

By the Committee on Environmental Preservation; and Senator
Bennett

592-2130-06

1 A bill to be entitled

2 An act relating to areas of critical state

3 concern; amending s. 125.0108, F.S.;

4 authorizing the continued levy of the tourist

5 impact tax in areas of critical state concern

6 removed from designation; amending s. 212.055,

7 F.S.; authorizing certain counties to continue

8 the use of a portion of local government

9 infrastructure surtax proceeds for certain

10 purposes after removal of designation of an

11 area as an area of critical state concern;

12 amending s. 380.0552, F.S.; providing

13 requirements, procedures, and criteria for

14 Administration Commission removal of

15 designation of the Florida Keys Area as an area

16 of critical state concern; requiring removal of

17 the designation under certain circumstances;

18 providing for judicial review of Administration

19 Commission determinations; requiring review of

20 proposed comprehensive plans and amendments to

21 existing plans after removal of designation and

22 providing review criteria; amending s.

23 380.0666, F.S.; revising the powers of a land

24 authority in an area of critical state concern

25 to acquire property to provide affordable

26 housing; providing for continued power of a

27 land authority to acquire property within an

28 area of critical state concern removed from

29 designation; amending s. 380.0674, F.S.;

30 providing for the continuation of a land

31 authority in an area of critical state concern

1 after removal of the designation; amending s.
2 4, ch. 99-395, Laws of Florida; authorizing
3 local governments in areas of critical state
4 concern removed from designation to continue to
5 enact ordinances relating to central sewerage
6 systems; providing for continuation of existing
7 state liability in certain inverse condemnation
8 actions related to the Florida Keys Area after
9 removal of designation; providing an effective
10 date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Paragraph (g) is added to subsection (1) of
15 section 125.0108, Florida Statutes, to read:

16 125.0108 Areas of critical state concern; tourist
17 impact tax.--

18 (1)

19 (g) A county that has levied the tourist impact tax
20 authorized by this section in an area or areas designated as
21 an area of critical state concern for at least 20 consecutive
22 years prior to removal of the designation may continue to levy
23 the tourist impact tax in accordance with this section for 20
24 years following removal of the designation. After expiration
25 of the 20-year period, a county may continue to levy the
26 tourist impact tax authorized by this section if the county
27 adopts an ordinance reauthorizing levy of the tax and the
28 continued levy of the tax is approved by referendum as
29 provided for in subsection (5).

30 Section 2. Paragraph (f) of subsection (2) of section
31 212.055, Florida Statutes, is amended to read:

1 212.055 Discretionary sales surtaxes; legislative
2 intent; authorization and use of proceeds.--It is the
3 legislative intent that any authorization for imposition of a
4 discretionary sales surtax shall be published in the Florida
5 Statutes as a subsection of this section, irrespective of the
6 duration of the levy. Each enactment shall specify the types
7 of counties authorized to levy; the rate or rates which may be
8 imposed; the maximum length of time the surtax may be imposed,
9 if any; the procedure which must be followed to secure voter
10 approval, if required; the purpose for which the proceeds may
11 be expended; and such other requirements as the Legislature
12 may provide. Taxable transactions and administrative
13 procedures shall be as provided in s. 212.054.

14 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

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

- 21 a. The debt service obligations for any year are met;
22 b. The county's comprehensive plan has been determined
23 to be in compliance with part II of chapter 163; and
24 c. The county has adopted an amendment to the surtax
25 ordinance pursuant to the procedure provided in s. 125.66
26 authorizing additional uses of the surtax proceeds and
27 interest.

28 2. A municipality located within a county that has a
29 population of 50,000 or less on April 1, 1992, or within a
30 county designated as an area of critical state concern on the
31 effective date of this act, and that imposed the surtax before

1 July 1, 1992, may not use the proceeds and interest of the
2 surtax for any purpose other than an infrastructure purpose
3 authorized in paragraph (d) unless the municipality's
4 comprehensive plan has been determined to be in compliance
5 with part II of chapter 163 and the municipality has adopted
6 an amendment to its surtax ordinance or resolution pursuant to
7 the procedure provided in s. 166.041 authorizing additional
8 uses of the surtax proceeds and interest. Such municipality
9 may expend the surtax proceeds and interest for any public
10 purpose authorized in the amendment.

