



## BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

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January 13<sup>th</sup>, 2026

To: The Honorable Debbie Mayfield  
404 South Monroe St. Rm. 302  
Tallahassee, FL 32399

Re: Request for support of SB 840

On behalf of the Brevard County Board of County Commissioners, I am writing to you to request your support for SB 840 (2026), which would provide a path for the County to bring its Comprehensive Plan into compliance and reverse certain unintended impacts of SB 180 (2025) that led to non-compliant status.

Both the Evaluation and Appraisal-Based (EAR-Based) Amendments and the Brevard Barrier Island Element Amendment to the Brevard County Comprehensive Plan have been declared null and void *ab initio* by Florida Commerce. Florida Commerce has taken this action due to their enforcement of Chapter 2025-190, Laws of Florida, which is commonly known by its originating bill number, SB 180. Section 28 of SB 180 prohibits the proposal or adoption of comprehensive plan amendments that are more restrictive or burdensome.

Although SB 180 had not even been introduced at the time the County transmitted the Amendments, because of its retroactive application, the transmittal is subject to this prohibition and the entire process has been deemed void *ab initio* ("from the beginning"). Legally, it is as if the County never transmitted the Amendments in the first instance.

To be clear, the County met every legal obligation and deadline regarding these Amendments as they existed at the time and followed the statutorily mandated process in coordination with Florida Commerce. The reason the County is not in compliance is purely the retroactive application of SB 180 to the County's otherwise proper actions. Brevard County has been placed in an impossible position. On the one hand, the law requires that the County implement the Brevard Barrier Island Protection Act in the County's Comprehensive Plan and land development regulations. On the other hand, the Brevard Barrier Island Protection Act, at least as it has generally been understood until now, cannot be faithfully implemented in a manner consistent with SB 180 because it necessitates more restrictive regulations.

SB 840 (2026) introduces several important measures that would help rectify this situation. Most importantly, the bill shortens the duration of limits on local actions found in Section 28 of SB 180, restoring full authority on June 30, 2026 (absent being impacted by a future storm, which would trigger Section 18). SB 840 also narrows the definition of an “impacted local government,” reducing the qualifying radius from 100 miles to 50 miles of a hurricane’s track. This helps ensure Brevard County is only subject to post-storm restrictions when actually affected. The bill also removes the mandatory litigation and attorney-fee provisions contained in SB 180, reducing legal exposure and protecting County resources during recovery. Importantly, SB 840 restores local authority to implement essential standards—including NFIP-related floodplain requirements and state-mandated regulations—and allows counties to request documentation demonstrating hurricane damage before certain exemptions are applied.

There are consequences to the County being out of compliance, and some are perverse to what we understand the intent of SB 180 to have been. Because of the County’s unique situation outlined above, the County has not only been unable to implement the Brevard Barrier Island Protection Act, but we have been unable to implement other statutory mandates as well.<sup>1</sup>

Furthermore, the quagmire we have been placed in keeps us stuck with an outdated model for dealing with important and dynamic issues regarding development in floodplains and with storm-water related matters. For example, as of today the Brevard County Comprehensive Plan specifies development densities in the St. Johns Riverine floodplain (i.e., if development is to take place in an x year riverine floodplain, development density shall be y units per acre). In its proposed Amendments, Brevard County sought to shift to a performance-based model for determining development potential in all floodplains, taking into account stormwater volume and flow. Applicants would utilize best available data to formulate demonstrable, creative solutions to allow development when it can be definitively shown that there will be no adverse impacts as a result.<sup>2</sup> This type of data-based model is widely considered a best practice in urban and regional planning.

Additionally, due to Brevard County’s current status of non-compliance, we are unable to process publicly-initiated Amendments outside of the EAR process. This means, for example, that should a development that is in the public interest require a Future Land Use Map amendment, we would be unable to move forward with the project.

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<sup>1</sup> See e.g. Florida Statute Section 163.3178(2)(f), requiring Counties to include in its Coastal Management Element of its Comprehensive Plan certain policies to prevent “inappropriate and unsafe development in coastal areas when opportunities arise.”

<sup>2</sup> While this shift in policy would have the overall effect of allowing for increased development potential (which we believe meets the intent of SB 180), because it could have also resulted in increased stormwater retention requirements based on available data in specific cases, this was found to be a more restrictive regulation in violation of SB 180.

Unless SB 840 or similar legislation is adopted, Brevard County will remain burdened by antiquated policies, unable to meet conflicting legal obligations, and incapable of implementing potential projects that are in the best interests of the public that we serve.

The Brevard County Board of County Commissioners has full faith that the Legislative Delegation is acting with the best interest of Brevard County residents in mind. It is due to this trust in the intent and ability of our Legislative Delegation that the Brevard County Board of County Commissioners opted not to join in any lawsuits related to SB 180 and its impacts. Our partnership with state agencies and state elected officials is of great importance and has been very beneficial to Brevard County.

As such, the Brevard County Board of County Commissioners respectfully requests your support of SB 840 (2026), and specifically, as currently drafted, its sunsetting of Section 28 effective June 30, 2026. This will allow Brevard County government to refocus on implementing common-sense policies for the benefit of its citizens and betterment of their community.

Sincerely,

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Vice-Chair Kim Adkinson  
Commissioner District 3

As ratified by the Brevard County Board of County Commissioners on January 13, 2026.

CC: Senator Tom Wright  
Representative Tyler Sirois  
Representative Robert Brackett  
Representative Chase Tramont  
Representative Brian Hodgers  
Representative Monique Miller