

Tab 1	SPB 7016 by IS ; Statewide Office of Resiliency
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Tab 2	SB 178 by Rodriguez ; (Identical to H 00579) Public Financing of Construction Projects					
143802	D	S	RCS	IS, Rodriguez	Delete everything after	12/09 05:19 PM

Tab 3	SPB 7018 by IS ; Electric Vehicle Charging Station Infrastructure
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Tab 4	SPB 7020 by IS ; Emergency Staging Areas
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Tab 5	SPB 7022 by IS ; OGSR/E-mail Addresses/Department of Highway Safety and Motor Vehicles
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

INFRASTRUCTURE AND SECURITY

Senator Lee, Chair
Senator Perry, Vice Chair

MEETING DATE: Monday, December 9, 2019
TIME: 4:00—6:00 p.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Building

MEMBERS: Senator Lee, Chair; Senator Perry, Vice Chair; Senators Bean, Cruz, Hooper, Hutson, Stewart, and Taddeo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
Consideration of proposed bill:			
1	SPB 7016	Statewide Office of Resiliency; Establishing the office within the Executive Office of the Governor; creating the Statewide Sea-Level Rise Task Force within the office; authorizing the Department of Environmental Protection to contract for specified services, upon request of the task force; requiring the Environmental Regulation Commission to take certain action on the task force's recommendations, etc.	Submitted and Reported Favorably as Committee Bill Yeas 7 Nays 0
2	SB 178 Rodriguez (Identical H 579)	Public Financing of Construction Projects; Prohibiting state-financed constructors from commencing construction of certain structures in coastal areas without first conducting a sea level impact projection study; requiring the Department of Environmental Protection to develop by rule a standard for such studies; requiring the department to enforce certain requirements and to adopt rules, etc. EN 11/04/2019 Favorable IS 12/09/2019 Fav/CS AEG AP	Fav/CS Yeas 7 Nays 0
Consideration of proposed bill(s):			
3	SPB 7018	Electric Vehicle Charging Station Infrastructure; Requiring the Public Service Commission, in consultation with the Department of Transportation and the Office of Energy within the Department of Agriculture and Consumer Services, to develop and recommend, by a specified date, to the Governor, the President of the Senate, and the Speaker of the House of Representatives a plan for the development of electric vehicle charging station infrastructure along the State Highway System; requiring the plan to include recommendations for legislation; authorizing the plan to include other recommendations as determined by the commission, etc.	Submitted and Reported Favorably as Committee Bill Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Infrastructure and Security

Monday, December 9, 2019, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SPB 7020	Emergency Staging Areas; Authorizing the Department of Transportation to plan, design, and construct staging areas as part of the turnpike system for the intended purpose of staging supplies for prompt provision of assistance to the public in a declared state of emergency; requiring the department, in consultation with the Division of Emergency Management, to select sites for such areas; requiring the department to give priority consideration to placement of such staging areas in specified counties, etc.	Submitted and Reported Favorably as Committee Bill Yeas 7 Nays 0
5	SPB 7022	OGSR/E-mail Addresses/Department of Highway Safety and Motor Vehicles; Amending a provision which provides an exemption from public records requirements for certain e-mail addresses collected by the Department of Highway Safety and Motor Vehicles; removing the scheduled repeal of the exemption, etc.	Submitted and Reported Favorably as Committee Bill Yeas 7 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Infrastructure and Security

BILL: SB 7016

INTRODUCER: Infrastructure and Security Committee

SUBJECT: Statewide Office of Resiliency

DATE: December 10, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Price	Miller		IS Submitted as Comm. Bill/Fav

I. Summary:

SB 7016 establishes the Statewide Office of Resiliency (SOR) within the Executive Office of the Governor, headed by a Chief Resilience Officer appointed by and serving at the pleasure of the Governor. The bill creates the Statewide Sea-Level Rise Task Force adjunct to the SOR for the purpose of recommending consensus projections of the anticipated sea-level rise and flooding impacts along this state's coastline.

The bill provides for task force membership and requires all appointments to the task force to be made no later than August 1, 2020. The bill directs the Chief Resilience Officer to convene the task force no later than October 1, 2020, and requires the task force to meet thereafter upon the call of the chair.

The task force is directed to develop and recommend consensus baseline projections of the expected sea-level rise for planning horizons designated by the task force. The task force is authorized to designate technical advisory groups to inform its decision-making and to request the Department of Environmental Protection (DEP) to contract for services to assist in developing the recommended baseline projections. The bill directs the DEP to serve as the contract administrator and provide administrative support to the task force.

