currently receives. The board of trustees may also adjust the rental rate on an annual basis using an appropriate index, and update the appraisals at 5-year intervals. If more than one impacted vegetable farmer desires to lease vegetable-area available land, the one that has the greatest number of designated acres shall have priority.

(e) Impacted vegetable farmers with farming operations in areas of Florida other than the EAA shall have priority in leasing suitable surplus lands, where such lands are located in the St. Johns River Water Management District and in the vicinity of the other areas where such impacted vegetable farmers operate. The suitability of such use shall be determined solely by the St. Johns River Water Management District. The St. Johns River Water Management District shall make good-faith efforts to provide these impacted vegetable farmers with the opportunity to lease such suitable lands to offset their designated acres. The rental rate shall be determined by appraisal using established procedures.

(f) The corporation conducting correctional work programs under part II of chapter 946 shall be entitled to renew, for a period of 20 years, its lease with the Department of Corrections which expires June 30, 1998, which includes the utilization of land for the production of sugar cane, and which is identified as lease number 2671 with the board of trustees.

(g) Except as specified in paragraph (f), once the leases or lease extensions specified in this subsection have been granted and become effective, the trustees shall retain the authority to terminate after 9 years any such lease or lease extension upon 2 years' notice to the lessee and a finding by the trustees that the lessee has ceased to be impacted as provided in this section. In that event, the outgoing lessee is entitled to be compensated for any documented, unamortized planting costs associated with the lease and any unamortized capital costs incurred prior to the notice. In addition, the trustees may terminate such lease or lease extension if the lessee fails to comply with, and after reasonable notice and opportunity to correct or fails to correct, any material provision of the lease or its obligation under this section.

~~(b) In addition to the acquisition of lands by eminent domain pursuant to paragraph (a), the Board of Trustees of the Internal Improvement Trust Fund and the district may enter into cooperative agreements with property owners within a stormwater management system area to provide for the exchange of property subject to condemnation under paragraph (a) for state-owned property which the owner or an affiliate of such owner leases from the board of trustees or other agency of the state and which was used for agricultural production on January 1, 1991. Any such agreement shall include the following:~~

~~1. The landowner shall acquire property covered by the lease by paying any deficiency in cash or by transferring other private lands which the district or any other agency of the state has sought to acquire, or by a combination of land transfer and cash payment.~~

~~2. The exchange shall be made on the basis of appraisals performed in a manner consistent with the provisions of s. 253.025(7).~~

~~3. Title to any land conveyed to the Board of Trustees of the Internal Improvement Trust Fund as a result of such an exchange shall be conveyed to the South Florida Water Management District upon payment of the appraised value thereof by the district to the board of trustees.~~

(6) EVERGLADES AGRICULTURAL PRIVILEGE TAX.—

(a) There is hereby imposed an annual Everglades agricultural privilege tax for the privilege of conducting an agricultural trade or business on:

1. All real property located within the EAA that is classified as agricultural under the provisions of chapter 193; and

2. Leasehold or other interests in real property located within the EAA owned by the United States, the state, or any agency thereof permitting the property to be used for agricultural purposes in a manner that would allow such property to be classified as agricultural under the provisions of chapter 193 if not governmentally owned, whether or not such property is actually classified as agricultural under the provisions of chapter 193.

It is hereby determined by the Legislature that the privilege of conducting an agricultural trade or business on such property constitutes a reasonable basis for imposition of the Everglades agricultural privilege tax and that logical differences exist between the agricultural use of such property and the use of other property within the EAA for residential or nonagricultural commercial use. The Everglades agricultural privilege tax shall constitute a lien against the property, or the leasehold or other interest in governmental property permitting such property to be used for agricultural purposes, described on the Everglades agricultural privilege tax roll. The lien shall be in effect from January 1 of the year the tax notice is mailed until discharged by payment and shall be equal

in rank and dignity with the liens of all state, county, district, or municipal taxes and non-ad valorem assessments imposed pursuant to general law, special act, or local ordinance and shall be superior in dignity to all other liens, titles, and claims.

(b) The Everglades agricultural privilege tax, other than for leasehold or other interests in governmental property permitting such property to be used for agricultural purposes, shall be collected in the manner provided for ad valorem taxes. By September 15 of each year, the governing board of the district shall certify by resolution an Everglades agricultural privilege tax roll on compatible electronic medium to the tax collector of each county in which a portion of the EAA is located. The district shall also produce one copy of the roll in printed form which shall be available for inspection by the public. The district shall post the Everglades agricultural privilege tax for each parcel on the roll. The tax collector shall not accept any such roll that is not certified on compatible electronic medium and that does not contain the posting of the Everglades agricultural privilege tax for each parcel. It is the responsibility of the district that such rolls be free of errors and omissions. Alterations to such rolls may be made by the executive director of the district, or a designee, up to 10 days before certification. If the tax collector or any taxpayer discovers errors or omissions on such roll, such person may request the district to file a corrected roll or a correction of the amount of any Everglades agricultural privilege tax. Other than for leasehold or other interests in governmental property permitting such property to be used for agricultural purposes, Everglades agricultural privilege taxes collected pursuant to this section shall be included in the combined notice for ad valorem taxes and non-ad valorem assessments provided for in s. 197.3635. Such Everglades agricultural privilege taxes shall be listed in the portion of the combined notice utilized for non-ad valorem assessments. A separate mailing is authorized only as a solution to the most exigent factual circumstances. However, if a tax collector cannot merge an Everglades agricultural privilege tax roll to produce such a notice, the tax collector shall mail a separate notice of Everglades agricultural privilege taxes or shall direct the district to mail such a separate notice. In deciding whether a separate mailing is necessary, the tax collector shall consider all costs to the district and taxpayers of such a separate mailing and the adverse effects to the taxpayers of delayed and multiple notices. The district shall bear all costs associated with any separate notice. Everglades agricultural privilege taxes collected pursuant to this section shall be subject to all collection provisions of chapter 197, including provisions relating to discount for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, and issuance and sale of tax certificates and tax deeds for nonpayment. Everglades agricultural privilege taxes for leasehold or other interests in property owned by the United States, the state, or any agency thereof permitting such property to be used for agricultural purposes shall be included on the notice provided pursuant to s. 196.31, a copy of which shall be provided to lessees or other interest holders registering with the district, and shall be collected from the lessee or other appropriate interest holder and remitted to the district immediately upon collection. Everglades agricultural privilege taxes included on the statement provided pursuant to s. 196.31 shall be due and collected on or prior to the next April 1 following provision of the notice. Proceeds of the Everglades agricultural privilege taxes shall be distributed by the tax collector to the district. Each tax collector shall be paid a commission equal to the actual cost of collection, not to exceed 2 percent, on the amount of Everglades agricultural privilege taxes collected and remitted. Notwithstanding any general law or special act to the contrary, Everglades agricultural privilege taxes shall not be included on the notice of proposed property taxes provided for in s. 200.069.

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

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 interest holder 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 Rule 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

interest holder 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 Rule 40E-63, Florida Administrative Code, and the permit issued for such property pursuant to Rule 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 and thereafter shall be $10 per acre.

(d) For purposes of this paragraph, "vegetable acreage" means, for each tax year, any portion of a parcel of property used for a period of not less than 8 months for the production of vegetable crops, including sweet corn, during the 12 months ended September 30 of the year preceding the tax year. Land preparation, crop rotation, and fallow periods shall not disqualify property from classification as vegetable acreage if such property is actually used for the production of vegetable crops.

1. It is hereby determined by the Legislature that vegetable farming in the EAA is subject to volatile market conditions and is particularly subject to crop loss or damage due to freezes, flooding, and drought. It is further determined by the Legislature that, due to the foregoing factors, imposition of an Everglades agricultural privilege tax upon vegetable acreage in excess of the minimum tax could create a severe economic hardship and impair the production of vegetable crops. Notwithstanding the schedule of Everglades agricultural privilege taxes set forth in subparagraph (c)1., the Everglades agricultural privilege tax for vegetable acreage shall be the minimum tax, and vegetable acreage shall not be entitled to any incentive credits.

2. If either the Governor, the President of the United States, or the United States Department of Agriculture declares the existence of a state of emergency or disaster resulting from extreme natural conditions impairing the ability of vegetable acreage to produce crops, payment of the Everglades agricultural privilege taxes imposed for the privilege of conducting an agricultural trade or business on such property shall be deferred for a period of 1 year, and all subsequent annual payments shall be deferred for the same period.

a. If the declaration occurs between April 1 and October 31, the Everglades agricultural privilege tax to be included on the next annual tax notice will be deferred to the subsequent annual tax notice.

b. If the declaration occurs between November 1 and March 31 and the Everglades agricultural privilege tax included on the most recent tax notice has not been paid, such Everglades agricultural privilege tax will be deferred to the next annual tax notice.

c. If the declaration occurs between November 1, and March 31 and the Everglades agricultural privilege tax included on the most recent tax notice has been paid, the Everglades agricultural privilege tax to be included on the next annual tax notice will be deferred to the subsequent annual tax notice.

3. In the event payment of Everglades agricultural privilege taxes is deferred pursuant to this paragraph, the District must record a notice in the official records of each county in which vegetable acreage subject to such deferment is located. The recorded notice must describe each parcel of property as to which Everglades agricultural privilege taxes have been deferred and the amount deferred for such property. If all or any portion of the property as to which Everglades agricultural privilege taxes have been deferred ceases to be classified as agricultural under the provisions of chapter 193 or otherwise subject to the Everglades agricultural privilege tax, all deferred amounts must be included on the tax notice for such property mailed in November of the first tax year for which such property is not subject to the Everglades agricultural privilege tax. After a property owner has paid all outstanding Everglades agricultural privilege taxes, including any deferred amounts, the district shall provide the property owner with a recordable instrument evidencing the payment of all outstanding amounts.

4. The owner, lessee, or other appropriate interest holder must file an application with the executive director of the district prior to July 1 for classification of a portion of the property as vegetable acreage 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 number of acres used for the production of vegetable crops during the year in which incentive credits are determined and the period of such use. 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.

5. This paragraph does not relieve vegetable acreage from the performance of best management practices specified in Rule 40E-63, Florida Administrative Code.

