

## CHAMBER ACTION

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1 The Local Government Council recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to areas of critical state concern;  
7 amending s. 125.0108, F.S.; authorizing the continued levy  
8 of the tourist impact tax for a certain period in areas of  
9 critical state concern removed from designation; providing  
10 for continued levy beyond that period pursuant to  
11 referendum approval of an ordinance reauthorizing the  
12 levy; amending s. 212.055, F.S.; authorizing certain  
13 counties to continue the use of a portion of local  
14 government infrastructure surtax proceeds for certain  
15 purposes for a certain period after removal of designation  
16 of an area as an area of critical state concern; providing  
17 for continued use of a portion of such proceeds for  
18 certain purposes pursuant to ordinance; amending s.  
19 380.0552, F.S.; providing requirements, procedures, and  
20 criteria for Administration Commission removal of  
21 designation of the Florida Keys Area as an area of  
22 critical state concern; requiring removal of the  
23 designation under certain circumstances; providing for

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24 | judicial review of Administration Commission  
 25 | determinations; requiring review of proposed comprehensive  
 26 | plans and amendments to existing plans after removal of  
 27 | designation and providing review criteria; amending s.  
 28 | 380.0666, F.S.; revising the powers of a land authority in  
 29 | an area of critical state concern to acquire property to  
 30 | provide affordable housing; providing for continued power  
 31 | of a land authority to acquire property within an area of  
 32 | critical state concern removed from designation; amending  
 33 | s. 380.0674, F.S.; providing for the continuation of a  
 34 | land authority in an area of critical state concern after  
 35 | removal of the designation; amending s.4, ch. 99-395, Laws  
 36 | of Florida; authorizing local governments in areas of  
 37 | critical state concern removed from designation to  
 38 | continue to enact ordinances relating to central sewerage  
 39 | systems; providing for continuation of existing state  
 40 | liability in certain inverse condemnation actions related  
 41 | to the Florida Keys Area after removal of designation;  
 42 | providing an effective date.

43 |  
 44 | Be It Enacted by the Legislature of the State of Florida:  
 45 |

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

48 | 125.0108 Areas of critical state concern; tourist impact  
 49 | tax.--

50 | (1)

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51       (g) A county that has levied the tourist impact tax  
 52 authorized by this section in an area or areas designated as an  
 53 area of critical state concern for at least 20 consecutive years  
 54 prior to removal of the designation may continue to levy the  
 55 tourist impact tax in accordance with this section for 20 years  
 56 following removal of the designation. After expiration of the  
 57 20-year period, a county may continue to levy the tourist impact  
 58 tax authorized by this section if the county adopts an ordinance  
 59 reauthorizing levy of the tax and the continued levy of the tax  
 60 is approved by referendum as provided for in subsection (5).

61       Section 2. Paragraph (f) of subsection (2) of section  
 62 212.055, Florida Statutes, is amended to read:

63       212.055 Discretionary sales surtaxes; legislative intent;  
 64 authorization and use of proceeds.--It is the legislative intent  
 65 that any authorization for imposition of a discretionary sales  
 66 surtax shall be published in the Florida Statutes as a  
 67 subsection of this section, irrespective of the duration of the  
 68 levy. Each enactment shall specify the types of counties  
 69 authorized to levy; the rate or rates which may be imposed; the  
 70 maximum length of time the surtax may be imposed, if any; the  
 71 procedure which must be followed to secure voter approval, if  
 72 required; the purpose for which the proceeds may be expended;  
 73 and such other requirements as the Legislature may provide.  
 74 Taxable transactions and administrative procedures shall be as  
 75 provided in s. 212.054.

76       (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

77       (f)1. Notwithstanding paragraph (d), a county that has a  
 78 population of 50,000 or less on April 1, 1992, or any county

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79 | designated as an area of critical state concern on the effective  
80 | date of this act, and that imposed the surtax before July 1,  
81 | 1992, may use the proceeds and interest of the surtax for any  
82 | public purpose if:

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

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

86 |       c. The county has adopted an amendment to the surtax  
87 | ordinance pursuant to the procedure provided in s. 125.66  
88 | authorizing additional uses of the surtax proceeds and interest.