The task force must submit its recommended projections to the Environmental Regulation Commission (Commission) for adoption or rejection by January 1, 2021. If adopted, the task force's projections will serve as the state's official estimate of sea-level rise and flooding impacts along the state's coastline for the purpose of developing future state projects, plans, and programs. The bill requires the task force to review the projections as the task force determines appropriate and to submit any recommended revisions to the projections for consideration by the Commission. The bill sunsets the task force and related provisions on July 1, 2023, but leaves the SOR in place, headed by the Chief Resilience Officer, within the Executive Office of the Governor.

For the 2020-2021 fiscal year, the sum of \$500,000 in nonrecurring funds is appropriated from the General Revenue Fund to the FDEP for the purpose of the authorized contracting and for task force administrative expenses. See the “Fiscal Impact Statement” heading below for additional details.

The bill takes effect July 1, 2020.

II. Present Situation:

Sea-Level Rise and Coastal Flooding

With 1,350 miles of coastline and relatively low elevations, Florida is particularly vulnerable to coastal flooding.¹ There are three primary ways that climate change influences coastal flooding: sea-level rise, storm surge intensity, and rainfall intensity and frequency.²

Sea-level rise is an observed increase in the average local sea-level or global sea-level trend.³ The two major causes of global sea-level rise are thermal expansion caused by the warming of the oceans (water expands as it warms) and the loss of land-based ice (ice sheets and glaciers) due to melting.⁴ Since 1880, the average global sea-level has risen about 8 to 9 inches, and the rate of global sea-level rise has been accelerating.⁵ The National Oceanic and Atmospheric Administration (NOAA) utilizes tide gauges to measure changes in sea-level, and provides data on local sea-level rise trends.⁶ Analysis of this data shows some low-lying areas in the southeastern U.S. experience higher local rates of sea-level rise than the global average.⁷

Florida’s coastal communities are experiencing high-tide flooding events, sometimes referred to as “sunny day” or “nuisance” flooding, with increasing frequency because sea-level rise

¹ This measurement of Florida’s coastline increases to over 8,000 miles when accounting for bays, inlets, and waterways. See Florida Division of Emergency Management, *Enhanced State Hazard Mitigation Plan, State of Florida*, 107-108, 162 (2018) [hereinafter *SHMP*], available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Oct. 16, 2019).

² *Id.* at 107.

³ DEP, *Florida Adaptation Planning Guidebook*, Glossary (2018) [hereinafter *DEP Guidebook*], available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Oct. 16, 2019); NASA, *Facts: Sea Level*, <https://climate.nasa.gov/vital-signs/sea-level/> (last visited Oct. 16, 2019).

⁴ *DEP Guidebook*, at Glossary; NOAA, *Climate Change: Ocean Heat Content*, <https://www.climate.gov/news-features/understanding-climate/climate-change-ocean-heat-content> (last visited Oct. 16, 2019). More than 90 percent of the warming that has happened on Earth over the past 50 years has occurred in the ocean; IPCC, *The Ocean and Cryosphere in a Changing Climate*, SPM-8, SPM-10, SPM-19, SPM -21, SPM-23, 1-14, 4-3, 4-4, 4-14 (Sept. 2019) [hereinafter *IPCC Ocean and Cryosphere*], available at https://report.ipcc.ch/srocc/pdf/SROCC_FinalDraft_FullReport.pdf (last visited Oct. 16, 2019). Uncertainty regarding projected sea level rise by 2100 is mainly determined by ice sheets, especially in Antarctica and Greenland, which are losing ice at increasing rates.

⁵ U.S. Global Change Research Program, *Fourth National Climate Assessment*, 757 (2018) [hereinafter *NCA4*], available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Oct. 31, 2019); *IPCC Ocean and Cryosphere*, at 4-3.

⁶ NOAA, *What is a Tide Gauge?*, <https://oceanservice.noaa.gov/facts/tide-gauge.html> (last visited Oct. 17, 2019); NOAA, *Tides and Currents, Sea Level Trends*, <https://tidesandcurrents.noaa.gov/sltrends/> (last visited Oct. 16, 2019); see *DEP Guidebook*, at 8, 16.

⁷ *NCA4*, at 757.

increases the height of high tides.⁸ In Florida, the areas at the most risk from sea-level rise includes Florida's 35 coastal counties which contain 76% of its population.⁹ In the U.S., sea-level rise and flooding threaten an estimated \$1 trillion in coastal real estate value, and analyses estimate that there is a chance Florida could lose more than \$300 billion in property value by 2100.¹⁰ Sea-level rise affects the salinity of both surface water and groundwater through saltwater intrusion, posing a risk particularly for shallow coastal aquifers.¹¹ Sea-level rise also pushes saltwater further upstream in tidal rivers and streams, raises coastal groundwater tables, and pushes saltwater further inland at the margins of coastal wetlands.¹²