(e) If, for any tax year, the number of acres subject to the Everglades agricultural privilege tax is less than the number of acres included on the Everglades agricultural privilege tax roll certified for the tax notices mailed in November 1994, the minimum tax shall be subject to increase in the manner provided in this paragraph. In determining the number of acres subject to the Everglades agricultural privilege tax for purposes of this paragraph, property acquired by a not-for-profit entity for purposes of conservation and preservation, the United States, or the state, or any agency thereof, and removed from the Everglades agricultural privilege tax roll after January 1, 1994, shall be treated as subject to the tax even though no tax is imposed or due: in its entirety, for tax notices mailed prior to November 2000; to the extent its area exceeds 4 percent of the total area of property subject to the Everglades agricultural tax, for tax notices mailed in November 2000 through November 2005; and to the extent its area exceeds 8 percent of the total area of property subject to the Everglades agricultural tax, for tax notices mailed in November 2006 and thereafter. For each tax year, the district shall determine the amount, if any, by which the sum of the following exceeds $12,367,000:

1. The product of the minimum tax multiplied by the number of acres subject to the Everglades agricultural privilege tax; and

2. The ad valorem tax increment, as defined in this subparagraph.

The aggregate of such annual amounts, less any portion previously applied to eliminate or reduce future increases in the minimum tax, as described in this subparagraph, shall be known as the "excess tax amount." If for any tax year, the amount computed by multiplying the minimum tax by the number of acres then subject to the Everglades agricultural privilege tax is less than $12,367,000, the excess tax amount shall be applied in the following manner. If the excess tax amount exceeds such difference, an amount equal to the difference shall be deducted from the excess tax amount and applied to eliminate any increase in the minimum tax. If such difference exceeds the excess tax amount, the excess tax amount shall be applied to reduce any increase in the minimum tax. In such event, a new minimum tax shall be computed by subtracting the remaining excess tax amount from $12,367,000 and dividing the result by the number of acres subject to the Everglades agricultural privilege tax for such tax year. For purposes of this subparagraph, the "ad valorem tax increment" means 50 percent of the difference between the amount of ad valorem taxes actually imposed by the district for the immediate prior tax year against property included on the Everglades agricultural privilege tax roll certified for the tax notices mailed in November 1994 that was not subject to the Everglades agricultural privilege tax during the immediate prior tax year and the

amount of ad valorem taxes that would have been imposed against such property for the immediate prior tax year if the taxable value of each acre had been equal to the average taxable value of all other land classified as agricultural within the EAA for such year; however, the ad valorem tax increment for any year shall not exceed the amount that would have been derived from such property from imposition of the minimum tax during the immediate prior tax year.

(f) Any owner, lessee, or other appropriate interest holder of property subject to the Everglades agricultural privilege tax may contest the Everglades agricultural privilege tax by filing an action in circuit court.

1. No action may be brought to contest the Everglades agricultural privilege tax after 60 days from the date the tax notice that includes the Everglades agricultural privilege tax is mailed by the tax collector. Before an action to contest the Everglades agricultural privilege tax may be brought, the taxpayer shall pay to the tax collector the amount of the Everglades agricultural privilege tax which the taxpayer admits in good faith to be owing. The tax collector shall issue a receipt for the payment and the receipt shall be filed with the complaint. Payment of an Everglades agricultural privilege tax shall not be deemed an admission that such tax was due and shall not prejudice the right to bring a timely action to challenge such tax and seek a refund. No action to contest the Everglades agricultural privilege tax may be maintained, and such action shall be dismissed, unless all Everglades agricultural privilege taxes imposed in years after the action is brought, which the taxpayer in good faith admits to be owing, are paid before they become delinquent. The requirements of this subparagraph are jurisdictional.

2. In any action involving a challenge of the Everglades agricultural privilege tax, the court shall assess all costs. If the court finds that the amount of tax owed by the taxpayer is greater than the amount the taxpayer has in good faith admitted and paid, it shall enter judgment against the taxpayer for the deficiency and for interest on the deficiency at the rate of 12 percent per year from the date the tax became delinquent. If it finds that the amount of tax which the taxpayer has admitted to be owing is grossly disproportionate to the amount of tax found to be due and that the taxpayer's admission was not made in good faith, the court shall also assess a penalty at the rate of 25 percent of the deficiency per year from the date the tax became delinquent. The court may issue injunctions to restrain the sale of property for any Everglades agricultural privilege tax which appears to be contrary to law or equity.

(g) Notwithstanding any contrary provisions in chapter 120, or any provision of any other law, an action in circuit court shall be the exclusive remedy to challenge the assessment of an Everglades agricultural privilege tax and owners of property subject to the Everglades agricultural privilege tax shall have no right or standing to initiate administrative proceedings under chapter 120 to challenge the assessment of an Everglades agricultural privilege tax, including specifically, and without limitation, the annual certification by the district governing board of the Everglades agricultural privilege tax roll to the appropriate tax collector, the annual calculation of any incentive credit for phosphorus level reductions, the denial of an application for exclusion from the Everglades agricultural privilege tax, the calculation of the minimum tax adjustments provided in paragraph (e), the denial of an application for reduction to the minimum tax, and the denial of any application for classification as vegetable acreage, deferment of payment for vegetable acreage, or correction of any alleged error in the Everglades agricultural privilege tax roll.

(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 and the Legislature intends this act to be a general law authorization of the tax within the meaning of s. 9, Art. VII of the State Constitution.

(7) C-139 AGRICULTURAL PRIVILEGE TAX.—

(a) There is hereby imposed an annual C-139 agricultural privilege tax for the privilege of conducting an agricultural trade or business on:

1. All real property located within the C-139 Basin that is classified as agricultural under the provisions of chapter 193; and

2. Leasehold or other interests in real property located within the C-139 Basin owned by the United States, the state, or any agency thereof permitting the property to be used for agricultural purposes in a manner that would result in such property being classified as agricultural under the provisions of chapter 193 if not governmentally owned, whether or not such property is actually classified as agricultural under the provisions of chapter 193.

It is hereby determined by the Legislature that the privilege of conducting an agricultural trade or business on such property constitutes a reasonable basis for imposing the C-139 agricultural privilege tax and that logical differences exist between the agricultural use of such property and the use of other property within the C-139 Basin for residential or nonagricultural commercial use. The C-139 agricultural privilege tax shall constitute a lien against the property, or the leasehold or other interest in governmental property permitting such property to be used for agricultural purposes, described on the C-139 agricultural privilege tax roll. The lien shall be in effect from January 1 of the year the tax notice is mailed until discharged by payment and shall be equal in rank and dignity with the liens of all state, county, district, or municipal taxes and non-ad valorem assessments imposed pursuant to general law, special act, or local ordinance and shall be superior in dignity to all other liens, titles, and claims.

(b) The C-139 agricultural privilege tax, other than for leasehold or other interests in governmental property permitting such property to be used for agricultural purposes, shall be collected in the manner provided for ad valorem taxes. By September 15 of each year, the governing board of the district shall certify by resolution a C-139 agricultural privilege tax roll on compatible electronic medium to the tax collector of each county in which a portion of the C-139 Basin is located. The district shall also produce one copy of the roll in printed form which shall be available for inspection by the public. The district shall post the C-139 agricultural privilege tax for each parcel on the roll. The tax collector shall not accept any such roll that is not certified on compatible electronic medium and that does not contain the posting of the C-139 agricultural privilege tax for each parcel. It is the responsibility of the district that such rolls be free of errors and omissions. Alterations to such rolls may be made by the executive director of the district, or a designee, up to 10 days before certification. If the tax collector or any taxpayer discovers errors or omissions on such roll, such person may request the district to file a corrected roll or a correction of the amount of any C-139 agricultural privilege tax. Other than for leasehold or other interests in governmental property permitting such property to be used for agricultural purposes, C-139 agricultural privilege taxes collected pursuant to this section shall be included in the combined notice for ad valorem taxes and non-ad valorem assessments provided for in s. 197.3635. Such C-139 agricultural privilege taxes shall be listed in the portion of the combined notice utilized for non-ad valorem assessments. A separate mailing is authorized only as a solution to the most exigent factual circumstances. However, if a tax collector cannot merge a C-139 agricultural privilege tax roll to produce such a notice, the tax collector shall mail a separate notice of C-139 agricultural privilege taxes or shall direct the district to mail such a separate notice. In deciding whether a separate mailing is necessary, the tax collector shall consider all costs to the district and taxpayers of such a separate mailing and the adverse effects to the taxpayers of delayed and multiple notices. The district shall bear all costs associated with any separate notice. C-139 agricultural privilege taxes collected pursuant to this section shall be subject to all collection provisions of chapter 197, including provisions relating to discount for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, and issuance and sale of tax certificates and tax deeds for nonpayment. C-139 agricultural privilege taxes for leasehold or other interests in property owned by the United States, the state, or any agency thereof permitting such property to be used for agricultural purposes shall be included on the notice provided pursuant to s. 196.31, a copy of which shall be provided to lessees or other interest holders registering with the district, and shall be collected from the lessee or other appropriate interest holder and remitted to the district immediately upon collection. C-139 agricultural privilege taxes included on the statement provided pursuant to s. 196.31 shall be due and collected on or prior to the next April 1 following provision of the notice. Proceeds of the C-139 agricultural privilege taxes shall be distributed by the tax collector to the district. Each tax collector shall be paid a commission equal to the actual cost of collection, not to exceed 2 percent, on the amount of C-139 agricultural privilege taxes collected and remitted. Notwithstanding any general law or special act to the contrary, C-139 agricultural privilege taxes shall not be included on the notice of proposed property taxes provided in s. 200.069.

(c) The initial C-139 agricultural privilege tax roll shall be certified for the tax notices mailed in November 1994. The C-139 agricultural

privilege taxes for the tax notices mailed in November 1994 through November 2013 shall be computed by dividing $654,656 by the number of acres included on the C-139 agricultural privilege tax roll for such year, excluding any property located within the C-139 Annex. The C-139 agricultural privilege taxes for the tax notices mailed in November 2014 and thereafter shall be $1.80 per acre.

