

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 for a certain period in areas of  
5 critical state concern removed from designation; providing  
6 for continued levy beyond that period pursuant to  
7 referendum approval of an ordinance reauthorizing the  
8 levy; amending s. 212.055, F.S.; authorizing certain  
9 counties to continue the use of a portion of local  
10 government infrastructure surtax proceeds for certain  
11 purposes for a certain period after removal of designation  
12 of an area as an area of critical state concern; providing  
13 for continued use of a portion of such proceeds for  
14 certain purposes pursuant to ordinance; amending s.  
15 380.0552, F.S.; providing requirements, procedures, and  
16 criteria for Administration Commission removal of  
17 designation of the Florida Keys Area as an area of  
18 critical state concern; requiring removal of the  
19 designation under certain circumstances; providing for  
20 judicial review of Administration Commission  
21 determinations; requiring review of proposed comprehensive  
22 plans and amendments to existing plans after removal of  
23 designation and providing review criteria; amending s.  
24 380.0666, F.S.; revising the powers of a land authority in  
25 an area of critical state concern to acquire property to  
26 provide affordable housing; providing for continued power  
27 of a land authority to acquire property within an area of

28 critical state concern removed from designation; amending  
 29 s. 380.0674, F.S.; providing for the continuation of a  
 30 land authority in an area of critical state concern after  
 31 removal of the designation; amending s.4, ch. 99-395, Laws  
 32 of Florida; authorizing local governments in areas of  
 33 critical state concern removed from designation to  
 34 continue to enact ordinances relating to central sewerage  
 35 systems; providing for continuation of existing state  
 36 liability in certain inverse condemnation actions related  
 37 to the Florida Keys Area after removal of designation;  
 38 providing an effective date.

39

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

41

42 Section 1. Paragraph (g) is added to subsection (1) of  
 43 section 125.0108, Florida Statutes, to read:

44 125.0108 Areas of critical state concern; tourist impact  
 45 tax.--

46 (1)

47 (g) A county that has levied the tourist impact tax  
 48 authorized by this section in an area or areas designated as an  
 49 area of critical state concern for at least 20 consecutive years  
 50 prior to removal of the designation may continue to levy the  
 51 tourist impact tax in accordance with this section for 20 years  
 52 following removal of the designation. After expiration of the  
 53 20-year period, a county may continue to levy the tourist impact  
 54 tax authorized by this section if the county adopts an ordinance

55 reauthorizing levy of the tax and the continued levy of the tax  
56 is approved by referendum as provided for in subsection (5).

57 Section 2. Paragraph (f) of subsection (2) of section  
58 212.055, Florida Statutes, is amended to read:

59 212.055 Discretionary sales surtaxes; legislative intent;  
60 authorization and use of proceeds.--It is the legislative intent  
61 that any authorization for imposition of a discretionary sales  
62 surtax shall be published in the Florida Statutes as a  
63 subsection of this section, irrespective of the duration of the  
64 levy. Each enactment shall specify the types of counties  
65 authorized to levy; the rate or rates which may be imposed; the  
66 maximum length of time the surtax may be imposed, if any; the  
67 procedure which must be followed to secure voter approval, if  
68 required; the purpose for which the proceeds may be expended;  
69 and such other requirements as the Legislature may provide.  
70 Taxable transactions and administrative procedures shall be as  
71 provided in s. 212.054.

72 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

73 (f)1. Notwithstanding paragraph (d), a county that has a  
74 population of 50,000 or less on April 1, 1992, or any county  
75 designated as an area of critical state concern on the effective  
76 date of this act, and that imposed the surtax before July 1,  
77 1992, may use the proceeds and interest of the surtax for any  
78 public purpose if:

- 79 a. The debt service obligations for any year are met;  
80 b. The county's comprehensive plan has been determined to  
81 be in compliance with part II of chapter 163; and

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

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

99 3. Those counties designated as an area of critical state  
100 concern which qualify to use the surtax for any public purpose  
101 may use only up to 10 percent of the surtax proceeds for any  
102 public purpose other than for infrastructure purposes authorized  
103 by this section. A county that was designated as an area of  
104 critical state concern for at least 20 consecutive years prior  
105 to removal of the designation, and that qualified to use the  
106 surtax for any public purpose at the time of the removal of the  
107 designation, may continue to use up to 10 percent of the surtax  
108 proceeds for any public purpose other than for infrastructure

109 purposes for 20 years following removal of the designation,  
 110 notwithstanding subparagraph (a)2. After expiration of the 20-  
 111 year period, a county may continue to use up to 10 percent of  
 112 the surtax proceeds for any public purpose other than for  
 113 infrastructure if the county adopts an ordinance providing for  
 114 such continued use of the surtax proceeds.