Storm surge intensity and the intensity and precipitation rates of hurricanes are generally projected to increase,¹³ and the overall extent of destruction from hurricanes is also rising.¹⁴ Higher sea levels will cause storm surges to travel farther inland and impact more properties than in the past.¹⁵ Storms and sea-level rise are likely to lead to increased coastal erosion.¹⁶

Increases in evaporation rates and water vapor in the atmosphere increase rainfall intensity and precipitation extremes, and the sudden onset of water can overwhelm stormwater infrastructure.¹⁷ As sea levels and groundwater levels rise, low areas drain more slowly, and the combined effects of rising sea levels and extreme rainfall events are increasing the frequency and magnitude of coastal and lowland flood events.¹⁸

Sea-Level Rise Projections

Below is a table of projections for future sea-level rise, globally and in regions of Florida:

⁸ *SHMP*, at 108, available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Oct. 15, 2019); NOAA, *High-Tide Flooding*,

<https://toolkit.climate.gov/topics/coastal-flood-risk/shallow-coastal-flooding-nuisance-flooding> (last visited Oct. 16, 2019).

⁹ *DEP Guidebook*, at III, available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Oct. 16, 2019).

¹⁰ *NCA4*, at 324, 758; Zillow, *Climate Change and Housing: Will a Rising Tide Sink All Homes?* (2017), <https://www.zillow.com/research/climate-change-underwater-homes-12890/> (last visited Oct. 31, 2019) (stating that by 2100 \$883 billion in U.S. homes are at risk of being underwater with the total value of potentially underwater properties in Florida at \$413 billion); Union of Concerned Scientists, *New Study Finds 1 Million Florida Homes Worth \$351 Billion Will Be At Risk From Tidal Flooding* (2018), <https://www.ucsusa.org/about/news/1-million-florida-homes-risk-tidal-flooding> (last visited Oct. 31, 2019).

¹¹ *SHMP*, at 106, available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Oct. 31, 2019).

¹² *Id.* at 108.

¹³ *Id.* at 106, 141; *IPCC Ocean and Cryosphere*, at 6-21, available at https://report.ipcc.ch/srocc/pdf/SROCC_FinalDraft_FullReport.pdf (last visited Oct. 16, 2019); *NCA4*, at 95, 97, 116-117, 1482, available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Oct. 31, 2019).

¹⁴ See ARS Technica, *A new paper concludes that hurricane damage is increasing*, Timmer, J., November 12, 2019, available at <https://arstechnica.com/science/2019/11/a-new-paper-concludes-that-hurricane-damage-is-increasing/> (last visited November 14, 2019).

¹⁵ *NCA4*, at 758; *SHMP*, at 107, 112-113, 158-160; see also NOAA, *Florida Marine Debris Emergency Response Guide: Comprehensive Guidance Document* (Jan. 2019), available at https://marinedebris.noaa.gov/sites/default/files/publications-files/FL_Marine_Debris_Emergency_Response_Guide_2019.pdf (last visited Oct. 16, 2019).

¹⁶ *NCA4*, 331, 340-341, 833, 1054, 1495; *SHMP*, at 108; IPCC, *Climate Change and Land*, 4-44-4-45 (Aug. 2019), available at <https://www.ipcc.ch/site/assets/uploads/2019/08/Fullreport-1.pdf> (last visited Oct. 17, 2019).

¹⁷ *SHMP*, at 99, 106, 116, 141, 181; *NCA4*, at 88, 763.

¹⁸ *SHMP*, at 106; *NCA4*, at 763.

Sea Level Rise Projections				
Source	Scale	Years	Low (feet)	High (feet)
Intergovernmental Panel on Climate Change ¹⁹	Global	2046-2065	.79	1
		2081-2100	1.28	2.3
		2100	1.4	2.75
U.S. Global Change Research Program ²⁰	Global	2030	.3	.6
		2050	.5	1.2
		2100	1	4.3
Southeast Florida Regional Climate Change Compact Sea Level Rise Work Group ²¹	Southeast Florida	2030	.5	.83
		2060	1.17	2.83
		2100	2.59	6.75
Tampa Bay Climate Science Advisory Panel ²²	Tampa Bay Region	2050	1	2.5
		2100	2	8.5

As seen in these projections, there are considerable variations in estimates of future sea-level rise. In addition, some research indicates that current sea-level rise projections significantly underestimate future coastal exposure to impacts associated with rising sea levels.²³ Although some local governments and some state agencies have adopted sea-level rise estimates for specific planning purposes, the State of Florida has no officially-established estimates of projected sea-level rise for use by state agencies in developing, planning, and implementing their various duties and responsibilities.

