

1                   A bill to be entitled  
2           An act relating to areas of critical state concern;  
3           amending s. 125.0108, F.S.; authorizing the continued levy  
4           of the tourist impact tax in areas of critical state  
5           concern removed from designation; amending s. 212.055,  
6           F.S.; authorizing certain counties to continue the use of  
7           a portion of local government infrastructure surtax  
8           proceeds for certain purposes after removal of designation  
9           of an area as an area of critical state concern; amending  
10          s. 380.0552, F.S.; providing requirements, procedures, and  
11          criteria for Administration Commission removal of  
12          designation of the Florida Keys Area as an area of  
13          critical state concern; requiring removal of the  
14          designation under certain circumstances; providing for  
15          judicial review of Administration Commission  
16          determinations; amending s. 380.0666, F.S.; revising the  
17          powers of a land authority in an area of critical state  
18          concern to acquire property to provide affordable housing;  
19          providing for continued power of a land authority to  
20          acquire property within an area of critical state concern  
21          removed from designation; amending s. 380.0674, F.S.;  
22          providing for the continuation of a land authority in an  
23          area of critical state concern after removal of the  
24          designation; amending s.4, ch. 99-395, Laws of Florida;  
25          authorizing local governments in areas of critical state  
26          concern removed from designation to continue to enact  
27          ordinances relating to central sewerage systems; providing  
28          for continuation of existing state liability in certain

29 | inverse condemnation actions related to the Florida Keys  
 30 | Area after removal of designation; providing an effective  
 31 | date.

32 |

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

34 |

35 | Section 1. Paragraph (g) is added to subsection (1) of  
 36 | section 125.0108, Florida Statutes, to read:

37 | 125.0108 Areas of critical state concern; tourist impact  
 38 | tax.--

39 | (1)

40 | (g) A county that has levied the tourist impact tax  
 41 | authorized by this section in an area or areas designated as an  
 42 | area of critical state concern for at least 20 consecutive years  
 43 | prior to removal of the designation may continue to levy the  
 44 | tourist impact tax in accordance with this section.

45 | Section 2. Paragraph (f) of subsection (2) of section  
 46 | 212.055, Florida Statutes, is amended to read:

47 | 212.055 Discretionary sales surtaxes; legislative intent;  
 48 | authorization and use of proceeds.--It is the legislative intent  
 49 | that any authorization for imposition of a discretionary sales  
 50 | surtax shall be published in the Florida Statutes as a  
 51 | subsection of this section, irrespective of the duration of the  
 52 | levy. Each enactment shall specify the types of counties  
 53 | authorized to levy; the rate or rates which may be imposed; the  
 54 | maximum length of time the surtax may be imposed, if any; the  
 55 | procedure which must be followed to secure voter approval, if  
 56 | required; the purpose for which the proceeds may be expended;

HB 1299

2006

57 and such other requirements as the Legislature may provide.  
58 Taxable transactions and administrative procedures shall be as  
59 provided in s. 212.054.

60 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

61 (f)1. Notwithstanding paragraph (d), a county that has a  
62 population of 50,000 or less on April 1, 1992, or any county  
63 designated as an area of critical state concern on the effective  
64 date of this act, and that imposed the surtax before July 1,  
65 1992, may use the proceeds and interest of the surtax for any  
66 public purpose if:

67 a. The debt service obligations for any year are met;

68 b. The county's comprehensive plan has been determined to  
69 be in compliance with part II of chapter 163; and

70 c. The county has adopted an amendment to the surtax  
71 ordinance pursuant to the procedure provided in s. 125.66  
72 authorizing additional uses of the surtax proceeds and interest.

73 2. A municipality located within a county that has a  
74 population of 50,000 or less on April 1, 1992, or within a  
75 county designated as an area of critical state concern on the  
76 effective date of this act, and that imposed the surtax before  
77 July 1, 1992, may not use the proceeds and interest of the  
78 surtax for any purpose other than an infrastructure purpose  
79 authorized in paragraph (d) unless the municipality's  
80 comprehensive plan has been determined to be in compliance with  
81 part II of chapter 163 and the municipality has adopted an  
82 amendment to its surtax ordinance or resolution pursuant to the  
83 procedure provided in s. 166.041 authorizing additional uses of  
84 the surtax proceeds and interest. Such municipality may expend

HB 1299

2006

85 the surtax proceeds and interest for any public purpose  
86 authorized in the amendment.

87 3. Those counties designated as an area of critical state  
88 concern which qualify to use the surtax for any public purpose  
89 may use only up to 10 percent of the surtax proceeds for any  
90 public purpose other than for infrastructure purposes authorized  
91 by this section. A county that was designated as an area of  
92 critical state concern for at least 20 consecutive years prior  
93 to removal of the designation, and that qualified to use the  
94 surtax for any public purpose at the time of the removal of the  
95 designation, may continue to use up to 10 percent of the surtax  
96 proceeds for any public purpose other than for infrastructure  
97 purposes authorized by this section after the removal of the  
98 designation.