11 3. Those counties designated as an area of critical
12 state concern which qualify to use the surtax for any public
13 purpose may use only up to 10 percent of the surtax proceeds
14 for any public purpose other than for infrastructure purposes
15 authorized by this section. A county that was designated as an
16 area of critical state concern for at least 20 consecutive
17 years prior to removal of the designation, and that qualified
18 to use the surtax for any public purpose at the time of the
19 removal of the designation, may continue to use up to 10
20 percent of the surtax proceeds for any public purpose other
21 than for infrastructure purposes for 20 years following
22 removal of the designation, notwithstanding subparagraph (a)2.
23 After expiration of the 20-year period, a county may continue
24 to use up to 10 percent of the surtax proceeds for any public
25 purpose other than for infrastructure if the county adopts an
26 ordinance providing for such continued use of the surtax
27 proceeds.

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

30 380.0552 Florida Keys Area; protection and designation
31 as area of critical state concern.--

1 (4) REMOVAL OF DESIGNATION.--
2 (a) Between July 12, 2008, and August 30, 2008, the
3 state land planning agency shall submit a written report to
4 the Administration Commission describing in detail the
5 progress of the Florida Keys Area toward accomplishing the
6 tasks of the work program as defined in paragraph (c) and
7 providing a recommendation as to whether substantial progress
8 toward accomplishing the tasks of the work program has been
9 achieved. Subsequent to receipt of the report, the
10 Administration Commission shall determine, prior to October 1,
11 2008, whether substantial progress has been achieved toward
12 accomplishing the tasks of the work program. The designation
13 of the Florida Keys Area as an area of critical state concern
14 under this section shall be removed October 1, 2009, unless
15 the Administration Commission finds, after receipt of the
16 state land planning agency report, that substantial progress
17 has not been achieved toward accomplishing the tasks of the
18 work program. If the designation of the Florida Keys Area as
19 an area of critical state concern is removed, the
20 Administration Commission, within 60 days after removal of the
21 designation, shall initiate rulemaking pursuant to chapter 120
22 to repeal any rules relating to the designation of the Florida
23 Keys Area as an area of critical state concern. If, after
24 receipt of the state land planning agency's report, the
25 Administration Commission finds that substantial progress
26 toward accomplishing the tasks of the work program has not
27 been achieved, the Administration Commission shall provide a
28 written report to the Monroe County Commission within 30 days
29 after making such finding detailing the tasks under the work
30 program that must be accomplished in order for substantial
31 progress to be achieved within the next 12 months.

1 (b) If the designation of the Florida Keys Area as an
2 area of critical state concern is not removed in accordance
3 with paragraph (a), the state land planning agency shall
4 submit a written annual report to the Administration
5 Commission on November 1 of each year, until such time as the
6 designation is removed, describing the progress of the Florida
7 Keys Area toward accomplishing remaining tasks under the work
8 program and providing a recommendation as to whether
9 substantial progress toward accomplishing the tasks of the
10 work program has been achieved. The Administration Commission
11 shall determine, within 45 days after receipt of the annual
12 report, whether substantial progress has been achieved toward
13 accomplishing the remaining tasks of the work program. The
14 designation of the Florida Keys Area as an area of critical
15 state concern under this section shall be removed unless the
16 Administration Commission finds that substantial progress has
17 not been achieved toward accomplishing the tasks of the work
18 program. If the designation of the Florida Keys Area as an
19 area of critical state concern is removed, the Administration
20 Commission, within 60 days after removal of the designation,
21 shall initiate rulemaking pursuant to chapter 120 to repeal
22 any rules relating to the designation of the Florida Keys Area
23 as an area of critical state concern. If the Administration
24 Commission finds that substantial progress has not been
25 achieved, the Administration Commission shall provide to the
26 Monroe County Commission, within 30 days after making its
27 finding, a report detailing the tasks under the work program
28 which must be accomplished in order for substantial progress
29 to be achieved within the next 12 months.