89 |       2. A municipality located within a county that has a  
90 | population of 50,000 or less on April 1, 1992, or within a  
91 | county designated as an area of critical state concern on the  
92 | effective date of this act, and that imposed the surtax before  
93 | July 1, 1992, may not use the proceeds and interest of the  
94 | surtax for any purpose other than an infrastructure purpose  
95 | authorized in paragraph (d) unless the municipality's  
96 | comprehensive plan has been determined to be in compliance with  
97 | part II of chapter 163 and the municipality has adopted an  
98 | amendment to its surtax ordinance or resolution pursuant to the  
99 | procedure provided in s. 166.041 authorizing additional uses of  
100 | the surtax proceeds and interest. Such municipality may expend  
101 | the surtax proceeds and interest for any public purpose  
102 | authorized in the amendment.

103 |       3. Those counties designated as an area of critical state  
104 | concern which qualify to use the surtax for any public purpose  
105 | may use only up to 10 percent of the surtax proceeds for any  
106 | public purpose other than for infrastructure purposes authorized

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107 | by this section. A county that was designated as an area of  
108 | critical state concern for at least 20 consecutive years prior  
109 | to removal of the designation, and that qualified to use the  
110 | surtax for any public purpose at the time of the removal of the  
111 | designation, may continue to use up to 10 percent of the surtax  
112 | proceeds for any public purpose other than for infrastructure  
113 | purposes for 20 years following removal of the designation,  
114 | notwithstanding subparagraph (a)2. After expiration of the 20-  
115 | year period, a county may continue to use up to 10 percent of  
116 | the surtax proceeds for any public purpose other than for  
117 | infrastructure if the county adopts an ordinance providing for  
118 | such continued use of the surtax proceeds.

119 | Section 3. Subsection (4) of section 380.0552, Florida  
120 | Statutes, is amended to read:

121 | 380.0552 Florida Keys Area; protection and designation as  
122 | area of critical state concern.--

123 | (4) REMOVAL OF DESIGNATION.--

124 | (a) Between July 12, 2007, and August 30, 2007, the state  
125 | land planning agency shall submit a written report to the  
126 | Administration Commission describing in detail the progress of  
127 | the Florida Keys Area toward accomplishing the tasks of the work  
128 | program as defined in paragraph (c) and providing a  
129 | recommendation as to whether substantial progress toward  
130 | accomplishing the tasks of the work program has been achieved.  
131 | Subsequent to receipt of the report, the Administration  
132 | Commission shall determine, prior to October 1, 2007, whether  
133 | substantial progress has been achieved toward accomplishing the  
134 | tasks of the work program. The designation of the Florida Keys

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135 Area as an area of critical state concern under this section  
136 shall be removed October 1, 2007, unless the Administration  
137 Commission finds, after receipt of the state land planning  
138 agency report, that substantial progress has not been achieved  
139 toward accomplishing the tasks of the work program. If the  
140 designation of the Florida Keys Area as an area of critical  
141 state concern is removed, the Administration Commission, within  
142 60 days after removal of the designation, shall initiate  
143 rulemaking pursuant to chapter 120 to repeal any rules relating  
144 to the designation of the Florida Keys Area as an area of  
145 critical state concern. If, after receipt of the state land  
146 planning agency's report, the Administration Commission finds  
147 that substantial progress toward accomplishing the tasks of the  
148 work program has not been achieved, the Administration  
149 Commission shall provide a written report to the Monroe County  
150 Commission within 30 days after making such finding detailing  
151 the tasks under the work program that must be accomplished in  
152 order for substantial progress to be achieved within the next 12  
153 months.