99 Section 3. Subsection (4) of section 380.0552, Florida  
100 Statutes, is amended to read:

101 380.0552 Florida Keys Area; protection and designation as  
102 area of critical state concern.--

103 (4) REMOVAL OF DESIGNATION.--

104 (a) Between July 12, 2007, and August 30, 2007, the state  
105 land planning agency shall submit a written report to the  
106 Administration Commission describing in detail the progress of  
107 the Florida Keys Area toward accomplishing the tasks of the work  
108 program as defined in paragraph (c) and providing a  
109 recommendation as to whether substantial progress toward  
110 accomplishing the tasks of the work program has been achieved.  
111 Subsequent to receipt of the report, the Administration  
112 Commission shall determine, prior to October 1, 2007, whether

HB 1299

2006

113 substantial progress has been achieved toward accomplishing the  
114 tasks of the work program. The designation of the Florida Keys  
115 Area as an area of critical state concern under this section  
116 shall be removed October 1, 2007, unless the Administration  
117 Commission finds, after receipt of the state land planning  
118 agency report, that substantial progress has not been achieved  
119 toward accomplishing the tasks of the work program. If the  
120 designation of the Florida Keys Area as an area of critical  
121 state concern is removed, the Administration Commission, within  
122 60 days after removal of the designation, shall initiate  
123 rulemaking pursuant to chapter 120 to repeal any rules relating  
124 to the designation of the Florida Keys Area as an area of  
125 critical state concern. If, after receipt of the state land  
126 planning agency's report, the Administration Commission finds  
127 that substantial progress toward accomplishing the tasks of the  
128 work program has not been achieved, the Administration  
129 Commission shall provide a written report to the Monroe County  
130 Commission within 30 days after making such finding detailing  
131 the tasks under the work program that must be accomplished in  
132 order for substantial progress to be achieved within the next 12  
133 months.

134 (b) If the designation of the Florida Keys Area as an area  
135 of critical state concern is not removed in accordance with  
136 paragraph (a), the state land planning agency shall submit a  
137 written annual report to the Administration Commission on  
138 November 1 of each year, until such time as the designation is  
139 removed, describing the progress of the Florida Keys Area toward  
140 accomplishing remaining tasks under the work program and

141 providing a recommendation as to whether substantial progress  
142 toward accomplishing the tasks of the work program has been  
143 achieved. The Administration Commission shall determine, within  
144 45 days after receipt of the annual report, whether substantial  
145 progress has been achieved toward accomplishing the remaining  
146 tasks of the work program. The designation of the Florida Keys  
147 Area as an area of critical state concern under this section  
148 shall be removed unless the Administration Commission finds that  
149 substantial progress has not been achieved toward accomplishing  
150 the tasks of the work program. If the designation of the Florida  
151 Keys Area as an area of critical state concern is removed, the  
152 Administration Commission, within 60 days after removal of the  
153 designation, shall initiate rulemaking pursuant to chapter 120  
154 to repeal any rules relating to the designation of the Florida  
155 Keys Area as an area of critical state concern. If the  
156 Administration Commission finds that substantial progress has  
157 not been achieved, the Administration Commission shall provide  
158 to the Monroe County Commission, within 30 days after making its  
159 finding, a report detailing the tasks under the work program  
160 that must be accomplished in order for substantial progress to  
161 be achieved within the next 12 months.

162 (c) For purposes of this subsection, the term "work  
163 program" means the 10-year work program as set forth in chapter  
164 28-20.110, Florida Administrative Code, on January 1, 2006,  
165 excluding amendments to the work program that take effect after  
166 January 1, 2006.

167 (d) Judicial review of the Administration Commission's  
168 determination as to whether substantial progress has been made

HB 1299

2006

169 toward accomplishing the tasks of the work program shall be  
 170 sought in the circuit court where the Administration Commission  
 171 maintains its headquarters or in the circuit court with  
 172 jurisdiction over the Florida Keys Area as described in chapter  
 173 28-29, Florida Administrative Code. All proceedings shall be  
 174 initiated in accordance with the Florida Rules of Civil  
 175 Procedure within 30 days after the Administration Commission  
 176 renders its determination. The Administration Commission's  
 177 determination as to whether substantial progress has been made  
 178 toward accomplishing the tasks of the work program shall not be  
 179 subject to administrative review under chapter 120. The state  
 180 ~~land planning agency, following July 15, 1990, shall recommend~~  
 181 ~~to the Administration Commission the removal of the designation~~  
 182 ~~specified in subsection (3) if it determines that all local land~~  
 183 ~~development regulations and local comprehensive plans and the~~  
 184 ~~administration of such regulations and plans are adequate to~~  
 185 ~~protect the Florida Keys Area and continue to carry out the~~  
 186 ~~legislative intent incorporated in subsection (2) and are in~~  
 187 ~~compliance with the principles for guiding development~~  
 188 ~~incorporated in subsection (7). If the Administration Commission~~  
 189 ~~concurs with the recommendations of the state land planning~~  
 190 ~~agency to remove the designation, it shall, within 45 days of~~  
 191 ~~receipt of the recommendation, initiate rulemaking to remove the~~  
 192 ~~designation. The state land planning agency shall thereafter~~  
 193 ~~make said determination annually, until such time as the~~  
 194 ~~designation is removed.~~