(d) For purposes of this paragraph, "vegetable acreage" means, for each tax year, any portion of a parcel of property used for a period of not less than 8 months for the production of vegetable crops, including sweet corn, during the 12 months ended September 30 of the year preceding the tax year. Land preparation, crop rotation, and fallow periods shall not disqualify property from classification as vegetable acreage if such property is actually used for the production of vegetable crops.[mtl] *If either the Governor, the President of the United States, or the United States Department of Agriculture declares the existence of a state of emergency or disaster resulting from extreme natural conditions impairing the ability of vegetable acreage to produce crops, payment of the C-139 agricultural privilege taxes imposed for the privilege of conducting an agricultural trade or business on such property shall be deferred for a period of 1 year, and all subsequent annual payments shall be deferred for the same period.*

a. If the declaration occurs between April 1 and October 31, the C-139 agricultural privilege tax to be included on the next annual tax notice will be deferred to the subsequent annual tax notice.

b. If the declaration occurs between November 1 and March 31 and the C-139 agricultural privilege tax included on the most recent tax notice has not been paid, such C-139 agricultural privilege tax will be deferred to the next annual tax notice.

c. If the declaration occurs between November 1, and March 31 and the C-139 agricultural privilege tax included on the most recent tax notice has been paid, the C-139 agricultural privilege tax to be included on the next annual tax notice will be deferred to the subsequent annual tax notice.

2. In the event payment of C-139 agricultural privilege taxes is deferred pursuant to this paragraph, the District must record a notice in the official records of each county in which vegetable acreage subject to such deferment is located. The recorded notice must describe each parcel of property as to which C-139 agricultural privilege taxes have been deferred and the amount deferred for such property. If all or any portion of the property as to which C-139 agricultural privilege taxes have been deferred ceases to be classified as agricultural under the provisions of chapter 193 or otherwise subject to the C-139 agricultural privilege tax, all deferred amounts must be included on the tax notice for such property mailed in November of the first tax year for which such property is not subject to the C-139 agricultural privilege tax. After a property owner has paid all outstanding C-139 agricultural privilege taxes, including any deferred amounts, the district shall provide the property owner with a recordable instrument evidencing the payment of all outstanding amounts.

3. The owner, lessee, or other appropriate interest holder shall file an application with the executive director of the district prior to July 1 for classification of a portion of the property as vegetable acreage on the C-139 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 number of acres used for the production of vegetable crops during the year in which incentive credits are determined and the period of such use. 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 C-139 agricultural privilege tax roll to the appropriate tax collector.

4. This paragraph does not relieve vegetable acreage from the performance of best management practices specified in Rule 40E-63, Florida Administrative Code.

(e) Any owner, lessee, or other appropriate interest holder of property subject to the C-139 agricultural privilege tax may contest the C-139 agricultural privilege tax by filing an action in circuit court.

1. No action may be brought to contest the C-139 agricultural privilege tax after 60 days from the date the tax notice that includes the C-139 agricultural privilege tax is mailed by the tax collector. Before an action to contest the C-139 agricultural privilege tax may be brought, the taxpayer shall pay to the tax collector the amount of the C-139 agricultural privilege tax which the taxpayer admits in good faith to be owing. The tax collector shall issue a receipt for the payment and the receipt shall be filed with the complaint. Payment of an C-139 agricultural privilege tax shall not be deemed an admission that such tax was due and shall not prejudice the right to bring a timely action to challenge such tax and seek a refund. No action to contest the C-139 agricultural privilege tax may be maintained, and such action shall be dismissed, unless all C-139 agricultural privilege taxes imposed in years after the action is brought, which the taxpayer in good faith admits to be owing, are paid before they become delinquent. The requirements of this paragraph are jurisdictional.

2. In any action involving a challenge of the C-139 agricultural privilege tax, the court shall assess all costs. If the court finds that the amount of tax owed by the taxpayer is greater than the amount the taxpayer has in good faith admitted and paid, it shall enter judgment against the taxpayer for the deficiency and for interest on the deficiency at the rate of 12 percent per year from the date the tax became delinquent. If it finds that the amount of tax which the taxpayer has admitted to be owing is grossly disproportionate to the amount of tax found to be due and that the taxpayer's admission was not made in good faith, the court shall also assess a penalty at the rate of 25 percent of the deficiency per year from the date the tax became delinquent. The court may issue injunctions to restrain the sale of property for any C-139 agricultural privilege tax which appears to be contrary to law or equity.

(f) Notwithstanding any contrary provisions in chapter 120, or any provision of any other law, an action in circuit court shall be the exclusive remedy to challenge the assessment of an C-139 agricultural privilege tax and owners of property subject to the C-139 agricultural privilege tax shall have no right or standing to initiate administrative proceedings under chapter 120 to challenge the assessment of an C-139 agricultural privilege tax including specifically, and without limitation, the annual certification by the district governing board of the C-139 agricultural privilege tax roll to the appropriate tax collector, the denial of an application for exclusion from the C-139 agricultural privilege tax, and the denial of any application for classification as vegetable acreage, deferment of payment for vegetable acreage, or correction of any alleged error in the C-139 agricultural privilege tax roll.

(g) In recognition of the findings set forth in subsection (1), the Legislature finds that the assessment and use of the C-139 agricultural privilege tax is a matter of concern to all areas of Florida and the Legislature intends this section to be a general law authorization of the tax within the meaning of s. 9, Art. VII of the State Constitution.

(8)~~(5)~~ *SPECIAL ASSESSMENTS* ~~STORMWATER FUNDING; DEDICATED FUNDS FOR STORMWATER MANAGEMENT.~~—

(a) In addition to any other *legally available* funding mechanism ~~legally available to the district to plan, acquire, construct, finance, operate, or maintain stormwater management systems~~, the district may:

~~(a) Create one or more stormwater utilities within or without the EAA and adopt stormwater utility fees not to exceed an amount sufficient to plan, acquire, construct, finance, operate, and maintain stormwater management systems where such utilities and systems are identified and described in the plan or permits issued pursuant to subsection (6). If adopted, stormwater utility fees shall be charged to property owners in the district based on the relative contribution of each property owner to the need for stormwater management systems and programs. The district may establish stormwater utility fees adopted pursuant to this paragraph in accordance with the procedures set forth in s. 120.54, and may enforce the payment of such fees through actions or proceedings in any court of competent jurisdiction for unpaid deposits and charges, or through the imposition of liens upon real property for which utility fees are charged and unpaid.~~

~~(b) Establish and set aside, as a continuing source of revenue, other funds sufficient to plan, acquire, construct, finance, operate, and maintain stormwater management systems identified and described in the plan or permits issued pursuant to subsection (6). Such funds may include contributions from the Everglades Agricultural Area Environmental Protection District, created pursuant to chapter 89-423, Laws of Florida, as amended. The district shall apply any such contributions as a credit against any fee imposed pursuant to paragraph (a) or assessment levied pursuant to paragraph (c).~~

~~(c)~~ create, alone or in cooperation with counties, municipalities, and special districts pursuant to s. 163.01, the Florida Interlocal Cooperation Act of 1969, one or more stormwater management system benefit areas *including property located outside the EAA and the C-139 Basin, and property located within the EAA and the C-139 Basin that is not subject to the Everglades agricultural privilege tax or the C-139 agricultural privilege tax* ~~within the EAA or any other area of the district identified and described in the plan or permits issued pursuant to subsection (6)~~. The district may levy *special assessments* ~~upon property owners~~ within said benefit areas ~~a per acreage assessment~~ to fund the planning, acquisition, construction, financing, operation, maintenance, and administration of stormwater management systems for the benefited areas. Any benefit area in which property owners receive substantially different levels of stormwater management system benefits shall include stormwater management system benefit subareas within which different per acreage assessments shall be levied from subarea to subarea based upon a reasonable relationship to benefits received. The assessments shall be calculated to generate sufficient funds to plan, acquire, construct, finance, operate, and maintain the stormwater management systems *authorized pursuant to this section* ~~identified and described in the plan or permits issued pursuant to subsection (6)~~.

(b) The district may use the non-ad valorem levy, collection, and enforcement method as provided in chapter 197 for assessments levied pursuant to ~~this~~ paragraph *(a)*.

(c) The district shall publish notice of the certification of the non-ad valorem assessment roll pursuant to chapter 197 in a newspaper of general circulation in the counties wherein the assessment is being levied, within 1 week after the district certifies the non-ad valorem assessment roll to the tax collector pursuant to s. 197.3632(5). The assessments ~~so~~ levied *pursuant to paragraph (a)* shall be final and conclusive as to each lot or parcel unless the owner thereof shall, within 90 days of certification of the non-ad valorem assessment roll pursuant to s. 197.3632(5), commence an action in circuit court. Absent such commencement of an action within such period of time by an owner of a lot or parcel, such owner shall thereafter be estopped to raise any question related to the special benefit afforded the property or the reasonableness of the amount of the assessment. Except with respect to an owner who has commenced such an action, the non-ad valorem assessment roll as finally adopted and certified by the South Florida Water Management District to the tax collector pursuant to s. 197.3632(5) shall be competent and sufficient evidence that the assessments were duly levied and that all other proceedings adequate to the adoption of the non-ad valorem assessment roll were duly held, taken, and performed as required by s. 197.3632. If any assessment is abated in whole or in part by the court, the amount by which the assessment is so reduced may, by resolution of the governing board of the district, be payable from funds of the district legally available for that purpose, or at the discretion of the governing board of the district, assessments may be increased in the manner provided in s. 197.3632.

(d) In no event shall the amount of funds collected for stormwater management facilities pursuant to paragraph (a) ~~or paragraph (c) or any combination thereof~~ exceed the cost of providing water management attributable to water quality treatment resulting from the operation of stormwater management systems of the landowners to be *assessed* ~~charged~~. Such water quality treatment may be required by the plan or permits issued *by the district* ~~pursuant to subsection (6)~~. Prior to the imposition of ~~fees or~~ assessments pursuant to paragraph (a) ~~or paragraph (c)~~ for construction of new stormwater management systems or the acquisition of necessary land, the district shall establish the general purpose, design, and function of the new system sufficient to make a fair and reasonable determination of the estimated costs of water management attributable to water quality treatment resulting from operation of stormwater management systems of the landowners to be *assessed* ~~charged~~. This determination shall establish the proportion of the total anticipated costs attributable to the landowners. In determining the costs to be imposed by ~~fees or~~ assessments, the district shall consider the extent to which nutrients originate from external sources beyond the control of the landowners to be *assessed* ~~charged~~. Costs for hydroperiod restoration within the Everglades Protection Area shall be provided by funds other than those *derived from the assessments* ~~authorized by paragraph (a) or paragraph (c)~~. The proportion of total anticipated costs attributable to the landowners shall be apportioned to individual landowners considering the factors specified in paragraph (e). Any determination made pursuant to this paragraph or paragraph (e) may be included in the plan or permits issued *by the district* ~~pursuant to subsection (6)~~.