Selected State, Regional, and Local Programs

A number of state and local programs are in place that address issues relating to sea-level rise and related flooding. For example:

- The Coastal Zone Protection Act of 1985 generally requires construction to be located a sufficient distance landward of the beach to permit natural shoreline fluctuations and preserve dune stability.²⁴ The Act states that both the FDEP and local governments have the

¹⁹ IPCC Ocean and Cryosphere, at 1-15, 4-4, CCB9-21. These projections are relative to a period of 1986-2005, and the projected range is based on different “representative concentration pathways,” which are scenarios of future concentrations of greenhouse gases and aerosols and chemically active gases, and land use changes.

²⁰ NCA4, at 406, 758, available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Oct. 31, 2019).

²¹ Southeast Florida Regional Climate Change Compact Sea Level Rise Work Group, *Unified Sea Level Rise Projection, Southeast Florida*, 4-5 (2015), available at <https://southeastfloridaclimatecompact.org/wp-content/uploads/2015/10/2015-Compact-Unified-Sea-Level-Rise-Projection.pdf> (last visited Oct. 21, 2019). These projections are compared to the sea level in 1992.

²² Tampa Bay Climate Science Advisory Panel, *Recommended Projections of Sea Level Rise in the Tampa Bay Region*, 1, 7 (Apr. 2019), available at http://www.tbrpc.org/wp-content/uploads/2019/05/CSAP_SLR_Recommendation_2019.pdf (last visited Oct. 16, 2019).

²³ See *New elevation data triple estimates of global vulnerability to sea-level rise and coastal flooding*, Kulp, S. and Strauss, B. (2019) at pp. 10-11, available at <https://reporterre.net/IMG/pdf/S41467-019-12808-z.pdf> (last visited November 8, 2019).

²⁴ Section 161.55(3), F.S. The Act makes exceptions for certain structures such as piers, beach access ramps, or shore protection structures.

authority to adopt or enforce standards for construction seaward of the coastal construction control line (CCCL)²⁵ that are as restrictive as or more restrictive than the Act.²⁶

- FDEP’s Florida Resilient Coastlines Program helps prepare coastal communities and habitats for the effects of climate change and sea-level rise by offering technical assistance and funding to communities dealing with coastal flooding, erosion, and ecosystem changes.²⁷
- Other state agencies are working on coastal resilience in Florida. The Department of Transportation plans for resilience to prepare Florida’s transportation system for potential hazards.²⁸ The Department of Economic Opportunity works with DEP on the Community Resiliency Initiative, assisting communities with adaptation planning.²⁹ The Fish and Wildlife Conservation Commission is Florida’s lead agency on addressing the impacts of climate change on fish and wildlife, including adaptation strategies for Florida’s coastal ecosystems.³⁰ The Division of Emergency Management in the Executive Office of the Governor maintains a state-wide emergency management program, and its roles include administering federal mitigation grant programs and serving as Florida’s state coordinating agency for the National Flood Insurance Program.³¹
- The water management districts address flood protection as a core part of their respective missions, and many of their activities are related to resilience efforts. For example, the St. John’s River Water Management District provides resources and cost-sharing to increase community resilience.³² The South Florida Water Management District is implementing comprehensive plans for addressing sea-level rise, including a flood protection level of service program, incorporating sea-level rise projections into planning, conducting vulnerability assessments, and assisting local governments.³³
- In 2010, through a proactive regional collaboration to address climate change, the four counties of Broward, Miami-Dade, Monroe, and Palm Beach signed on to the Southeast

²⁵ The CCCL defines the portion of the beach-dune system that is subject to severe fluctuations caused by a 100-year storm surge, storm waves, or other forces such as wind, wave, or water level changes. Section 161.053, F.S.; Fla. Admin. Code R. 62B-33.005(1); DEP, *The Homeowner’s Guide to the Coastal Construction Control Line Program*, 3 (2017), available at <https://floridadep.gov/water/coastal-construction-control-line/documents/homeowners-guide-coastal-construction-control-line> (last visited Oct. 18, 2019).

²⁶ Section 161.56(1), F.S.

²⁷ DEP, *Florida Resilient Coastlines Program*, <https://floridadep.gov/ResilientCoastlines> (last visited Oct. 19, 2019).

²⁸ DOT, *Florida Transportation Plan (FTP): Resilience*, <http://www.floridatransportationplan.com/resilience.htm> (last visited Oct. 25, 2019); DOT, *Florida Transportation Plan (FTP): Resilience Subcommittee Members*, http://www.floridatransportationplan.com/resilience_committee.htm (last visited Oct. 31, 2019).

²⁹ DEO, *Adaptation Planning*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/adaptation-planning> (last visited Oct. 19, 2019).

³⁰ FWC, *What FWC is Doing*, <https://myfwc.com/conservation/special-initiatives/climate-change/fwc/> (last visited Oct. 19, 2019); FWC, *A Guide to Climate Change Adaptation for Conservation*, 6-81–6-108, 9-35–9-51 (2016), available at <https://myfwc.com/media/5864/adaptation-guide.pdf> (last visited Oct. 20, 2019).

