

By Senator Wright

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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.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
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

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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 River
48 Lagoon generates hundreds of millions of dollars per year in
49 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

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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 Legislature
66 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:

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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
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 including
108 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.

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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 unique
125 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 extending
144 the length of the Brevard Barrier Island Protection Area is in a
145 coverage volume that would establish recovery to scientifically

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146 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
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.