(e) In determining the amount of any ~~fee or~~ assessment imposed on an individual landowner ~~to be charged~~ under paragraph (a) ~~or paragraph (c)~~, the district shall consider the quality and quantity of the stormwater discharged by the landowner, the amount of treatment provided to the landowner, and whether the landowner has provided equivalent treatment or retention prior to discharge to the district's system.

(f) No ~~fee or~~ assessment shall be imposed under *this section* ~~paragraph (a) or paragraph (c)~~ for the operation or maintenance of a stormwater management system or facility for which construction has been completed on or before July 1, 1991, except to the extent that the operation or maintenance, or any modification of such system or facility, is required to provide water quality treatment.

(g) The district shall suspend, terminate, or modify projects and funding for such projects, as appropriate, if the projects are not achieving applicable goals specified in the plan.

(h) The Legislature hereby determines that any property owner who contributes to the need for stormwater management systems and programs, as determined for each individual property owner either through the plan or through permits issued to the district ~~pursuant to subsection (6)~~ or to the property owner, is deemed to benefit from such systems and programs, and such benefits are deemed to be directly proportional to the relative contribution of the property owner to such need. The Legislature also determines that the issuance of a master permit provides benefits, through the opportunity to achieve collective compliance, for all persons within the area of the master permit which may be considered by the district in the imposition of ~~fees or~~ assessments under this section.

(9) PERMITS.—

(a) The Legislature finds that construction and operation of the Everglades Construction Project will benefit the water resources of the district and is consistent with the public interest. The district shall construct, maintain, and operate the Everglades Construction Project in accordance with this section.

(b) The Legislature finds that there is an immediate need to initiate cleanup and restoration of the Everglades Protection Area through the Everglades Construction Project. In recognition of this need, the district may begin construction of the Everglades Construction Project prior to final agency action, or notice of intended agency action, on any permit from the department under this section.

(c) The department may issue permits to the district to construct, operate, and maintain the Everglades Construction Project based on the criteria set forth in this section. The permits to be issued by the department to the district under this section shall be in lieu of other permits under part IV of chapter 373 or part VIII of chapter 403 (1992).

(d) By June 1, 1994, the district shall apply to the department for a permit or permits for the construction, operation, and maintenance of the Everglades Construction Project. The district may comply with this paragraph by amending its pending Everglades permit application.

(e) The department shall issue a permit for a term of 5 years for the construction, operation, and maintenance of the Everglades Construction Project upon the district's providing reasonable assurances that:

1. The project will be constructed, operated, and maintained in accordance with the Everglades Construction Project;

2. The BMP program set forth in paragraph (4)(f) has been implemented; and

3. The final design of the Everglades Construction Project shall minimize wetland impacts, to the maximum extent practicable and consistent with the Everglades Construction Project.

(f) At least 60 days prior to the expiration of any permit issued under this section, the district may apply for renewal for a period of 5 years.

(g) Permits issued under this section may include any standard conditions provided by department rule which are appropriate and consistent with this section.

(h) Discharges shall be allowed, provided the STAs are operated in accordance with this section, if, after a stabilization period:

1. The STAs achieve the design objectives of the Everglades Construction Project for phosphorus;

2. For water quality parameters other than phosphorus, the quality of water discharged from the STAs is of equal or better quality than inflows; and

3. Discharges from STAs do not pose a serious danger to the public health, safety, or welfare.

(i) The district may discharge from any STA into waters of the state upon issuance of final agency action authorizing such action or in accordance with s. 373.439.

(j)1. Modifications to the Everglades Construction Project shall be submitted to the department for a determination as to whether permit modification is necessary. The department shall notify the district within 30 days after receiving the submittal as to whether permit modification is necessary.

2. The Legislature recognizes that technological advances may occur during the construction of the Everglades Construction Project. If superior technology becomes available in the future which can be implemented to more effectively meet the intent and purposes of this section, the district is authorized to pursue that alternative through permit modification to the department. The department may issue or modify a permit provided that the alternative is demonstrated to be superior at achieving the restoration goals of the Everglades Construction Project considering:

a. Levels of load reduction;

b. Levels of discharge concentration reduction;

c. Water quantity, distribution, and timing for the Everglades Protection Area;

d. Compliance with water quality standards;

e. Compatibility of treated water with the balance in natural populations of aquatic flora or fauna in the Everglades Protection Area;

f. Cost-effectiveness; and

g. The schedule for implementation.

Upon issuance of permit modifications by the department, the district is authorized to use available funds to finance the modification.

3. The district shall modify projects of the Everglades Construction Project, as appropriate, if the projects are not achieving the design objectives. Modifications that are inconsistent with the permit shall require a permit modification from the department. Modifications which substitute the treatment technology must meet the requirements of subparagraph 2. Nothing in this section shall prohibit the district from refining or modifying the final design of the project based upon the February 14, 1994, conceptual design document in accordance with standard engineering practices.

(k) By October 1, 1994, the district shall apply for a permit under this section to operate and maintain discharge structures within the control of the district which discharge into, within, or from the Everglades Protection Area and are not included in the Everglades Construction Project. The district may comply with this subsection by amending its pending permit application regarding these structures. In addition to the requirements of ss. 373.413 and 373.416, the application shall include the following:

1. Schedules and strategies for:

a. Achieving and maintaining water quality standards;

b. Evaluation of existing programs, permits, and water quality data;

c. Acquisition of lands and construction and operation of water treatment facilities, if appropriate, together with development of funding mechanisms; and

d. Development of a regulatory program to improve water quality, including identification of structures or systems requiring permits or modifications of existing permits.

2. A monitoring program to ensure the accuracy of data and measure progress toward achieving compliance with water quality standards.

(l) The department shall issue one or more permits for a term of 5 years for the operation and maintenance of structures identified by the district in paragraph (k) upon the district's demonstration of reasonable assurance that those elements identified in subparagraph (k) will provide compliance with water quality standards to the maximum extent practicable and otherwise comply with the provisions of ss. 373.413 and 373.416. The department shall take agency action on the permit application by October 1, 1996. At least 60 days prior to the expiration of any permit, the district may apply for a renewal thereof for a period of 5 years.

(m) The district may apply for modification of any permit issued pursuant to this subsection, including superior technology in accordance with the procedures set forth in this subsection.

(n) The district also shall apply for a permit or modification of an existing permit, as provided in this subsection, for any new structure or for any modification of an existing structure.

~~(6) PERMITS. The department and the district shall develop a permitting program consistent with the plan, if adopted. Pursuant to such program:~~

~~(a) The district shall apply to the department by October 1, 1991, for 5-year interim permits for the construction, operation, and maintenance of stormwater management systems for district structures discharging into or within the Everglades Protection Area. In addition to the requirements of ss. 373.413 and 373.416, the applications shall include the following:~~

~~1. To the extent information is available, recommended ambient concentration levels and discharge limitations for phosphorus appropriate to achieve and maintain compliance with applicable state water quality standards.~~

~~2. Proposed interim concentration levels designed to achieve such compliance to the maximum extent practicable.~~

~~3. Strategies for achieving and maintaining compliance with such interim concentration levels, including the acquisition of lands and the construction and operation of facilities for the purpose of water treatment, the development of funding mechanisms, and the development of a regulatory program to improve the quality of water entering the stormwater management systems. Such regulatory program shall include the identification of structures or systems requiring permits or modifications of existing permits and the development, where appropriate, of a master permit for a specified area, such as the Everglades Agricultural Area.~~

~~4. Appropriate schedules to carry out such strategies.~~

~~5. A monitoring program to ensure the accuracy of data and measure progress toward achieving interim concentration levels and applicable water quality standards.~~

~~(b) The department shall issue such interim permits to the district upon the district's demonstration of reasonable assurance that such permits will achieve compliance with interim concentration levels to the maximum extent practicable and otherwise comply with the provisions of ss. 373.413 and 373.416. The district shall also apply for an interim permit or for the modification of an existing permit, as provided in paragraph (a), for any new structure or for any modification of an existing structure subsequent to October 1, 1991.~~

~~(c) Permits issued pursuant to paragraph (b) shall be consistent with the plan, if adopted. Applications for modifications necessary to maintain consistency with the plan shall be filed within 90 days of the adoption of any change to the plan necessitating such modifications.~~

~~(d) At least 60 days prior to expiration of any interim permit issued pursuant to paragraph (b), the district may apply for a renewal thereof for a period of 5 years for the purpose of achievement and maintenance of applicable water quality standards.~~

(o)~~(e)~~ *Except as otherwise provided in this section,* nothing in this subsection shall relieve any person from the need to obtain any permit required by the department or the district pursuant to any other provision of law.

(p)~~(f)~~ The district shall publish notice of rulemaking pursuant to chapter 120 by October 1, 1991, allowing for a master permit or permits authorizing discharges from landowners within that area served by structures identified as S-5A, S-6, S-7, S-8, and S-150. For discharges within

this area, the district shall not initiate any proceedings to require new permits or permit modifications for nutrient limitations prior to the adoption of the master permit rule by the governing board of the district or prior to April 1, 1992, whichever first occurs. The district's rules shall also establish conditions or requirements allowing for a single master permit for the Everglades Agricultural Area including those structures and water releases subject to rule 40E-61, Florida Administrative Code. No later than the adoption of rules allowing for a single master permit, the department and the district shall provide appropriate procedures for incorporating into a master permit separate permits issued by the department under this chapter. The district's rules authorizing master permits for the Everglades Agricultural Area shall provide requirements consistent with *this section* ~~the Everglades Surface Water Improvement and Management Plan~~ and with interim or other permits issued by the department to the district. Such a master permit shall not preclude the requirement that individual permits be obtained for persons within the master permit area for activities not authorized by, or not in compliance with, the master permit. Nothing in this subsection shall limit the authority of the department or district to enforce existing permit requirements or existing rules, to require permits for new structures, or to develop rules for master permits for other areas. To the greatest extent possible the department shall delegate to the district any authority necessary to implement this subsection which is not already delegated.

