

1   A bill to be entitled  
 2           An act relating to the designation of Brevard Barrier  
 3           Island Area as an area of critical state concern;  
 4           creating s. 380.0553, F.S.; providing a short title;  
 5           providing legislative findings and intent; designating  
 6           the Brevard Barrier Island Area as an area of critical  
 7           state concern; providing guiding principles for  
 8           development within the area; providing for removal of  
 9           the designation; providing an effective date.

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

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 13           Section 1.   Section 380.0553, Florida Statutes, is created  
 14   to read:

15           380.0553 Brevard Barrier Island Area; protection and  
 16   designation as area of critical state concern.-

17           (1) SHORT TITLE.-This section may be cited as the "Brevard  
 18   Barrier Island Area Protection Act."

19           (2) LEGISLATIVE FINDINGS.-The Legislature finds that the  
 20   designation of the Brevard Barrier Island Area as an area of  
 21   critical state concern is necessary for the following reasons:

22           (a) The southern barrier island of Brevard County  
 23   represents one of the most fragile and endangered coastal  
 24   ecosystems in North America and the beaches, dunes, coastal  
 25   scrub, and maritime hammock areas of the barrier island

26 ecosystem represent some of the most fragile and endangered  
27 natural upland communities in the state and nation.

28 (b) The beaches of the region are among the most important  
29 nesting grounds for threatened and endangered sea turtles in the  
30 Western Hemisphere and the beach running the length of the  
31 southern barrier island in Brevard County is home to the largest  
32 nesting aggregation of loggerhead sea turtles in the world and  
33 the management decisions made in the region have global impacts  
34 for the species.

35 (c) The Archie Carr National Wildlife Refuge is located  
36 within the Brevard barrier island and is a significant  
37 conservation area designated to protect habitat at the most  
38 significant area for loggerhead sea turtle nesting in the world,  
39 at the most significant area for green turtle nesting in North  
40 America, and for a diverse array of plant and animal species.

41 (d) The Indian River Lagoon, designated as an Estuary of  
42 National Significance by the United States Environmental  
43 Protection Agency in 1990, borders the western shore of the  
44 barrier island and the natural habitats of the barrier island  
45 ecosystem protect the water quality and productivity of the  
46 Indian River Lagoon.

47 (e) The salt water recreational fishery of the Indian  
48 River Lagoon generates hundreds of millions of dollars per year  
49 in local economic benefit.

50 (f) Density limitations and natural resource protection on

51 the barrier island has decreased public tax burdens associated  
52 with the provisions of services, building and maintenance of  
53 infrastructure for barrier island residential developments, and  
54 public costs for rebuilding public and private structures  
55 following severe erosion events.

56 (g) Protection of the primary dune system of the barrier  
57 island provides the only protective buffer for local development  
58 from storm surges associated with tropical storms and  
59 hurricanes.

60 (h) The entirety of the barrier island lies within a zone  
61 that is the first to be subject to mandatory evacuation  
62 protocols due to the vulnerability of the barrier island in  
63 hurricane events and the adverse impacts of such vulnerability  
64 on evacuating safely.

65 (3) LEGISLATIVE INTENT.-It is the intent of the  
66 Legislature to:

67 (a) Establish a land use management system that protect  
68 that natural environment of the southern Brevard Barrier Island  
69 Area.

70 (b) Establish a land use management system that promotes  
71 orderly and balanced growth in accordance with the capacity of  
72 existing public facilities and services.

73 (c) Protect and improve the Indian River Lagoon ecosystem,  
74 including improving water quality of the Brevard Barrier Island  
75 Area through federal, state, and local funding of water quality

76 improvement projects.

77 (d) Ensure that the population of the Brevard Barrier  
 78 Island can be safely evacuated in the event of a hurricane.

79 (4) DESIGNATION.—The Brevard Barrier Island Area, as  
 80 described in this subsection, is designated as an area of  
 81 critical state concern. The Brevard Barrier Island Area is that  
 82 portion of Brevard County formed by the southern boundary of the  
 83 Town of Melbourne Beach, the Indian River as the western  
 84 boundary, the Atlantic Ocean as the eastern boundary, extending  
 85 south to the southern boundary of the Sebastian Inlet State  
 86 Park. Specifically including the following township, ranges, and  
 87 sections as designated by the Brevard Public Land Survey System:  
 88 28-38-17-18, 28-38-20-21, 28-38-28, 28-38-33-34, 29-38-03, 29-  
 89 38-10-11, 29-38-14-15, 29-38-22-24, the barrier island portion  
 90 only of 29-38-27, 29-38-25-26, 29-38-35-36, 29-39-31, 30-38-01,  
 91 30-39-06-08, 30-39-17-18, and 30-39-20.