³¹ DEM, *Mitigation*, <https://www.floridadisaster.org/dem/mitigation/> (last visited Oct. 20, 2019); DEM, *State Flood Plain Management Program*, <https://www.floridadisaster.org/dem/mitigation/floodplain/> (last visited Oct. 20, 2019).

³² St. John’s River Water Management District, *Sea-Level Rise*, <https://www.sjrwm.com/localgovernments/sea-level-rise/#projects> (last visited Oct. 30, 2019).

³³ Akintunde Owosina, South Florida Water Management District, Governing Board Meeting, June 13, 2019, Chief, Hydrology and Hydraulics Bureau, *Impact of Sea Level Rise on the SFWMD Mission, Focus on Flood Protection*, 2, 6, 7-10 (June 13, 2019) available at <https://apps.sfwmd.gov/webapps/publicMeetings/viewFile/21964> (last visited Oct. 20, 2019).

Florida Regional Climate Change Compact.³⁴ The Compact’s work has included developing a Regional Climate Action Plan and developing a Unified Sea-Level Rise Projection.³⁵

- Florida’s local governments in coastal areas must have a coastal management element in their comprehensive plans.³⁶ Among other requirements, these coastal management elements must use principles to eliminate inappropriate and unsafe development in coastal areas when opportunities arise.

In January of 2019, Governor DeSantis issued Executive Order 19-12 creating the Office of Resilience and Coastal Protection to help prepare Florida’s coastal communities and habitats for impacts from sea-level rise by providing funding, technical assistance, and coordination among state, regional, and local entities.³⁷ In August of 2019, the Governor appointed Florida’s first Chief Resilience Officer, which will report to the Executive Officer of the Governor and collaborate with state agencies, local communities, and stakeholders to prepare for sea-level rise and climate change.³⁸

The Environmental Regulation Commission

Section 20.255(6), F.S., creates the Commission within the DEP and it is composed of seven state residents appointed by the Governor, subject to confirmation by the Senate. The appointees must provide “reasonable representation from all sections of the state” and be representative of agriculture, the development industry, local government, the environmental community, lay citizens, and members of the scientific and technical community who have substantial expertise related to water pollutants, toxicology, epidemiology, geology, biology, environmental sciences, or engineering. The commission sets standards and rules that protect Floridians and the environment based on sound scientific and technical validity, economic impacts, and risks and benefits to the public and Florida’s natural resources.

III. Effect of Proposed Changes:

The bill creates s. 14.2031, F.S., establishing the Statewide Office of Resiliency within the Executive Office of the Governor, headed by a Chief Resilience Officer appointed by and serving at the pleasure of the Governor. The Statewide Sea-Level Rise Task Force is created adjunct to the Statewide Office of Resiliency for the purpose of recommending consensus projections of the anticipated sea-level rise and flooding impacts along this state’s coastline.

³⁴ Regional Climate Leadership Summit, *Southeast Florida Regional Climate Change Compact* (2010), available at <http://southeastfloridaclimatecompact.org/wp-content/uploads/2014/09/compact.pdf> (last visited Oct. 31, 2019); SFRCCC, *What is the Compact?*, <http://southeastfloridaclimatecompact.org/about-us/what-is-the-compact/> (last visited Oct. 31, 2019).

³⁵ SFRCCC, *Regional Climate Action Plan*, <http://southeastfloridaclimatecompact.org/regional-climate-action-plan/> (last visited Oct. 31, 2019); SFRCCC, *Unified Sea Level Rise Projection, Southeast Florida*, 5, 11, 13, 33 (2015), available at <http://www.southeastfloridaclimatecompact.org/wp-content/uploads/2015/10/2015-Compact-Unified-Sea-Level-Rise-Projection.pdf> (last visited Oct. 31, 2019).

³⁶ Sections 380.24 and 163.3177(6)(g), F.S.

³⁷ State of Florida, Office of the Governor, *Executive Order Number 19-12*, 5 (2019), available at <https://www.flgov.com/wp-content/uploads/2019/01/EO-19-12-.pdf> (last visited Oct. 20, 2019).

³⁸ Governor Ron DeSantis, News Releases, *Governor Ron DeSantis Announces Dr. Julia Nesheiwat as Florida’s First Chief Resilience Officer* (Aug. 1, 2019), <https://flgov.com/2019/08/01/governor-ron-desantis-announces-dr-julia-nesheiwat-as-floridas-first-chief-resilience-officer/> (last visited Oct. 20, 2019).