~~(7) APPLICABILITY OF LAWS AND WATER QUALITY STANDARDS; AUTHORITY OF DISTRICT AND DEPARTMENT.—~~

~~(a) Nothing in this section shall be construed to limit, detract from, or compromise the application or implementation of the Surface Water Improvement and Management Act, ss. 373.451-373.4595. This section shall be construed, in all respects, to enhance and strengthen the provisions of the act as applied to the Everglades Protection Area. As provided in ss. 373.451-373.4595, the plan shall include recommendations and schedules for bringing all pollution sources into compliance with state water quality standards. This section does not, nor shall the plan, authorize any existing or future violation of any applicable statute, rule, or permit requirement, nor diminish the authority of the department or the district.~~

~~(b) Except to the extent authorized in subsection (6), nothing in this section shall be construed as altering any currently applicable state water quality standards in the areas impacted by this section.~~

~~(c) The provisions of this section shall not be construed to limit or restrict the authority granted the district and the department pursuant to this chapter or chapter 403 to control, regulate, permit, construct, or operate a stormwater management system, or to plan, design, or implement a surface water improvement and management plan, and the provisions of this section shall be deemed to be supplemental to the authority granted pursuant to this chapter and chapter 403.~~

(10) LONG-TERM COMPLIANCE PERMITS.—By December 31, 2006, the department and the district shall take such action as may be necessary so that water delivered to the Everglades Protection Area achieves state water quality standards, including the phosphorus criterion, in all parts of the Everglades Protection Area.

(a) By December 31, 2003, the district shall submit to the department a permit modification to incorporate proposed changes to the Everglades Construction Project and the permits issued pursuant to subsection (9). These changes shall be designed to achieve compliance with the phosphorus criterion and the other state water quality standards by December 31, 2006.

(b) If the Everglades Construction Project or other discharges to the Everglades Protection Area are not in compliance with state water quality standards, the permit application shall include:

1. A plan for achieving compliance with the phosphorus criterion in the Everglades Protection Area.

2. A plan for achieving compliance in the Everglades Protection Area with state water quality standards other than the phosphorus criterion.

3. Proposed cost estimates for the plans referred to in subparagraphs 1. and 2.

4. Proposed funding mechanisms for the plans referred to in subparagraphs 1. and 2.

5. Proposed schedules for implementation of the plans referred to in subparagraphs 1. and 2.

(c) If the Everglades Construction Project or other discharges to the Everglades Protection Area are in compliance with state water quality standards, including the phosphorus criterion, the permit application shall include:

1. A plan for maintaining compliance with the phosphorus criterion in the Everglades Protection Area.

2. A plan for maintaining compliance in the Everglades Protection Area with state water quality standards other than the phosphorus criterion.

(11) APPLICABILITY OF LAWS AND WATER QUALITY STANDARDS; AUTHORITY OF DISTRICT AND DEPARTMENT.—

(a) Except as otherwise provided in this section, nothing in this section shall be construed:

1. As altering any applicable state water quality standards, laws, or district or department rules in areas impacted by this section; or

2. To restrict the authority otherwise granted the department and the district pursuant to this chapter or chapter 403, and provisions of this section shall be deemed supplemental to the authority granted pursuant to this chapter and chapter 403.

(b) Mixing zones, variances, and moderating provisions, or relief mechanisms for compliance with water quality standards as provided by department rules, shall not be permitted for discharges which are subject to paragraph (4)(f) and subject to this section, except that site specific alternative criteria may be allowed for nonphosphorus parameters if the applicant shows entitlement under applicable law. After December 31, 2006, all such relief mechanisms may be allowed for nonphosphorus parameters if otherwise provided for by applicable law.

(c) Those landowners or permittees who are not in compliance as provided in paragraph (4)(f) must meet a discharge limit for phosphorus of 50 parts per billion (ppb) unless and until some other limit has been established by department rule or order or operation of paragraph (4)(e).

(12) RIGHTS OF SEMINOLE TRIBE OF FLORIDA.—Nothing in this section is intended to diminish or alter the governmental authority and powers of the Seminole Tribe of Florida, or diminish or alter the rights of that tribe, including, but not limited to, rights under the Water Rights Compact among the Seminole Tribe of Florida, the state, and the South Florida Water Management District as enacted by Pub. L. No. 100-228, 101 Stat. 1556, and chapter 87-292, Laws of Florida, and codified in s. 285.165, and rights under any other agreement between the Seminole Tribe of Florida and the state or its agencies. No land of the Seminole Tribe of Florida shall be used for stormwater treatment without the consent of the tribe.

(13)~~(8)~~ ANNUAL REPORTS.—Beginning January 1, 1992, the district shall submit to the department, the Governor, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, and the Minority Leader of the Senate annual progress reports regarding implementation of the *section* ~~plan~~. *The annual report will include a summary of the water conditions in the Everglades Protection Area, the status of the impacted areas, the status of the construction of the STAs, the implementation of the BMPs, and actions taken to monitor and control exotic species. The district must prepare the report in coordination with federal and state agencies.*

(14) EVERGLADES FUND.—The South Florida Water Management District is directed to separately account for all moneys used for the purpose of funding the Everglades Construction Project.

(15) DEFINITION OF EVERGLADES AGRICULTURAL AREA.—As used in this section, "Everglades Agricultural Area" or "EAA" means the following described property: BEGINNING at the intersection of the North line of Section 2, Township 41, Range 37 East, with the Easterly right of way line of U.S. Army Corps of Engineers' Levee D-9, in Palm Beach County, Florida; thence, easterly along said North line of said Section 2 to the Northeast corner of said Section 2; thence, northerly along the West line of Section 36, Township 40 South, Range 37 East, to the West one-quarter corner of said Section 36; thence, easterly

along the East-West half section line of said Section 36 to the center of said Section 36; thence northerly along the North-South half section line of said Section 36 to the North one-quarter corner of said Section 36, said point being on the line between Palm Beach and Martin Counties; thence, easterly along said North line of said Section 36 and said line between Palm Beach and Martin Counties to theWesterly right of way line of the South Florida Water Management District's Levee 8 North Tieback; thence, southerly along said Westerly right of way line of said Levee 8 North Tieback to the Southerly right of way line of South Florida Water Management District's Levee 8 at a point near the Northeast corner of Section 12, Township 41 South, Range 37 East; thence, easterly along said Southerly right of way line of said Levee 8 to a point in Section 7, Township 41 South, Range 38 East, where said right of way line turns southeasterly; thence, southeasterly along the Southwesterlyright of way line of said Levee 8 to a point near the South line of Section 8, Township 43 South, Range 40 East, where said right of way line turns southerly; thence, southerly along the Westerly right of way line of said Levee 8 to the Northerly right of way line of State Road 80, in Section 32, Township 43 South, Range 40 East; thence, westerly along the Northerly right of way line of said State Road 80 to the northeasterly extension of the Northwesterly right of way line of South Florida Water Management District's Levee 7; thence, southwesterly along said northeasterly extension, and along the northwesterly right of way line of said Levee 7 to a point near the Northwest corner of Section 3, Township 45 South, Range 39 East, where said right of way turns southerly; thence, southerly along the Westerly right of way line of said Levee 7 to the Northwesterly right of way line of South Florida Water Management District's Levee 6, on the East line of Section 4, Township 46 South, Range 39 East; thence, southwesterly along the Northwesterly right of way line of said Levee 6 to the Northerly right of way line of South Florida Water Management District's Levee 5, near the Southwest corner of Section 22, Township 47 South, Range 38 East; thence, westerly along said Northerly right of way lines of said Levee 5 and along the Northerly right of way line of South Florida Water Management District's Levee 4 to the Northeasterly right of way line of South Florida Water Management District's Levee 3 and the Northeast corner of Section 12, Township 48 South, Range 34 East; thence, northwesterly along said Northeasterly right of way line of said Levee 3 to a point near the Southwest corner of Section 9, Township 47 South, Range 34 East, where said right of way line turns northerly; thence, northerly along the Easterly right of way lines of said Levee 3 and South Florida Water Management District's Levee 2 to the southerly line of Section 4, Township 46 South, Range 34 East; thence, easterly along said southerly line of said Section 4 to the Southeast corner of said Section 4; thence, northerly along the East lines of said Section 4 and Section 33, Township 45 South, Range 34 East, to the Northeast corner of said Section 33; thence, westerly along the North line of said Section 33 to said Easterly right of way line of said Levee 2; thence, northerly along said Easterly right of way lines of said Levee 2 and South Florida Water Management District's Levee 1, to the North line of Section 16, Township 44 South, Range 34 East; thence, easterly along the North lines of said Section 16 and Section 15, Township 44 South, Range 34 East, to the Northeast corner of said Section 15; thence, northerly along the West lines of Section 11 and Section 2, Township 44 South, Range 34 East, and the West lines of Section 35, Section 26 and Section 23, Township 43 South, Range 34 East to a point 25 feet north of the West quarter-corner (W1/4) of said Section 23; thence, easterly along a line that is 25 feet north and parallel to the East-West half section line of said Section 23 and Section 24 to a point that is 25 feet north of the center of said Section 24; thence, northerly along the North-South half section lines of said Section 24 and Section 13, Township 43 South, Range 34 East, to the intersection with the North right of way line of State Road 80A (old U.S. Highway 27); thence, westerly along said North right of way line of said State Road 80A (old U.S. Highway 27) to the intersection with the Southerly right of way line of State Road 80; thence, easterly along said Southerly right of way line of said State Road 80 to the intersection with the North line of Section 19, Township 43 South, Range 35 East; thence, easterly along said North line of said Section 19 to the intersection with Southerly right of way of U.S. Army Corps of Engineers Levee D-2; thence, easterly along said Southerly right of way of said Levee D-2 to the intersection with the north right of way line of State Road 80 (new U.S. Highway 27); thence, easterly along said North right of way line of said State Road 80 (new U.S. Highway 27) to the East right of way line of South Florida Water Management District's Levee 25 (Miami Canal); thence, North along said East right of way line of said Levee 25 to the said south right of way line of said Levee D-2; thence, easterly and northeasterly along said Southerly and Easterly right of way lines of said Levee D-2 and said Levee D-9 to the point of beginning.