92 (5) GUIDING PRINCIPLES FOR DEVELOPMENT.—State, regional,  
 93 and local agencies and units of government in the Brevard  
 94 Barrier Island Area shall coordinate their plans and conduct  
 95 their programs and regulatory activities to be consistent with  
 96 all of the following guiding principles for development within  
 97 the area:

98 (a) Preventing the adverse impacts of development on  
 99 resources critical to sea turtle habitat by prohibiting new  
 100 shoreline hardening structures and enforcing existing state and

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- 101 county coastal construction regulations.
- 102 (b) Prioritizing water quality restoration projects in the  
103 Indian River Lagoon.
- 104 (c) Reducing nutrient contributions from septic tanks and  
105 wastewater facilities, stormwater discharges, and agriculture  
106 non-point sources into the Indian River Lagoon.
- 107 (d) Supporting innovative, nature-based solutions  
108 including living shorelines, and freshwater and coastal wetland  
109 restoration.
- 110 (e) Safeguarding against adverse economic, social,  
111 environmental, and public health and safety impacts posed by  
112 flooding and storm surge by protecting critical assets  
113 identified in s. 380.093.
- 114 (f) Protecting shoreline and marine resources, including  
115 mangroves, seagrass beds, wetlands, sea turtles, manatees, and  
116 fish and wildlife, and related habitats.
- 117 (g) Protecting upland resources, including dune ridges,  
118 beaches, wildlife, and related habitats.
- 119 (h) Limiting the adverse impacts of development on the  
120 quality of water throughout the Brevard Barrier Island Area and  
121 the Indian River Lagoon.
- 122 (i) Enhancing natural scenic resources to promote the  
123 aesthetic benefits of the natural environment.
- 124 (j) Ensuring that development is compatible with the  
125 unique barrier island characteristics.

126 (6) REMOVAL OF DESIGNATION. -

127 (a) The designation of the Brevard Barrier Island Area as  
 128 an area of critical state concern under this section may be  
 129 recommended for removal upon fulfilling the legislative intent  
 130 under subsection (3) and completion of all the work program  
 131 tasks specified in rules of the Administration Commission.

132 (b) Beginning November 30, 2030, the state land planning  
 133 agency shall annually submit a written report to the  
 134 Administration Commission describing the progress of the Brevard  
 135 Barrier Island Area toward completing the work program tasks  
 136 specified in the commission rules. The land planning agency  
 137 shall recommend removing the Brevard Barrier Island Area from  
 138 being designated as an area of critical state concern to the  
 139 commission if it determines that:

140 1. Adequate restoration and renourishment programs are in  
 141 place to preserve the beaches and dunes of the southern barrier  
 142 island in Brevard County for nesting sea turtles;

143 2. Seagrass replanting in the Indian River Lagoon  
 144 extending the length of the Brevard Barrier Island Protection  
 145 Area is in a coverage volume that would establish recovery to  
 146 scientifically defensible reference targets;

147 3. Nonpoint pollution sources into the Indian River Lagoon  
 148 that contribute to total phosphorus, total nitrogen,  
 149 chlorophyll-a, fecal coliform, and metals have been sufficiently  
 150 reduced to meet water quality criteria standards resulting in

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151 the removal of the Indian River Lagoon from the impaired waters  
152 list;

153 4. The green sea turtle (Chelonia mydas), loggerhead sea  
154 turtle (Caretta caretta), and leatherback sea turtle  
155 (Dermochelys coriacea) have been delisted from the Florida  
156 Endangered and Threatened Species rule and the Florida Marine  
157 Turtle Protection Act under s. 379.2431;

158 5. All local comprehensive plans and land development  
159 regulations and the administration of such plans and regulations  
160 are adequate to protect the Brevard Barrier Island Area, fulfill  
161 the legislative intent specified in subsection (2), and are  
162 consistent with and further the principles guiding development;  
163 and

164 6. A local government has adopted a resolution at a public  
165 hearing recommending the removal of the designation.

166 Section 2. This act shall take effect July 1, 2023.