The task force is composed of the following nine members:

- The Chief Resilience Officer, who shall serve as the chair of the task force;
- The DEP's Chief Science Officer, who shall serve as the vice-chair of the task force;
- One member appointed by the President of the Florida Senate;
- One member appointed by the Speaker of the Florida House of Representatives; and
- One representative each, appointed by their respective agency head, division director, executive director, or commission chair, from:
 - The Department of Transportation;
 - The Division of Emergency Management;
 - The Department of Agriculture and Consumer Services;
 - The Fish and Wildlife Conservation Commission; and
 - The Department of Economic Opportunity.

All appointments must be made no later than August 1, 2020.³⁹ The bill directs the Chief Resilience Officer to convene the task force no later than October 1, 2020, with the task force meeting thereafter upon the call of the chair.

The bill requires the task force to develop scientific information from appropriate sources the task force deems necessary to recommend consensus baseline projection, or a range of projections, of the expected rise in sea-level along this state's coastline for planning horizons designated by the task force. The projections may address various geographic areas of the state.

The task force is authorized to request the DEP to contract for services to assist in developing the recommended official baseline projections and to designate technical advisory groups, as the task force deems necessary, to assist in gathering scientific data to inform the task force's decision-making. The DEP is directed to serve as the contract administrator and to provide administrative support to the task force.

The bill requires the task force to submit its recommended consensus baseline projections to the Commission, along with the supporting data and assumptions used by the task force to develop the projections. The Commission is required to adopt or reject the recommended projections. If adopted, the projections, or range of projections, will serve as the state's official estimate for sea-level rise and flooding impacts when developing future state projects, plans, and programs, providing scientifically-based guidance for state agencies in planning and implementing their various duties and responsibilities.

For the 2020-2021 fiscal year, the sum of \$500,000 in nonrecurring funds is appropriated from the General Revenue Fund to the DEP for the purpose of the authorized contracting and for task force administrative expenses.

Lastly, the bill would sunset the task force and related provisions on July 1, 2023, but preserve the statutory establishment of the SOR, headed by the Chief Resilience Officer, within the Executive Office of the Governor.

The bill takes effect July 1, 2020.

³⁹ Under the bill, any vacancy on the task force would be filled in the same manner as the original appointment.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires the Chief Resilience Officer of the SRO to convene the task force composed of the identified members. Indeterminate but likely insignificant expenses may be incurred by the entities appointing members to the task force. If the task force designates technical advisory groups as authorized by the bill, the entity represented by members of such a group may incur indeterminate expenses.

The bill authorizes the task force to request the DEP to contract for services to develop the recommended projections of sea-level rise and requires the specified report to be submitted to the Commission. The task force could decide to recommend revision of the projections before expiration of the task force on July 1, 2023. In addition, the bill requires the DEP to provide administrative support to the task force. The DEP will incur indeterminate expenses for any authorized contract and for providing such support.

The Commission will incur indeterminate expenses to review and adopt or reject the task force's initial recommendations and, if the task force recommends revisions, will incur indeterminate expenses for the same purposes.

For the 2020-2021 fiscal year, the sum of \$500,000 in nonrecurring funds is appropriated from the General Revenue Fund to the DEP for the expenses associated with contracting for services to develop the projections and for task force administrative expenses.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following section of the Florida Statutes: 14.2031.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Infrastructure and Security

596-01913A-20

20207016pb

1 A bill to be entitled
 2 An act relating to the Statewide Office of Resiliency;
 3 creating s. 14.2031, F.S.; establishing the office
 4 within the Executive Office of the Governor; providing
 5 for appointment of the Chief Resilience Officer by the
 6 Governor; creating the Statewide Sea-Level Rise Task
 7 Force within the office; specifying the purpose of the
 8 task force; providing for the membership of the task
 9 force; providing timeframes for initial appointments
 10 and the task force's initial meeting; specifying
 11 duties of the task force; authorizing the Department
 12 of Environmental Protection to contract for specified
 13 services, upon request of the task force; requiring
 14 the Department of Environmental Protection to serve as
 15 the task force's contract administrator and to provide
 16 administrative support; authorizing the designation of
 17 technical advisory groups for specified purposes;
 18 prescribing reporting requirements; requiring the
 19 Environmental Regulation Commission to take certain
 20 action on the task force's recommendations; specifying
 21 the function of the consensus baseline projections;
 22 providing for future repeal of the task force;
 23 providing an appropriation; providing an effective
 24 date.