(16) DEFINITION OF C-139 BASIN.—For purposes of this section:

(a) "C-139 Basin" or "Basin" means the following described property: beginning at the intersection of an easterly extension of the south bank of Deer Fence Canal with the center line of South Florida Water Management District's Levee 3 in Section 33, Township 46 South, Range 34 East, Hendry County, Florida; thence, westerly along said easterly extension and along the South bank of said Deer Fence Canal to where it intersects the center line of State Road 846 in Section 33, Township 46 South, Range 32 East; thence, departing from said top of bank to the center line of said State Road 846, westerly along said center line of said State Road 846 to the West line of Section 4, Township 47 South, Range 31 East; thence, northerly along the West line of said section 4, and along the west lines of Sections 33 and 28, Township 46 South, Range 31 East, to the northwest corner of said Section 28; thence, easterly along the North line of said Section 28 to the North one-quarter (N1/4) corner of said Section 28; thence, northerly along the West line of the Southeast one-quarter (SE1/4) of Section 21, Township 46 South, Range 31 East, to the northwest corner of said Southeast one-quarter (SE1/4) of Section 21; thence, easterly along the North line of said Southeast one-quarter (SE1/4) of Section 21 to the northeast corner of said Southeast one-quarter (SE1/4) of Section 21; thence, northerly along the East line of said Section 21 and the East line of Section 16, Township 46 South, Range 31, East, to the northeast corner thereof; thence, westerly along the North line of said Section 16, to the northwest corner thereof; thence, northerly along the West line of Sections 9 and 4, Township 46 South, Range 31, East, to the northwest corner of said Section 4; thence, westerly along the North lines of Section 5 and Section 6, Township 46 South, Range 31 East, to the South one-quarter (S1/4) corner of Section 31, Township 45 South, Range 31 East; thence, northerly to the South one-quarter (S1/4) corner of Section 30, Township 45 South, Range 31 East; thence, easterly along the South line of said Section 30 and the South lines of Sections 29 and 28, Township 45 South, Range 31 East, to the Southeast corner of said Section 28; thence, northerly along the East line of said Section 28 and the East lines of Sections 21 and 16, Township 45 South, Range 31 East, to the Northwest corner of the Southwest one-quarter of the Southwest one-quarter (SW1/4 of the SW 1/4) of Section 15, Township 45 South, Range 31 East; thence, northeasterly to the east one-quarter (E1/4) corner of Section 15, Township 45 South, Range 31 East; thence, northerly along the East line of said Section 15, and the East line of Section 10, Township 45 South, Range 31 East, to the center line of a road in the Northeast one-quarter (NE1/4) of said Section 10; thence, generally easterly and northeasterly along the center line of said road to its intersection with the center line of State Road 832; thence, easterly along said center line of said State Road 832 to its intersection with the center line of State Road 833; thence, northerly along said center line of said State Road 833 to the north line of Section 9, Township 44 South, Range 32 East; thence, easterly along the North line of said Section 9 and the north lines of Sections 10, 11 and 12, Township 44 South, Range 32 East, to the northeast corner of Section 12, Township 44 South, Range 32 East; thence, easterly along the North line of Section 7, Township 44 South, Range 33 East, to the center line of Flaghole Drainage District Levee, as it runs to the east near the northwest corner of said Section 7, Township 44 South, Range 33 East; thence, easterly along said center line of the Flaghole Drainage District Levee to where it meets the center line of South Florida Water Management District's Levee 1 at Flag Hole Road; thence, continue easterly along said center line of said Levee 1 to where it turns south near the Northwest corner of Section 12, Township 44 South, Range 33 East; thence, Southerly along said center line of said Levee 1 to where the levee turns east near the Southwest corner of said Section 12; thence, easterly along said center line of said Levee 1 to where it turns south near the Northeast corner of Section 17, Township 44 South, Range 34 East; thence, southerly along said center line of said Levee 1 and the center line of South Florida Water Management District's Levee 2 to the intersection with the north line of Section 33, Township 45 South, Range 34 East; thence, easterly along the north line of said Section 33 to the northeast corner of said Section 33; thence, southerly along the east line of said Section 33 to the southeast corner of said Section 33; thence, southerly along the east line of Section 4, Township 46 South, Range 34 East to the southeast corner of said Section 4; thence, westerly along the south line of said Section 4 to the intersection with the centerline of South Florida Water Management District's Levee 2; thence, southerly along said Levee 2 centerline and South Florida Water Management District's Levee 3 centerline to the POINT OF BEGINNING.

(b) If the district issues permits in accordance with all applicable rules allowing water from the "C-139 Annex" to flow into the drainage system for the C-139 Basin, the C-139 Annex shall be added to the C-139 Basin for all tax years thereafter, commencing with the next C-139 agricultural privilege tax roll certified after issuance of such permits. "C-139 Annex" means the following described property: that part of the S.E. 1/4 of Section 32, Township 46 South, Range 34 East and that portion of Sections 5 and 6, Township 47 South, Range 34 East lying west of the L-3 Canal and South of the Deer Fence Canal; all of Sections 7, 17, 18, 19, 20, 28, 29, 30, 31, 32, 33, and 34, and that portion of Sections 8, 9, 16, 21, 22, 26, 27, 35, and 36 lying south and west of the L-3 Canal, in Township 47 South, Range 34 East; and all of Sections 2, 3, 4, 5, 6, 8, 9, 10, and 11 and that portion of Section 1 lying south and west of the L-3 Canal all in Township 48 South, Range 34 East.

Section 2. Paragraph (b) of subsection (3) of section 259.101, Florida Statutes, is amended to read:

259.101 Florida Preservation 2000 Act.—

(3) LAND ACQUISITION PROGRAMS SUPPLEMENTED.—Less the costs of issuance, the costs of funding reserve accounts, and other costs with respect to the bonds, the proceeds of bonds issued pursuant to this act shall be deposited into the Florida Preservation 2000 Trust Fund created by s. 375.045. The proceeds of any bonds deposited into the Preservation 2000 Trust Fund shall be distributed by the Department of *Environmental Protection* ~~Natural Resources~~ in the following manner:

(b) Thirty percent to the Department of Environmental *Protection* ~~Regulation~~ for the purchase of water management lands pursuant to s. 373.59, to be distributed among the water management districts as provided in that section. Funds received by each district may also be used for acquisition of lands necessary to implement surface water improvement and management plans approved in accordance with s. 373.456 or *for acquisition of lands necessary to implement the Everglades Construction Project authorized by* s. 373.4592.

Local governments may use federal grants or loans, private donations, or environmental mitigation funds, including environmental mitigation funds required pursuant to s. 338.250, for any part or all of any local match required for the purposes described in this subsection. Bond proceeds allocated pursuant to paragraph (c) may be used to purchase lands on the priority lists developed pursuant to s. 259.035. Title to lands purchased pursuant to paragraphs (a), (d), (e), (f), and (g) shall be vested in the Board of Trustees of the Internal Improvement Trust Fund. Title to lands purchased pursuant to paragraph (c) may be vested in the Board of Trustees of the Internal Improvement Trust Fund. Paragraphs (a) and (b) are repealed effective October 1, 2000, and paragraphs (c), (d), (e), (f), and (g) are repealed effective October 1, 1996. Prior to repeal, the Legislature shall review the provisions scheduled for repeal and shall determine whether to reenact or modify the provisions or to take no action.

Section 3. *Alligator Alley toll road.*—

(1) The Legislature finds that the construction of Alligator Alley, designated as State Highway 84 and federal Interstate Highway 75, has provided a convenient and necessary connection of the east and west coasts of Florida for commerce and other purposes. However, this state highway has contributed to the alteration of water flows in the Everglades and affected ecological patterns of the historical southern Everglades. The Legislature has determined that it is appropriate and in the public interest to establish a system of tolls for use of Alligator Alley to produce needed financial resources to help restore the natural resource values lost by construction of this highway.

(2) The Department of Transportation is directed to continue the system of tolls on this highway. Notwithstanding the provisions of s. 338.165(2), Florida Statutes, to the contrary, such toll collections shall be used for the purposes of this section and s. 338.165(3).

(3) Fees generated from tolls shall be deposited in the State Transportation Trust Fund, and any amount of funds generated annually in excess of that required to reimburse outstanding contractual obligations, to operate and maintain the highway and toll facilities, including reconstruction and restoration, and to pay for those projects that are funded with Alligator Alley toll revenues and that are contained in the 1993-1994 adopted work program or the 1994-1995 tentative work program submitted to the Legislature on February 22, 1994, may be transferred to the Everglades Fund of the South Florida Water Management District for environmental projects to restore the natural values of the Everglades, subject to compliance with any applicable federal laws and regulations. Projects may include, but are not limited to:

(a) Highway redesign to allow for improved sheet flow of water across the southern Everglades.

(b) Water conveyance projects to enable more water resources to reach Florida Bay to replenish marine estuary functions.

(c) Engineering design plans for waste water treatment facilities as recommended in the Water Quality Protection Program Document for the Florida Keys National Marine Sanctuary.

(d) Acquisition of lands to move STA 3/4 out of the Toe of the Boot, provided such lands are located within 1 mile of the northern border of STA 3/4.

(e) Other Everglades Construction Projects as described in the February 15, 1994 conceptual design document.

(4) The district may issue revenue bonds or notes under s. 373.584, and pledge the revenue from the transfers from the Alligator Alley toll revenues as security for such bonds or notes. The proceeds from such revenue bonds or notes shall be used for environmental projects; at least 50 percent of said proceeds must be used for projects that benefit Florida Bay, as described in this section subject to resolutions approving such activity by the Board of Trustees of the Internal Improvement Trust Fund and the governing board of the South Florida Water Management District and the remaining proceeds must be used for restoration activities in the Everglades Protection Area.

