

By the Committee on Environment and Natural Resources; and  
Senator Wright

592-03116-23

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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 saltwater 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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hurricanes.

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

(3) LEGISLATIVE INTENT.—It is the intent of the Legislature to:

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

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

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

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

(4) DESIGNATION.—The Brevard Barrier Island Area, as described in this subsection, is designated as an area of critical state concern. The Brevard Barrier Island Area is that portion of Brevard County bounded on the north by the southern boundary of the Town of Melbourne Beach, on the east by the Atlantic Ocean, on the west by the Indian River, and on the south by the southern boundary of Sebastian Inlet State Park. Specifically including the following township, ranges, and 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.