154 (b) If the designation of the Florida Keys Area as an area  
155 of critical state concern is not removed in accordance with  
156 paragraph (a), the state land planning agency shall submit a  
157 written annual report to the Administration Commission on  
158 November 1 of each year, until such time as the designation is  
159 removed, describing the progress of the Florida Keys Area toward  
160 accomplishing remaining tasks under the work program and  
161 providing a recommendation as to whether substantial progress  
162 toward accomplishing the tasks of the work program has been

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163 achieved. The Administration Commission shall determine, within  
164 45 days after receipt of the annual report, whether substantial  
165 progress has been achieved toward accomplishing the remaining  
166 tasks of the work program. The designation of the Florida Keys  
167 Area as an area of critical state concern under this section  
168 shall be removed unless the Administration Commission finds that  
169 substantial progress has not been achieved toward accomplishing  
170 the tasks of the work program. If the designation of the Florida  
171 Keys Area as an area of critical state concern is removed, the  
172 Administration Commission, within 60 days after removal of the  
173 designation, shall initiate rulemaking pursuant to chapter 120  
174 to repeal any rules relating to the designation of the Florida  
175 Keys Area as an area of critical state concern. If the  
176 Administration Commission finds that substantial progress has  
177 not been achieved, the Administration Commission shall provide  
178 to the Monroe County Commission, within 30 days after making its  
179 finding, a report detailing the tasks under the work program  
180 that must be accomplished in order for substantial progress to  
181 be achieved within the next 12 months.

182 (c) For purposes of this subsection, the term "work  
183 program" means the 10-year work program as set forth in chapter  
184 28-20.110, Florida Administrative Code, on January 1, 2006,  
185 excluding amendments to the work program that take effect after  
186 January 1, 2006.

187 (d) The determination of the Administration Commission as  
188 to whether substantial progress has been made toward  
189 accomplishing the tasks of the work program may be judicially  
190 reviewed pursuant to chapter 86. All proceedings shall be

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191 conducted in the circuit court of the judicial circuit where the  
192 Administration Commission maintains its headquarters and shall  
193 be initiated within 30 days after rendition of the  
194 Administration Commission's determination. The Administration  
195 Commission's determination as to whether substantial progress  
196 has been made toward accomplishing the tasks of the work program  
197 shall be upheld if it is fairly debatable and shall not be  
198 subject to administrative review under chapter 120.

199 (e) After removal of the designation as an area of  
200 critical state concern, the state land planning agency shall  
201 review proposed local comprehensive plans, and any amendments to  
202 existing comprehensive plans, which are applicable to the  
203 Florida Keys Area, the boundaries of which were described in  
204 chapter 28-29, Florida Administrative Code, as of January 1,  
205 2006, for compliance with subparagraphs 1. and 2., in addition  
206 to reviewing proposed local comprehensive plans and amendments  
207 for compliance as defined in s. 163.3184. All procedures and  
208 penalties described in s. 163.3184 apply to the review conducted  
209 pursuant to this paragraph.

210 1. Adoption of construction schedules for wastewater  
211 facilities improvements in the annually adopted capital  
212 improvements element and adoption of standards for the  
213 construction of wastewater treatment facilities which meet or  
214 exceed the criteria of chapter 99-395, Laws of Florida.

215 2. Adoption of goals, objectives, and policies to protect  
216 public safety and welfare in the event of a natural disaster by  
217 maintaining a hurricane evacuation clearance time for permanent  
218 residents of no more than 24 hours. The hurricane evacuation



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219 clearance time shall be determined by a hurricane evacuation  
220 study conducted in accordance with a professionally accepted  
221 methodology and approved by the state land planning agency. The  
222 ~~state land planning agency, following July 15, 1990, shall~~  
223 ~~recommend to the Administration Commission the removal of the~~  
224 ~~designation specified in subsection (3) if it determines that~~  
225 ~~all local land development regulations and local comprehensive~~  
226 ~~plans and the administration of such regulations and plans are~~  
227 ~~adequate to protect the Florida Keys Area and continue to carry~~  
228 ~~out the legislative intent incorporated in subsection (2) and~~  
229 ~~are in compliance with the principles for guiding development~~  
230 ~~incorporated in subsection (7). If the Administration Commission~~  
231 ~~concurs with the recommendations of the state land planning~~  
232 ~~agency to remove the designation, it shall, within 45 days of~~  
233 ~~receipt of the recommendation, initiate rulemaking to remove the~~  
234 ~~designation. The state land planning agency shall thereafter~~  
235 ~~make said determination annually, until such time as the~~  
236 ~~designation is removed.~~