Section 4. *The Legislature finds that certain lands are appropriate for acquisition with funds from the Conservation and Recreation Lands Trust Fund in order to restore the historic hydrology of Florida Bay. Notwithstanding chapter 259, F.S., sums not to exceed the total of $25 million in funds appropriated to the Department of Environmental Protection from the Conservation and Recreation Lands Trust Fund shall be allocated, as necessary, to the South Florida Water Management District, on a dollar-for-dollar matching basis to be used for the acquisition of such lands. The funds are intended to supplement, but not replace, any federal or district funds that may be available for such purposes. In addition, the amount to be allocated will be decreased by the amount provided by any other state sources for the acquisition of such land.*

Section 5. *The South Florida Water Management District is authorized to expend funds from Alligator Alley tolls which have been deposited in the Everglades Fund of the South Florida Water Management District to fund restoration activities for the Everglades and Florida Bay.*

Section 6. Subsection (6) of section 298.22, Florida Statutes, is amended to read:

298.22 Powers given supervisors to effect reclamation of land in district.—In order to effect the drainage, protection, and reclamation of the land in the district subject to tax, the board of supervisors:

(6) May condemn or acquire, by purchase or grant, for the use of the district, any land or property within or without said district not acquired or condemned by the court on the report of the commissioners assessing benefits and damages, and shall follow the procedure set out in chapter 73. *Such powers to condemn or acquire any land or property within or without the district shall also be available for implementing requirements imposed on those districts subject to s. 373.4592.*

Section 7. Section 338.165, Florida Statutes, is amended to read:

338.165 Continuation of tolls.—

(1) The department, any transportation or expressway authority or, in the absence of an authority, a county or counties may continue to collect the toll on a revenue-producing project after the discharge of any bond indebtedness related to such project and may increase such toll. All tolls so collected shall first be used to pay the annual cost of the operation, maintenance, and improvement of the toll project.

(2) If the revenue-producing project is on the State Highway System, any remaining toll revenue shall be used for the construction, maintenance, or improvement of any road on the State Highway System within the county or counties in which the revenue-producing project is located.

(3) Notwithstanding any other law to the contrary, pursuant to Article VII, Section 11 of the Constitution of the State of Florida, and subject to the requirements of subsection 2 of this section, the Depart-

ment of Transportation may request the Division of Bond Finance to issue bonds secured by toll revenues collected on the Alligator Alley to fund transportation projects contained in the 1993-1994 Adopted Work Program or in any subsequent adopted work program of the department.

(4)~~(3)~~ If the revenue-producing project is on the county road system, any remaining toll revenue shall be used for the construction, maintenance, or improvement of any other state or county road within the county or counties in which the revenue-producing project is located.

(5)~~(4)~~ Selection of projects on the State Highway System for construction, maintenance, or improvement with toll revenues shall be, with the concurrence of the department, consistent with the Florida Transportation Plan.

(6)~~(5)~~ Notwithstanding the provisions of subsection (1), in order to facilitate expeditious completion of the Interstate System, the department is authorized to continue to collect the toll on a revenue-producing project currently designated as part of the Interstate System.

(7)~~(6)~~ This section does not apply to the turnpike system as defined under the Florida Turnpike Law.

Section 8. *Section 1 of chapter 91-80, Laws of Florida, is hereby repealed.*

Section 9. Subsection (3) of section 373.459, Florida Statutes, is amended to read:

373.459 Surface Water Improvement and Management Trust Fund.—

(3) The amount of money that may be released to a water management district from the Surface Water Improvement and Management Trust Fund for approved plans, or continuations of approved plans, to improve and manage the surface waters described in ss. 373.451-373.4595 is limited to not more than 60 percent of the amount of money necessary for the approved plans. *of the South Florida Water Management District, the Southwest Florida Water Management District, and the St. Johns River Water Management District, and not more than 80 percent of the amount of money necessary for the approved plans of the Northwest Florida Water Management District and the Suwannee River Water Management District. The remaining funds necessary for the approved plans shall be provided by the district.* ~~The district shall provide at least 40 percent of the amount of money necessary for the plans.~~

Section 10. Except where otherwise provided herein, this act shall take effect upon becoming a law.

House Amendment 1 to House Amendment 1—On page 7, strike line 21 and insert: *Construction Project, to the extent these funds are identified in the Statement of Principles of July 1993. The district's actions in implementing*

Senators Kiser, Jones and Diaz-Balart offered the following amendment which was moved by Senator Kiser and adopted:

Senate Amendment 1 to House Amendment 1 as amended—On page 76, between lines 4 and 5, insert:

Section 3. Alligator Alley toll road.—

(1) The Legislature finds that the construction of Alligator Alley, designated as State Highway 84 and federal Interstate Highway 75, has provided a convenient and necessary connection of the east and west coasts of Florida for commerce and other purposes. However, this state highway has contributed to the alteration of water flows in the Everglades and affected ecological patterns of the historical southern Everglades. The Legislature has determined that it is appropriate and in the public interest to establish a system of tolls for use of Alligator Alley to produce needed financial resources to help restore the natural resource values lost by construction of this highway.

(2) The Department of Transportation is directed to continue the system of tolls on this highway. Notwithstanding the provisions of s. 338.165(2), Florida Statutes, to the contrary, such toll collections shall be used for the purposes of this section.

(3) Fees generated from tolls shall be deposited in the State Transportation Trust Fund, and any amount of funds generated annually in excess of that required to reimburse outstanding contractual obligations, to operate and maintain the highway and toll facilities, including reconstruction and restoration, and to pay for those projects that are funded with Alligator Alley toll revenues and that are contained in the 1993-1994 adopted work program or the 1994-1995 tentative work program submitted to the Legislature on February 22, 1994, may be transferred to the Everglades Fund of the South Florida Water Management District for environmental projects to restore the natural values of the Everglades, subject to compliance with any applicable federal laws and regulations. Projects shall be limited to:

(a) Highway redesign to allow for improved sheet flow of water across the southern Everglades.

(b) Water conveyance projects to enable more water resources to reach Florida Bay to replenish marine estuary functions.

(c) Engineering design plans for waste water treatment facilities as recommended in the Water Quality Protection Program Document for the Florida Keys National Marine Sanctuary.

(d) Acquisition of lands to move STA 3/4 out of the Toe of the Boot, provided such lands are located within 1 mile of the northern border of STA 3/4.

(e) Other Everglades Construction Projects as described in the February 15, 1994 conceptual design document.

(4) The district may issue revenue bonds or notes under s. 373.584, and pledge the revenue from the transfers from the Alligator Alley toll revenues as security for such bonds or notes. The proceeds from such revenue bonds or notes shall be used for environmental projects; at least 50 percent of said proceeds must be used for projects that benefit Florida Bay, as described in this section subject to resolutions approving such activity by the Board of Trustees of the Internal Improvement Trust Fund and the governing board of the South Florida Water Management District and the remaining proceeds must be used for restoration activities in the Everglades Protection Area.

Section 4. Section 338.165, Florida Statutes, is amended to read:

338.165 Continuation of tolls.—

(1) The department, any transportation or expressway authority or, in the absence of an authority, a county or counties may continue to collect the toll on a revenue-producing project after the discharge of any bond indebtedness related to such project and may increase such toll. All tolls so collected shall first be used to pay the annual cost of the operation, maintenance, and improvement of the toll project.

(2) If the revenue-producing project is on the State Highway System, any remaining toll revenue shall be used for the construction, maintenance, or improvement of any road on the State Highway System within the county or counties in which the revenue-producing project is located.

(3) Notwithstanding any other law to the contrary, pursuant to Article VII, Section 11 of the Constitution of the State of Florida, and subject to the requirements of subsection 2 of this section, the Department of Transportation may request the Division of Bond Finance to issue bonds secured by toll revenues collected on the Alligator Alley to fund transportation projects contained in the 1993-1994 Adopted Work Program or in any subsequent adopted work program of the department.

(4)~~(3)~~ If the revenue-producing project is on the county road system, any remaining toll revenue shall be used for the construction, maintenance, or improvement of any other state or county road within the county or counties in which the revenue-producing project is located.

(5)~~(4)~~ Selection of projects on the State Highway System for construction, maintenance, or improvement with toll revenues shall be, with the concurrence of the department, consistent with the Florida Transportation Plan.

(6)~~(5)~~ Notwithstanding the provisions of subsection (1), in order to facilitate expeditious completion of the Interstate System, the department is authorized to continue to collect the toll on a revenue-producing project currently designated as part of the Interstate System.

(7)~~(6)~~ This section does not apply to the turnpike system as defined under the Florida Turnpike Law.

Section 5. Section 373.4593, Florida Statutes, is created to read:

373.4593 Florida Bay Restoration.—

(1) The Legislature declares that an emergency exists regarding Florida Bay due to an environmental crisis manifested in widespread dieoff of sea grasses, algae blooms and resulting decreases in marine life. These conditions threaten the ecological integrity of Florida Bay and surrounding areas and the economic viability of Monroe County and the State of Florida. The Legislature further finds that an increase in freshwater flow will assist in the restoration of Florida Bay.

(2) The South Florida Water Management District shall take all actions within its authority to implement an emergency interim plan. The emergency interim plan shall be designed to provide for the release of water into Taylor Slough and Florida Bay by up to 800 cfs, in order to optimize the quantity, timing, distribution and quality of fresh water, and promote sheet flow into Taylor Slough.

(a) By June 1, 1994, the South Florida Water Management District shall request the federal government to become a joint sponsor of the emergency interim plan.

(b) By June 1, 1994, the South Florida Water Management District shall request the federal government to take all action within its authority to expedite or waive any necessary federal approvals.

(c) By July 1, 1994, the South Florida Water Management District shall file for any necessary federal approvals.

(d) Within 60 days of the issuance of the final federal approvals, the South Florida Water Management District shall complete the installation of the necessary facilities required by the emergency interim plan.

(e) By July 1, 1994, the South Florida Water Management District shall file an eminent domain action to acquire the western 3 sections of the area known as Frog Pond. The South Florida Water Management District is granted the specific powers to exercise eminent domain to condemn the lands in these areas.

(f) Within 30 days of the acquisition of the property referred to above and the completion of the actions in (d) above, the South Florida Water Management District shall implement the emergency interim plan.

The above measures are emergency interim actions intended to enhance the quantity, timing, and distribution of freshwater to Taylor Slough and Florida Bay. These measures will benefit the water resources of the South Florida Water Management District and are consistent with the public interest.