30 (c) For purposes of this subsection, the term "work
31 program" means the 10-year work program as set forth in

1 chapter 28-20.110, Florida Administrative Code, on January 1,
2 2006, excluding amendments to the work program that take
3 effect after January 1, 2006.

4 (d) The determination of the Administration Commission
5 as to whether substantial progress has been made toward
6 accomplishing the tasks of the work program may be judicially
7 reviewed pursuant to chapter 86. All proceedings shall be
8 conducted in the circuit court where the Administration
9 Commission maintains its headquarters and shall be initiated
10 within 30 days after rendition of the Administration
11 Commission's determination. The Administration Commission's
12 determination as to whether substantial progress has been made
13 toward accomplishing the tasks of the work program shall be
14 upheld if it is supported by competent and substantial
15 evidence and shall not be subject to administrative review
16 under chapter 120.

17 (e) After removal of the designation as an area of
18 critical state concern, the state land planning agency shall
19 review proposed local comprehensive plans, and any amendments
20 to existing comprehensive plans, which are applicable to the
21 Florida Keys Area, the boundaries of which were described in
22 chapter 28-29, Florida Administrative Code, as of January 1,
23 2006, for compliance with subparagraphs 1. and 2., in addition
24 to reviewing proposed local comprehensive plans and amendments
25 for compliance as defined in s. 163.3184. All procedures and
26 penalties described in s. 163.3184 apply to the review
27 conducted pursuant to this paragraph.

28 1. Adoption of construction schedules for wastewater
29 facilities improvements in the annually adopted capital
30 improvements element and adoption of standards for the
31

1 construction of wastewater treatment facilities which meet or
2 exceed the criteria of chapter 99-395, Laws of Florida.

3 2. Adoption of goals, objectives, and policies to
4 protect public safety and welfare in the event of a natural
5 disaster by maintaining a hurricane evacuation clearance time
6 for permanent residents of no more than 24 hours. The
7 hurricane evacuation clearance time shall be determined by a
8 hurricane evacuation study conducted in accordance with a
9 professionally accepted methodology and approved by the state
10 land planning agency. The state land planning agency,
11 following July 15, 1990, shall recommend to the Administration
12 Commission the removal of the designation specified in
13 subsection (3) if it determines that all local land
14 development regulations and local comprehensive plans and the
15 administration of such regulations and plans are adequate to
16 protect the Florida Keys Area and continue to carry out the
17 legislative intent incorporated in subsection (2) and are in
18 compliance with the principles for guiding development
19 incorporated in subsection (7). If the Administration
20 Commission concurs with the recommendations of the state land
21 planning agency to remove the designation, it shall, within 45
22 days of receipt of the recommendation, initiate rulemaking to
23 remove the designation. The state land planning agency shall
24 thereafter make said determination annually, until such time
25 as the designation is removed.

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

28 380.0666 Powers of land authority.--The land authority
29 shall have all the powers necessary or convenient to carry out
30 and effectuate the purposes and provisions of this act,
31

1 including the following powers, which are in addition to all
2 other powers granted by other provisions of this act:

3 (3) To acquire and dispose of real and personal
4 property or any interest therein when such acquisition is
5 necessary or appropriate to protect the natural environment,
6 provide public access or public recreational facilities,
7 preserve wildlife habitat areas, provide affordable housing to
8 families whose income does not exceed 160 percent of the
9 median family income for the area ~~very low income, low income,~~
10 ~~or moderate income persons, as defined in s. 420.0004,~~ or
11 provide access to management of acquired lands; to acquire
12 interests in land by means of land exchanges; and to enter
13 into all alternatives to the acquisition of fee interests in
14 land, including, but not limited to, the acquisition of
15 easements, development rights, life estates, leases, and
16 leaseback arrangements. However, the land authority shall make
17 such acquisition only if:

18 (a) Such acquisition is consistent with land
19 development regulations and local comprehensive plans adopted
20 and approved pursuant to this chapter;

21 (b) The property acquired is within an area designated
22 as an area of critical state concern at the time of
23 acquisition or is within an area that was designated as an
24 area of critical state concern for at least 20 consecutive
25 years prior to removal of the designation; and

26 (c) The property to be acquired has not been selected
27 for purchase through another local, regional, state, or
28 federal public land acquisition program. Such restriction
29 shall not apply if the land authority cooperates with the
30 other public land acquisition programs which listed the lands
31 for acquisition, to coordinate the acquisition and disposition

1 of such lands. In such cases, the land authority may enter
2 into contractual or other agreements to acquire lands jointly
3 or for eventual resale to other public land acquisition
4 programs.