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

239 380.0666 Powers of land authority.--The land authority  
240 shall have all the powers necessary or convenient to carry out  
241 and effectuate the purposes and provisions of this act,  
242 including the following powers, which are in addition to all  
243 other powers granted by other provisions of this act:

244 (3) To acquire and dispose of real and personal property  
245 or any interest therein when such acquisition is necessary or  
246 appropriate to protect the natural environment, provide public

247 access or public recreational facilities, preserve wildlife  
 248 habitat areas, provide affordable housing to families whose  
 249 income does not exceed 160 percent of the median family income  
 250 for the area ~~very low income, low income, or moderate income~~  
 251 ~~persons, as defined in s. 420.0004~~, or provide access to  
 252 management of acquired lands; to acquire interests in land by  
 253 means of land exchanges; and to enter into all alternatives to  
 254 the acquisition of fee interests in land, including, but not  
 255 limited to, the acquisition of easements, development rights,  
 256 life estates, leases, and leaseback arrangements. However, the  
 257 land authority shall make such acquisition only if:

258 (a) Such acquisition is consistent with land development  
 259 regulations and local comprehensive plans adopted and approved  
 260 pursuant to this chapter;

261 (b) The property acquired is within an area designated as  
 262 an area of critical state concern at the time of acquisition or  
 263 is within an area that was designated as an area of critical  
 264 state concern for at least 20 consecutive years prior to removal  
 265 of the designation; and

266 (c) The property to be acquired has not been selected for  
 267 purchase through another local, regional, state, or federal  
 268 public land acquisition program. Such restriction shall not  
 269 apply if the land authority cooperates with the other public  
 270 land acquisition programs which listed the lands for  
 271 acquisition, to coordinate the acquisition and disposition of  
 272 such lands. In such cases, the land authority may enter into  
 273 contractual or other agreements to acquire lands jointly or for  
 274 eventual resale to other public land acquisition programs.

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275 Section 5. Section 380.0674, Florida Statutes, is amended  
276 to read:

277 380.0674 Corporate existence.--

278 (1) The land authority and its corporate existence shall  
279 continue until terminated by law or action of the governing  
280 board of the county that established it; however, no such law or  
281 action shall take effect so long as the land authority shall  
282 have bonds outstanding unless adequate provision has been made  
283 for the payment thereof. Upon termination of the existence of  
284 the land authority, all its rights and properties in excess of  
285 its obligations shall pass to and be vested in the state.

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

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

294 Section 4. Notwithstanding any provision of chapter 380,  
295 part I, to the contrary, a local government within the Florida  
296 Keys area of critical state concern or an area that was  
297 designated as an area of critical state concern for at least 20  
298 consecutive years prior to removal of the designation may enact  
299 an ordinance that:

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

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302 (2) Provides a definition of onsite sewage treatment and  
303 disposal systems that does not exclude package sewage treatment  
304 facilities if such facilities are in full compliance with all  
305 regulatory requirements and treat sewage to advanced wastewater  
306 treatment standards or utilize effluent reuse as their primary  
307 method of effluent disposal.

308 Section 7. If the designation of the Florida Keys Area as  
309 an area of critical state concern is removed, the state shall be  
310 liable in any inverse condemnation action initiated as a result  
311 of Monroe County land use regulations applicable to the Florida  
312 Keys Area as described in chapter 28-29, Florida Administrative  
313 Code, and adopted pursuant to instructions from the  
314 Administration Commission or pursuant to administrative rule of  
315 the Administration Commission, to the same extent that the state  
316 was liable on the date the Administration Commission determined  
317 that substantial progress had been made toward accomplishing the  
318 tasks of the work program as defined in s. 380.0552(4)(c),  
319 Florida Statutes. If, after the designation of the Florida Keys  
320 Area as an area of critical state concern is removed, an inverse  
321 condemnation action is initiated based upon land use regulations  
322 that were not adopted pursuant to instructions from the  
323 Administration Commission or pursuant to administrative rule of  
324 the Administration Commission and in effect on the date of the  
325 designation's removal, the state's liability in the inverse  
326 condemnation action shall be determined by the courts in the  
327 manner in which the state's liability is determined in areas  
328 that are not areas of critical state concern. The state shall  
329 have standing to appear in any inverse condemnation action.

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