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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

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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

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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

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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

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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

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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

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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

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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

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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

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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

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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:

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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.