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

7 380.0674 Corporate existence.--

8 (1) The land authority and its corporate existence
9 shall continue until terminated by law or action of the
10 governing board of the county that established it; however, no
11 such law or action shall take effect so long as the land
12 authority shall have bonds outstanding unless adequate
13 provision has been made for the payment thereof. Upon
14 termination of the existence of the land authority, all its
15 rights and properties in excess of its obligations shall pass
16 to and be vested in the state.

17 (2) A land authority created by a county in which one
18 or more areas have been designated as an area of critical
19 state concern for at least 20 consecutive years prior to
20 removal of the designation shall continue to exist and
21 exercise all powers granted by this chapter until terminated
22 by law or action of the governing board pursuant to subsection
23 (1).

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

26 Section 4. Notwithstanding any provision of chapter
27 380, part I, to the contrary, a local government within the
28 Florida Keys area of critical state concern or an area that
29 was designated as an area of critical state concern for at
30 least 20 consecutive years prior to removal of the designation
31 may enact an ordinance that:

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

3 (2) Provides a definition of onsite sewage treatment
4 and disposal systems that does not exclude package sewage
5 treatment facilities if such facilities are in full compliance
6 with all regulatory requirements and treat sewage to advanced
7 wastewater treatment standards or utilize effluent reuse as
8 their primary method of effluent disposal.

9 Section 7. If the designation of the Florida Keys Area
10 as an area of critical state concern is removed, the state
11 shall be liable in any inverse condemnation action initiated
12 as a result of Monroe County land use regulations applicable
13 to the Florida Keys Area as described in chapter 28-29,
14 Florida Administrative Code, and adopted pursuant to
15 instructions from the Administration Commission or pursuant to
16 administrative rule of the Administration Commission, to the
17 same extent that the state was liable on the date the
18 Administration Commission determined that substantial progress
19 had been made toward accomplishing the tasks of the work
20 program as defined in s. 380.0552(4)(c), Florida Statutes. If,
21 after the designation of the Florida Keys Area as an area of
22 critical state concern is removed, an inverse condemnation
23 action is initiated based upon land use regulations that were
24 not adopted pursuant to instructions from the Administration
25 Commission or pursuant to administrative rule of the
26 Administration Commission and in effect on the date of the
27 designation's removal, the state's liability in the inverse
28 condemnation action shall be determined by the courts in the
29 manner in which the state's liability is determined in areas
30 that are not areas of critical state concern. The state shall
31 have standing to appear in any inverse condemnation action.

1 Section 8. This act shall take effect July 1, 2006.
2

3 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
4 COMMITTEE SUBSTITUTE FOR
5 Senate Bill 2098

6 The committee substitute provides that any county for which a
7 designation as an area of critical state concern has been
8 removed, and that levies the tourist impact tax for 20 years
9 after the removal of the designation, may continue to levy the
10 tax after the 20-year period if the county adopts an ordinance
11 reauthorizing the levy and the continued levy of the tax is
12 approved by a voter referendum. The committee substitute also
13 provides that any county for which a designation as an area of
14 critical state concern has been removed, and that qualifies to
15 use up to 10 percent of the local government infrastructure
16 surtax for any public purpose other than infrastructure for up
17 to 20 years following the removal of the designation, may
18 continue to use up to 10 percent of the surtax proceeds after
19 the expiration of the 20-year period for any public purpose
20 other than infrastructure if the county adopts an ordinance
21 providing for such continued use.

22 The committee substitute provides that between July 12, 2008
23 and August 30, 2008, the state land planning agency must
24 submit a written report to the Administration Commission
25 describing in detail the progress of the Florida Keys Area in
26 accomplishing tasks in the work program. If the
27 Administration Commission determines that substantial progress
28 has been achieved, the designation of the Florida Keys Area as
29 an area of critical state concern shall be removed October 1,
30 2009.
31