

By the Committees on Rules; and Environment and Natural Resources; and 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 upon the recommendation of the state
10 land planning agency; requiring the Administration
11 Commission to initiate rulemaking within a specified
12 timeframe under certain circumstances; requiring the
13 state land planning agency to submit an annual report
14 to the commission; providing requirements for the
15 report; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 380.0553, Florida Statutes, is created
20 to read:

21 380.0553 Brevard Barrier Island Area; protection and
22 designation as area of critical state concern.—

23 (1) SHORT TITLE.—This section may be cited as the “Brevard
24 Barrier Island Area Protection Act.”

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

28 (a) The southern barrier island of Brevard County
29 represents one of the most fragile and endangered coastal

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30 ecosystems in North America and the beaches, dunes, coastal
31 scrub, and maritime hammock areas of the barrier island
32 ecosystem represent some of the most fragile and endangered
33 natural upland communities in the state and nation.

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

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

47 (d) The Indian River Lagoon, designated as an Estuary of
48 National Significance by the United States Environmental
49 Protection Agency in 1990, borders the western shore of the
50 barrier island, and the natural habitats of the barrier island
51 ecosystem protect the water quality and productivity of the
52 Indian River Lagoon.

53 (e) The saltwater recreational fishery of the Indian River
54 Lagoon generates hundreds of millions of dollars per year in
55 local economic benefit.

56 (f) Density limitations and natural resource protection on
57 the barrier island has decreased public tax burdens associated
58 with the provisions of services, building and maintenance of

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59 infrastructure for barrier island residential developments, and
60 public costs for rebuilding public and private structures
61 following severe erosion events.

62 (g) Protection of the primary dune system of the barrier
63 island provides the only protective buffer for local development
64 from storm surges associated with tropical storms and
65 hurricanes.

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

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

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

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

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

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

85 (4) DESIGNATION.—The Brevard Barrier Island Area, as
86 described in this subsection, is designated as an area of
87 critical state concern. The Brevard Barrier Island Area is that

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88 portion of Brevard County bounded on the north by the southern
89 boundary of the Town of Melbourne Beach, on the east by the
90 Atlantic Ocean, on the west by the Indian River, and on the
91 south by the southern boundary of Sebastian Inlet State Park.
92 Specifically including the following township, ranges, and
93 sections as designated by the Brevard Public Land Survey System:
94 28-38-17-18, 28-38-20-21, 28-38-28, 28-38-33-34, 29-38-03, 29-
95 38-10-11, 29-38-14-15, 29-38-22-24, the barrier island portion
96 only of 29-38-27, 29-38-25-26, 29-38-35-36, 29-39-31, 30-38-01,
97 30-39-06-08, 30-39-17-18, and 30-39-20.

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

104 (a) Preventing the adverse impacts of development on
105 resources critical to sea turtle habitat by prohibiting new
106 shoreline hardening structures and enforcing existing state and
107 county coastal construction regulations.

108 (b) Prioritizing water quality restoration projects in the
109 Indian River Lagoon.

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

113 (d) Supporting innovative, nature-based solutions,
114 including living shorelines, and freshwater and coastal wetland
115 restoration.

116 (e) Safeguarding against adverse economic, social,

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117 environmental, and public health and safety impacts posed by
118 flooding and storm surge by protecting critical assets
119 identified in s. 380.093.

120 (f) Protecting shoreline and marine resources, including
121 mangroves, seagrass beds, wetlands, sea turtles, manatees, and
122 fish and wildlife, and related habitats.

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

125 (h) Limiting the adverse impacts of development on the
126 quality of water throughout the Brevard Barrier Island Area and
127 the Indian River Lagoon.

128 (i) Enhancing natural scenic resources to promote the
129 aesthetic benefits of the natural environment.

130 (j) Ensuring that development is compatible with the unique
131 barrier island characteristics.

132 (6) REMOVAL OF DESIGNATION.—

133 (a) The state land planning agency may recommend to the
134 Administration Commission the removal of the designation of the
135 Brevard Barrier Island Area as an area of critical state concern
136 if the agency determines that all local land development
137 regulations and local comprehensive plans and the administration
138 of such regulations and plans are adequate to protect the
139 Brevard Barrier Island Area, continue to carry out the
140 legislative intent expressed in subsection (3), and are in
141 compliance with the principles for guiding development specified
142 in subsection (5). If the commission concurs with the
143 recommendation to remove the designation, it must, within 45
144 days after receipt of the recommendation, initiate rulemaking to
145 remove the designation.

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146 (b) Beginning November 30, 2030, the state land planning
147 agency shall annually submit a written report to the
148 Administration Commission describing the progress of the Brevard
149 Barrier Island Area toward implementing the guiding principles
150 for development specified in subsection (5) and achieving the
151 legislative intent expressed in subsection (3). The agency shall
152 recommend removing the designation of the Brevard Barrier Island
153 Area as an area of critical state concern to the commission if
154 it determines that:

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

158 2. Seagrass replanting in the Indian River Lagoon extending
159 the length of the Brevard Barrier Island Area is in a coverage
160 volume that would establish recovery to scientifically
161 defensible reference targets;

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

168 4. The green sea turtle (*Chelonia mydas*), loggerhead sea
169 turtle (*Caretta caretta*), and leatherback sea turtle
170 (*Dermochelys coriacea*) have been delisted from the Florida
171 Endangered and Threatened Species rule and the Florida Marine
172 Turtle Protection Act under s. 379.2431;

173 5. All local comprehensive plans and land development
174 regulations and the administration of such plans and regulations

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175 are adequate to protect the Brevard Barrier Island Area, fulfill
176 the legislative intent specified in subsection (3), and are
177 consistent with and further the principles guiding development;
178 and

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

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