25
 26 Be It Enacted by the Legislature of the State of Florida:

27
 28 Section 1. Section 14.2031, Florida Statutes, is created to
 29 read:

Page 1 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

596-01913A-20

20207016pb

30 14.2031 Statewide Office of Resiliency.—The Statewide
 31 Office of Resiliency is established within the Executive Office
 32 of the Governor. The office shall be headed by a Chief
 33 Resilience Officer, who is appointed by and serves at the
 34 pleasure of the Governor. The Chief Resilience Officer shall
 35 perform duties and responsibilities assigned by the Governor.
 36 (1) The Statewide Sea-Level Rise Task Force, a task force
 37 as defined in s. 20.03(8), is created adjunct to the Statewide
 38 Office of Resiliency. Except as otherwise provided in this
 39 section, the task force shall operate in a manner consistent
 40 with s. 20.052. The purpose of the task force is to recommend
 41 consensus projections of the anticipated sea-level rise and
 42 flooding impacts along this state's coastline.
 43 (2) The task force is composed of the following members:
 44 (a) The Chief Resilience Officer, who shall serve as chair.
 45 (b) The Chief Science Officer of the Department of
 46 Environmental Protection, who shall serve as vice chair.
 47 (c) One member appointed by the President of the Senate.
 48 (d) One member appointed by the Speaker of the House of
 49 Representatives.
 50 (e) One representative each from the Department of
 51 Transportation, the Division of Emergency Management, the
 52 Department of Agriculture and Consumer Services, the Fish and
 53 Wildlife Conservation Commission, and the Department of Economic
 54 Opportunity, each appointed by his or her respective agency
 55 head, division director, executive director, or commission
 56 chair.
 57
 58 All appointments to the task force must be made no later than

Page 2 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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59 August 1, 2020. Any vacancy on the task force shall be filled in
 60 the same manner as the original appointment.

61 (3) The Chief Resilience Officer shall convene the task
 62 force by no later than October 1, 2020. The task force shall
 63 meet thereafter upon the call of the chair.

64 (4)(a) The task force shall develop official scientific
 65 information, from appropriate sources as determined by the task
 66 force, necessary to make recommendations on consensus baseline
 67 projections, or a range of projections, of the expected rise in
 68 sea level along the state's coastline for planning horizons
 69 designated by the task force. The projections may address
 70 various geographic areas of the state, as determined by the task
 71 force.

72 (b) The task force may request the Department of
 73 Environmental Protection to contract for services to assist the
 74 task force in developing the recommended official baseline
 75 projections. The Department of Environmental Protection shall
 76 serve as the contract administrator for any such contracts.

77 (c) The Department of Environmental Protection shall
 78 provide administrative support to the task force.

79 (d) The task force may designate technical advisory groups,
 80 as it deems necessary, to assist in the gathering of scientific
 81 data to inform the task force's decisionmaking.

82 (5) By January 1, 2021, the task force shall submit its
 83 recommended consensus baseline projections to the Environmental
 84 Regulation Commission, created pursuant to s. 20.255(6). The
 85 commission shall adopt or reject the task force's recommended
 86 projections. Following adoption by the commission, these
 87 projections serve as the state's official estimate of sea-level

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88 rise and flooding impacts along the state's coastline and must
 89 be used for the purpose of developing future state projects,
 90 plans, and programs. In its report, the task force must include
 91 supporting data and assumptions used by the task force in
 92 developing the recommended projections. The task force shall
 93 review the adopted consensus baseline projections as it deems
 94 appropriate, and shall submit any recommended revisions to the
 95 projections to the commission.

96 (6) Subsections (1) through (5) and this subsection are
 97 repealed July 1, 2023.

98 Section 2. For the 2020-2021 fiscal year, the sum of
 99 \$500,000 in nonrecurring funds is appropriated from the General
 100 Revenue Fund to the Department of Environmental Protection for
 101 the purpose of funding any contracts for services entered into
 102 by the department to assist the Statewide Sea-Level Rise Task
 103 Force in developing its recommended official baseline
 104 projections and for the administrative expenses of the task
 105 force.

106 Section 3. This act shall take effect July 1, 2020.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/09/2019

Meeting Date

SB 7016

Bill Number (if applicable)

Topic Statewide Office of Resiliency

Amendment Barcode (if applicable)

Name Elizabeth Alvi

Job Title Director of Policy

Address 308 North Monroe Street

Phone (850) 222.2473

Street

Tallahassee

FL

32301

Email Beth.Alvi@Audubon.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Audubon Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12-4-14
Meeting Date

SB 7016
Bill Number (if applicable)

Topic Statewide office of Resiliency

Amendment Barcode (if applicable)

Name Tara Taggart

Job Title Legislative Policy Analyst

Address PO Box 1757
Street

Phone 850-701-3603

Tallahassee, FL 32302
City State Zip

Email ttaggart@flcities.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12-19-14
Meeting Date

7056
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name DAVID CORREIA

Job Title _____

Address 430 E. Main St
Street

Phone _____

Orlando FL 32842
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing SEABA CORP FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Infrastructure and Security

BILL: CS/SB 178

INTRODUCER: Senator Rodriguez

SUBJECT: Public Financing of Construction Projects

DATE: December 10, 2019 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schreiber</u>	<u>Rogers</u>	<u>EN</u>	Favorable
2.	<u>Price</u>	<u>Miller</u>	<u>IS</u>	Fav/CS
3.	_____	_____	<u>AEG</u>	_____
4.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 178 requires a public entity that commissions or manages a construction project within the coastal building zone using funds appropriated from the state to conduct a sea-level impact projection (SLIP) study prior to commencing construction. The bill applies this requirement after July 1, 2021, only if certain baseline projections of sea-level rise and flooding impacts are ultimately adopted as the state's official estimates. The required study must be conducted, submitted to the Department of Environmental Protection (DEP), and published on DEP's website before construction can commence.

