

CHAPTER 2023-272

Committee Substitute for Committee Substitute for House Bill No. 1489

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

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

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

(d) The Indian River Lagoon, designated as an Estuary of National Significance by the United States Environmental Protection Agency in 1990, borders the western shore of the barrier island of Brevard County and the

natural habitats of the barrier island ecosystem protect the water quality and productivity of the Indian River Lagoon.

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

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

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

(h) The entirety of the barrier island of Brevard County 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 Area 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 formed by the southern boundary of the Town of Melbourne Beach, the Indian River as the western boundary, the Atlantic Ocean as the eastern boundary, extending south to the southern boundary of the Sebastian Inlet State Park. Specifically including the following township, ranges, and sections as designated by the Brevard Public Land Survey System: 28-38-17-18, 28-38-20-21, 28-38-28, 28-38-33-34, 29-38-03, 29-38-10-11, 29-38-14-15, 29-38-22-24, the barrier island portion only of 29-38-27, 29-38-25-26, 29-38-35-36, 29-39-31, 30-38-01, 30-39-06-08, 30-39-17-18, and 30-39-20.

(5) GUIDING PRINCIPLES FOR DEVELOPMENT.—State, regional, and local agencies and units of government in the Brevard Barrier Island

Area shall coordinate their plans and conduct their programs and regulatory activities to be consistent with all of the following guiding principles for development within the area:

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

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

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

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

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

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

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

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

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

(j) Ensuring that development is compatible with the unique characteristics of the Brevard Barrier Island Area.

(6) REMOVAL OF DESIGNATION.—

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

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

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

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

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

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

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

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

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

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

Approved by the Governor June 20, 2023.

Filed in Office Secretary of State June 20, 2023.