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CS/CS/HB 1489, Engrossed 1

2023 Legislature

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An act relating to the designation of Brevard Barrier Island Area as an area of critical state concern; creating s. 380.0553, F.S.; providing a short title; providing legislative findings and intent; designating the Brevard Barrier Island Area as an area of critical state concern; providing guiding principles for development within the area; providing for removal of the designation; providing construction; providing an effective date.

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

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

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

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

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

(a) The southern barrier island of Brevard County represents one of the most fragile and endangered coastal ecosystems in North America and the beaches, dunes, coastal

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26 scrub, and maritime hammock areas of the barrier island
27 ecosystem represent some of the most fragile and endangered
28 natural upland communities in the state and nation.

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

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

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

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

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51 (f) Density limitations and natural resource protection on
52 the barrier island of Brevard County has decreased public tax
53 burdens associated with the provisions of services, building and
54 maintenance of infrastructure for barrier island residential
55 developments, and public costs for rebuilding public and private
56 structures following severe erosion events.

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

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

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

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

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

74 (c) Protect and improve the Indian River Lagoon ecosystem,
75 including improving water quality of the Brevard Barrier Island

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76 Area through federal, state, and local funding of water quality
 77 improvement projects.

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

80 (4) DESIGNATION.—The Brevard Barrier Island Area, as
 81 described in this subsection, is designated as an area of
 82 critical state concern. The Brevard Barrier Island Area is that
 83 portion of Brevard County formed by the southern boundary of the
 84 Town of Melbourne Beach, the Indian River as the western
 85 boundary, the Atlantic Ocean as the eastern boundary, extending
 86 south to the southern boundary of the Sebastian Inlet State
 87 Park. Specifically including the following township, ranges, and
 88 sections as designated by the Brevard Public Land Survey System:
 89 28-38-17-18, 28-38-20-21, 28-38-28, 28-38-33-34, 29-38-03, 29-
 90 38-10-11, 29-38-14-15, 29-38-22-24, the barrier island portion
 91 only of 29-38-27, 29-38-25-26, 29-38-35-36, 29-39-31, 30-38-01,
 92 30-39-06-08, 30-39-17-18, and 30-39-20.

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

99 (a) Preventing the adverse impacts of development on
 100 resources critical to sea turtle habitat by prohibiting new

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101 shoreline hardening structures and enforcing existing state and
 102 county coastal construction regulations.

103 (b) Prioritizing water quality restoration projects in the
 104 Indian River Lagoon.

105 (c) Reducing nutrient contributions from septic tanks and
 106 wastewater facilities, stormwater discharges, and agriculture
 107 non-point sources into the Indian River Lagoon.

108 (d) Supporting innovative, nature-based solutions
 109 including living shorelines, and freshwater and coastal wetland
 110 restoration.

111 (e) Safeguarding against adverse economic, social,
 112 environmental, and public health and safety impacts posed by
 113 flooding and storm surge by protecting critical assets
 114 identified in s. 380.093.

115 (f) Protecting shoreline and marine resources, including
 116 mangroves, seagrass beds, wetlands, sea turtles, manatees, and
 117 fish and wildlife, and related habitats.

118 (g) Protecting upland resources, including dune ridges,
 119 beaches, wildlife, and related habitats.

120 (h) Limiting the adverse impacts of development on the
 121 quality of water throughout the Brevard Barrier Island Area and
 122 the Indian River Lagoon.

123 (i) Enhancing natural scenic resources to promote the
 124 aesthetic benefits of the natural environment.

125 (j) Ensuring that development is compatible with the

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126 unique characteristics of the Brevard Barrier Island Area.
 127 (6) REMOVAL OF DESIGNATION.-
 128 (a) The state land planning agency may recommend the
 129 removal of the designation of the Brevard Barrier Island Area as
 130 an area of critical state concern to the Administration
 131 Commission if the agency determines that all local land
 132 development regulations and local comprehensive plans and the
 133 administration of such regulations and plans are adequate to
 134 protect the Brevard Barrier Island Area and carry out the
 135 legislative intent expressed in subsection (3) and are in
 136 compliance with the principles for guiding development specified
 137 in subsection (5). If the commission concurs with the
 138 recommendation to remove the designation, the commission must
 139 initiate rulemaking to remove the designation within 45 days
 140 after receipt of the recommendation.
 141 (b) Beginning November 30, 2030, the state land planning
 142 agency shall annually submit a written report to the
 143 Administration Commission describing the progress of the Brevard
 144 Barrier Island Area toward achieving the legislative intent
 145 expressed in subsection (3) and implementing the guiding
 146 principles for development specified in subsection (5). The
 147 agency shall recommend removing the designation of the Brevard
 148 Barrier Island Area as an area of critical state concern to the
 149 commission if it determines that:
 150 1. Adequate restoration and renourishment programs are in

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151 place to preserve the beaches and dunes of the southern barrier
 152 island in Brevard County for nesting sea turtles;

153 2. Seagrass replanting in the Indian River Lagoon
 154 extending the length of the Brevard Barrier Island Area is in a
 155 coverage volume that would establish recovery to scientifically
 156 defensible reference targets;

157 3. Nonpoint pollution sources into the Indian River Lagoon
 158 that contribute to total phosphorus, total nitrogen,
 159 chlorophyll-a, fecal coliform, and metals have been sufficiently
 160 reduced to meet water quality criteria standards resulting in
 161 the removal of the Indian River Lagoon from the impaired waters
 162 list;

163 4. The green sea turtle (Chelonia mydas), loggerhead sea
 164 turtle (Caretta caretta), and leatherback sea turtle
 165 (Dermochelys coriacea) have been delisted from the Florida
 166 Endangered and Threatened Species rule and the Florida Marine
 167 Turtle Protection Act under s. 379.2431;

168 5. All local comprehensive plans and land development
 169 regulations and the administration of such plans and regulations
 170 are adequate to protect the Brevard Barrier Island Area, fulfill
 171 the legislative intent specified in subsection (2), and are
 172 consistent with and further the principles guiding development;
 173 and

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

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176 | (7) LAND ZONING AND USE.—This section does not affect any
177 | existing zoning or use of land in effect within the Brevard
178 | Barrier Island Area before July 1, 2023.

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