(3) The district shall not be required to obtain a permit which may otherwise be required under this chapter or chapter 403 prior to the construction, installation, and operation of the pumping facilities and related facilities required to implement the emergency interim plan. The district is directed to provide information on the emergency interim plan to the department. The district shall minimize environmental impacts which may occur during construction, and shall submit a construction plan to the department. In the event that the emergency interim plan continues beyond July 1, 1996, the district shall apply to the department for a permit to continue to operate these facilities.

(4) The Legislature recognizes that the U.S. Army Corps of Engineers is developing a comprehensive plan for restoring freshwater flow into Taylor Slough and Florida Bay over the next several years. The emergency interim plan is not a substitute for or in conflict with the provisions of the U.S. Army Corps of Engineers currently under development. Further, the Legislature directs that the department and the South Florida Water Management District shall request the federal government complete and fund the ongoing restoration efforts so as to increase the quantity, quality, timing, and distribution of water delivered to the Bay. The department and the district shall also request the federal government to evaluate the release of freshwater under the demonstration project, consistent with applicable law.

Section 6. The Legislature finds that certain lands are appropriate for acquisition with funds from the Conservation and Recreation Lands Trust Fund in order to restore the historic hydrology of Florida Bay. Notwithstanding chapter 259, F.S., sums not to exceed the total of $25 million in funds appropriated to the Department of Environmental Protection from the Conservation and Recreation Lands Trust Fund shall be allocated, as necessary, to the South Florida Water Management District, on a dollar-for-dollar matching basis to be used for the acquisition of such lands. The funds are intended to supplement, but not replace, any federal or district funds that may be available for such purposes. In addition, the amount to be allocated will be decreased by the amount provided by any other state sources for the acquisition of such land.

Section 7. The South Florida Water Management District is authorized to expend funds from Alligator Alley tolls which have been deposited in the Everglades Fund of the South Florida Water Management District to fund restoration activities for the Everglades and Florida Bay.

(Renumber subsequent sections)

And the title is amended as follows:

In title, on page 3, line 31, after the semicolon (;) insert: continuing the collection of tolls on Alligator Alley; providing uses for tolls; authorizing the South Florida Water Management District to issue revenue bonds or notes using toll revenues as security; providing uses for the proceeds from said lands or notes; amending s. 338.165, F.S.; authorizing the Department of Transportation to request the issuance of bonds secured by toll revenues collected on Alligator Alley to fund specified transportation projects; creating s. 373.4593, F.S.; providing legislative intent regarding the restoration of the Florida Bay; directing the district to implement an emergency interim plan; providing elements of said plan; authorizing the South Florida Water Management District to acquire specified lands by eminent domain; directing the district to take certain actions to promote the restoration of the Florida Bay; waiving certain permit requirements; authorizing the acquisition of certain lands needed to restore the historical hydrology of Florida Bay using funds from the Conservation and Recreation Lands Trust Fund; allocating not more than $25 million in said funds to be used by the South Florida Water Management District for said purpose;

The vote was:

Yeas—36 Nays—4

Senator Wexler moved the following amendment which was adopted:

Senate Amendment 2 to House Amendment 1 as amended—On page 10, line 17, after the period (.) insert: *Notwithstanding the provisions of s. 200.069 to the contrary, any millage levied under the .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.*

Senator Dantzler moved the following amendments which were adopted:

Senate Amendment 3 to House Amendment 1 as amended—On page 1, line 11, insert:

Section 1. Section 373.4592 shall be known as the "Everglades Forever Act."

Senate Amendment 4 to House Amendment 1 as amended—In title, on page 1, line 2, after the semicolon (;) insert: providing a short title;

Senator Dudley moved the following amendment which failed:

Senate Amendment 5 (with Title Amendment) to House Amendment 1 as amended—On page 68, strike all of lines 1-4 and insert:

(14) EVERGLADES FUND.—

(a) The South Florida Water Management District is directed to separately account for all moneys used for the purpose of funding the Everglades Construction Project.

(b) In no event shall the South Florida Water Management District increase its ad valorem millage rate for the purpose of funding any portion of the Everglades restoration program, unless each of the state's other water management districts also contribute a pro rata share of funding in an equal amount for the purpose of funding the Everglades restoration program.

And the title is amended as follows:

On page 5, line 29, after "fund;" insert: providing a condition for increase in the district's ad valorem tax rate for funding Everglades restoration;

On motions by Senator Dantzler, the Senate concurred in **House Amendment 1** as amended and requested the House to concur in the Senate amendments to the House amendments.

CS for CS for SB 1350 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33 Nays—7

REPORTS OF COMMITTEES

The Committee on Rules and Calendar recommends the following bills be withdrawn from the Committee and added to the Senate Calendar for Wednesday, April 13, 1994:

Local Bills: HB 587, HB 2291, HB 1355

SB 1350—Everglades

SB 3060—Health Care Security Act

Respectfully submitted,
George Kirkpatrick, Chairman

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State SB 66, SB 102, SB 106, SB 590, SB 1026, SB 1082, SB 1102, SB 1468 and CS for SB 1482 which became law without his signature on April 12, 1994.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable Pat Thomas, President

I am directed to inform the Senate that the House of Representatives has passed HB 481, HB 1583, HB 2291; has passed as amended CS for HB 81, CS for HB 157, CS for HB 449, HB 587, CS for CS for HB 647, CS for HB 683, CS for HB 687, CS for HB 1085, CS for HB 1111, CS for HB 1125, CS for HB 1141, HB 1163, CS for HB 1215, CS for HB 1295, CS for HB 1303, CS for HB 1343, HB 1407, HB 1423, CS for HB 1425, CS for HB 1457, CS for HB 1587, CS for HB 1675, CS for HB 1717, CS for HB 1801, HB 2027, CS for HB 2043, HB 2047, CS for HB 2175, CS for HB 2251, HB 2295, HB 2317, HB 2405, HB 2437, HB 2467, HB 2481, HB 2513, HB 2521, HB 2559, HB 2819, CS for HB 2883; has passed as amended by the required constitutional three-fifths vote of the membership CS for CS for HJR 2053; has adopted HCR 453, HM 2889 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Mitchell—

HB 481—A bill to be entitled An act relating to viticulture; amending s. 561.221, F.S.; revising requirements relating to the conduct of wine tastings and sales by certified Florida Farm Wineries at specified events; amending s. 564.06, F.S.; eliminating future repeal of a provision requiring deposit into the Viticulture Trust Fund of a portion of the revenues collected from the excise taxes imposed on wine; amending s. 599.002, F.S.; revising the membership and responsibilities of the Viticulture Advisory Council; correcting a cross reference; eliminating future review and repeal; amending s. 599.003, F.S.; revising the State Viticulture Plan; eliminating future repeal; amending s. 599.012, F.S.; providing editorial changes to provisions relating to the Viticulture Trust Fund; repealing s. 599.001(4), F.S., relating to future repeal of the legislative declaration of public policy on viticulture; repealing s. 599.012(3), F.S., relating to future repeal of the Viticulture Trust Fund; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By Representative Bullard and others—

HB 1583—A bill to be entitled An act relating to parental responsibility; amending s. 39.42, F.S.; expanding legislative intent with respect to children and families in need of services; amending s. 402.3026, F.S.; providing for counseling for certain children and their parents at full-service schools; amending s. 402.45, F.S.; providing for assistance to certain children and their parents under the community resource mother or father program; amending s. 409.802, F.S.; providing for parental responsibility under the "Family Policy Act"; amending s. 415.516, F.S.; providing additional goals of the Family Builders Program; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By Representative Pruitt—

HB 2291—A bill to be entitled An act relating to St. Lucie County; amending chapter 89-475, Laws of Florida; providing nonprobationary status for certain employees of the St. Lucie County Sheriff; specifying rights of such employees; providing procedures for appeal of disciplinary actions and complaints against employees of the sheriff; providing for appointment of boards to hear appeals and procedures with respect thereto; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By the Committee on Education and Representative Feeney and others—

CS for HB 81—A bill to be entitled An act relating to courses of study and instructional aids; creating s. 233.0655, F.S.; authorizing district school boards to allow teachers and administrators to read or post certain writings, documents, and records related to American history; providing for distribution of the section; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By the Committee on Employee and Management Relations; and Representative Mitchell and others—

HB 157—A bill to be entitled An act relating to the Florida Retirement System and other public retirement systems; amending s. 112.363, F.S.; providing for changes to the Health Insurance Subsidy Trust Fund; amending s. 112.61, F.S.; modifying legislative intent; amending s. 121.021, F.S.; redefining the term "creditable service"; amending s. 121.051, F.S.; providing membership status of regular receivership employees of the Division of Rehabilitation and Liquidation; amending ss. 121.052, 121.055, and 121.071, F.S.; revising contribution rates applicable to members of the Elected State and County Officers' Class, the Senior Management Service Class, and the Regular, Special Risk, and Special Risk Administrative Support Classes of the Florida Retirement System; modifying provisions related to upgraded service; providing for maximum contributions payable for annuities purchased under the Senior Management Service Optional Annuity Program (OAP) and the Optional Retirement Program for the State University System (ORP); creating s. 121.1115, F.S.; providing for the purchase of creditable service for periods of employment as public employees in other states, subject to certain limitations and conditions; providing cost; amending s. 121.40, F.S.; revising the contribution rate applicable to the supplemental retirement plan for the Institute of Food and Agricultural Sciences of the University of Florida; amending s. 121.122, F.S.; providing for Senior Management Service membership for certain reemployed retirees; amending ss. 175.121, 175.401, 185.10, and 185.50, F.S.; providing for withholding of moneys; providing legislative intent with respect to contribution rates; providing legislative findings; providing legislative intent regarding future changes affecting the Florida Retirement System; repealing s. 121.056, F.S., relating to contribution rate adjustments; providing effective dates.

—was referred to the Committee on Rules and Calendar.

By the Committee on Transportation and Representative Minton and others—

CS for HB 449—A bill to be entitled An act relating to trucking; amending s. 316.550, F.S.; providing for the permitting of oversize or overweight vehicles carrying nondivisible loads; providing for the permitting of sealed containerized loads; providing criteria for the issuance of such permits; providing an effective date.

—was referred to the Committee on Rules and Calendar.