195 Section 4. Subsection (3) of section 380.0666, Florida  
 196 Statutes, is amended to read:

197           380.0666 Powers of land authority.--The land authority  
 198 shall have all the powers necessary or convenient to carry out  
 199 and effectuate the purposes and provisions of this act,  
 200 including the following powers, which are in addition to all  
 201 other powers granted by other provisions of this act:

202           (3) To acquire and dispose of real and personal property  
 203 or any interest therein when such acquisition is necessary or  
 204 appropriate to protect the natural environment, provide public  
 205 access or public recreational facilities, preserve wildlife  
 206 habitat areas, provide affordable housing to families whose  
 207 income does not exceed 160 percent of the median family income  
 208 for the area ~~very low income, low income, or moderate income~~  
 209 ~~persons, as defined in s. 420.0004~~, or provide access to  
 210 management of acquired lands; to acquire interests in land by  
 211 means of land exchanges; and to enter into all alternatives to  
 212 the acquisition of fee interests in land, including, but not  
 213 limited to, the acquisition of easements, development rights,  
 214 life estates, leases, and leaseback arrangements. However, the  
 215 land authority shall make such acquisition only if:

216           (a) Such acquisition is consistent with land development  
 217 regulations and local comprehensive plans adopted and approved  
 218 pursuant to this chapter;

219           (b) The property acquired is within an area designated as  
 220 an area of critical state concern at the time of acquisition or  
 221 is within an area that was designated as an area of critical  
 222 state concern for at least 20 consecutive years prior to removal  
 223 of the designation; and



224 (c) The property to be acquired has not been selected for  
 225 purchase through another local, regional, state, or federal  
 226 public land acquisition program. Such restriction shall not  
 227 apply if the land authority cooperates with the other public  
 228 land acquisition programs which listed the lands for  
 229 acquisition, to coordinate the acquisition and disposition of  
 230 such lands. In such cases, the land authority may enter into  
 231 contractual or other agreements to acquire lands jointly or for  
 232 eventual resale to other public land acquisition programs.

233 Section 5. Section 380.0674, Florida Statutes, is amended  
 234 to read:

235 380.0674 Corporate existence.--

236 (1) The land authority and its corporate existence shall  
 237 continue until terminated by law or action of the governing  
 238 board of the county that established it; however, no such law or  
 239 action shall take effect so long as the land authority shall  
 240 have bonds outstanding unless adequate provision has been made  
 241 for the payment thereof. Upon termination of the existence of  
 242 the land authority, all its rights and properties in excess of  
 243 its obligations shall pass to and be vested in the state.

244 (2) A land authority created by a county in which one or  
 245 more areas have been designated as an area of critical state  
 246 concern for at least 20 consecutive years prior to removal of  
 247 the designation shall continue to exist and exercise all powers  
 248 granted by this chapter until terminated by law or action of the  
 249 governing board pursuant to subsection (1).

250 Section 6. Section 4 of chapter 99-395, Laws of Florida,  
 251 is amended to read:

252           Section 4. Notwithstanding any provision of chapter 380,  
 253 part I, to the contrary, a local government within the Florida  
 254 Keys area of critical state concern or an area that was  
 255 designated as an area of critical state concern for at least 20  
 256 consecutive years prior to removal of the designation may enact  
 257 an ordinance that:

258           (1) Requires connection to a central sewerage system  
 259 within 30 days of notice of availability of services; and

260           (2) Provides a definition of onsite sewage treatment and  
 261 disposal systems that does not exclude package sewage treatment  
 262 facilities if such facilities are in full compliance with all  
 263 regulatory requirements and treat sewage to advanced wastewater  
 264 treatment standards or utilize effluent reuse as their primary  
 265 method of effluent disposal.

266           Section 7. If the designation of the Florida Keys Area as  
 267 an area of critical state concern is removed, the state shall be  
 268 liable in any inverse condemnation action initiated as a result  
 269 of Monroe County land use regulations applicable to the Florida  
 270 Keys Area as described in chapter 28-29, Florida Administrative  
 271 Code, and adopted pursuant to instructions from the  
 272 Administration Commission or pursuant to administrative rule of  
 273 the Administration Commission, to the same extent that the state  
 274 was liable on the date the Administration Commission determined  
 275 that substantial progress had been made toward accomplishing the  
 276 tasks of the work program as defined in s. 380.0552(4)(c),  
 277 Florida Statutes. If, after the designation of the Florida Keys  
 278 Area as an area of critical state concern is removed, an inverse  
 279 condemnation action is initiated based upon land use regulations

HB 1299

2006

280 that were not adopted pursuant to instructions from the  
281 Administration Commission or pursuant to administrative rule of  
282 the Administration Commission and in effect on the date of the  
283 designation's removal, the state's liability in the inverse  
284 condemnation action shall be determined by the courts in the  
285 manner in which the state's liability is determined in areas  
286 that are not areas of critical state concern. The state shall  
287 have standing to appear in any inverse condemnation action.

288 Section 8. This act shall take effect July 1, 2006.