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

117 380.0552 Florida Keys Area; protection and designation as  
 118 area of critical state concern.--

119 (4) REMOVAL OF DESIGNATION.--

120 (a) Between July 12, 2008, and August 30, 2008, the state  
 121 land planning agency shall submit a written report to the  
 122 Administration Commission describing in detail the progress of  
 123 the Florida Keys Area toward accomplishing the tasks of the work  
 124 program as defined in paragraph (c) and providing a  
 125 recommendation as to whether substantial progress toward  
 126 accomplishing the tasks of the work program has been achieved.  
 127 Subsequent to receipt of the report, the Administration  
 128 Commission shall determine, prior to October 1, 2008, whether  
 129 substantial progress has been achieved toward accomplishing the  
 130 tasks of the work program. The designation of the Florida Keys  
 131 Area as an area of critical state concern under this section  
 132 shall be removed October 1, 2009, unless the Administration  
 133 Commission finds, after receipt of the state land planning  
 134 agency report, that substantial progress has not been achieved  
 135 toward accomplishing the tasks of the work program. If the

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

150 (b) If the designation of the Florida Keys Area as an area  
151 of critical state concern is not removed in accordance with  
152 paragraph (a), the state land planning agency shall submit a  
153 written annual report to the Administration Commission on  
154 November 1 of each year, until such time as the designation is  
155 removed, describing the progress of the Florida Keys Area toward  
156 accomplishing remaining tasks under the work program and  
157 providing a recommendation as to whether substantial progress  
158 toward accomplishing the tasks of the work program has been  
159 achieved. The Administration Commission shall determine, within  
160 45 days after receipt of the annual report, whether substantial  
161 progress has been achieved toward accomplishing the remaining  
162 tasks of the work program. The designation of the Florida Keys

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

178 (c) For purposes of this subsection, the term "work  
179 program" means the 10-year work program as set forth in chapter  
180 28-20.110, Florida Administrative Code, on January 1, 2006,  
181 excluding amendments to the work program that take effect after  
182 January 1, 2006.

183 (d) The determination of the Administration Commission as  
184 to whether substantial progress has been made toward  
185 accomplishing the tasks of the work program may be judicially  
186 reviewed pursuant to chapter 86. All proceedings shall be  
187 conducted in the circuit court of the judicial circuit where the  
188 Administration Commission maintains its headquarters and shall  
189 be initiated within 30 days after rendition of the

190 Administration Commission's determination. The Administration  
191 Commission's determination as to whether substantial progress  
192 has been made toward accomplishing the tasks of the work program  
193 shall be upheld if it is supported by competent and substantial  
194 evidence and shall not be subject to administrative review under  
195 chapter 120.

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

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

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



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

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

236 380.0666 Powers of land authority.--The land authority  
237 shall have all the powers necessary or convenient to carry out  
238 and effectuate the purposes and provisions of this act,  
239 including the following powers, which are in addition to all  
240 other powers granted by other provisions of this act:

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

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

255 (a) Such acquisition is consistent with land development  
256 regulations and local comprehensive plans adopted and approved  
257 pursuant to this chapter;

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

263 (c) The property to be acquired has not been selected for  
264 purchase through another local, regional, state, or federal  
265 public land acquisition program. Such restriction shall not  
266 apply if the land authority cooperates with the other public  
267 land acquisition programs which listed the lands for  
268 acquisition, to coordinate the acquisition and disposition of  
269 such lands. In such cases, the land authority may enter into

270 contractual or other agreements to acquire lands jointly or for  
 271 eventual resale to other public land acquisition programs.

272 Section 5. Section 380.0674, Florida Statutes, is amended  
 273 to read:

274 380.0674 Corporate existence.--

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

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

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

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

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

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

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

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324 | manner in which the state's liability is determined in areas  
325 | that are not areas of critical state concern. The state shall  
326 | have standing to appear in any inverse condemnation action.

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