The bill requires DEP to adopt rules establishing standards for the SLIP studies, and the standards must include certain requirements for how the studies will be conducted and the information they must contain. DEP must publish and maintain a copy of all SLIP studies on its website for ten years after receipt. The bill requires DEP to adopt rules as necessary to administer the section and authorizes DEP to enforce the requirements of the section.

The bill authorizes DEP to bring a civil action to seek injunctive relief to cease construction, enforce the section or rules adopted pursuant thereto, or seek recovery of state funds expended on a coastal structure, if construction commences without complying with the section. The bill states that the section may not be construed to create a cause of action for damages.

The bill may have both negative and positive fiscal impacts in indeterminate amounts. See the “Fiscal Impact Statement” heading below for details.

The bill takes effect on the same date that SB 7016 or similar legislation takes effect.

II. Present Situation:

Sea-Level Rise and Coastal Flooding

With 1,350 miles of coastline and relatively low elevations, Florida is particularly vulnerable to coastal flooding.¹ There are three primary ways that climate change influences coastal flooding: sea-level rise, storm surge intensity, and rainfall intensity and frequency.²

Sea-level rise is an observed increase in the average local sea level or global sea-level trend.³ The two major causes of global sea-level rise are thermal expansion caused by the warming of the oceans (water expands as it warms) and the loss of land-based ice (ice sheets and glaciers) due to melting.⁴ Since 1880, the average global sea level has risen about 8 to 9 inches, and the rate of global sea-level rise has been accelerating.⁵ The National Oceanic and Atmospheric Administration (NOAA) utilizes tide gauges to measure changes in sea level, and provides data on local sea-level-rise trends.⁶ Analysis of this data shows some low-lying areas in the southeastern U.S. experience higher local rates of sea-level rise than the global average.⁷

Below is a table of projections for future sea-level rise, globally and in regions of Florida, by the year 2100:

¹ This measurement of Florida’s coastline increases to over 8,000 miles when accounting for bays, inlets, and waterways. See Florida Division of Emergency Management, *Enhanced State Hazard Mitigation Plan, State of Florida*, 107-108, 162 (2018) [hereinafter *SHMP*], available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Oct. 16, 2019).

² *Id.* at 107.

³ DEP, *Florida Adaptation Planning Guidebook*, Glossary (2018) [hereinafter *DEP Guidebook*], available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Oct. 16, 2019); NASA, *Facts: Sea Level*, <https://climate.nasa.gov/vital-signs/sea-level/> (last visited Oct. 16, 2019).

⁴ *DEP Guidebook*, at Glossary; NOAA, *Climate Change: Ocean Heat Content*, <https://www.climate.gov/news-features/understanding-climate/climate-change-ocean-heat-content> (last visited Oct. 16, 2019). More than 90 percent of the warming that has happened on Earth over the past 50 years has occurred in the ocean; IPCC, *The Ocean and Cryosphere in a Changing Climate*, SPM-8, SPM-10, SPM-19, SPM -21, SPM-23, 1-14, 4-3, 4-4, 4-14 (Sept. 2019) [hereinafter *IPCC Ocean and Cryosphere*], available at https://report.ipcc.ch/srocc/pdf/SROCC_FinalDraft_FullReport.pdf (last visited Oct. 16, 2019). Uncertainty regarding projected sea-level rise by 2100 is mainly determined by ice sheets, especially in Antarctica and Greenland, which are losing ice at increasing rates.

⁵ U.S. Global Change Research Program, *Fourth National Climate Assessment*, 757 (2018) [hereinafter *NCA4*], available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Oct. 31, 2019); *IPCC Ocean and Cryosphere*, at 4-3.

⁶ NOAA, *What is a Tide Gauge?*, <https://oceanservice.noaa.gov/facts/tide-gauge.html> (last visited Oct. 17, 2019); NOAA, *Tides and Currents, Sea Level Trends*, <https://tidesandcurrents.noaa.gov/sltrends/> (last visited Oct. 16, 2019); see *DEP Guidebook*, at 8, 16.

⁷ *NCA4*, at 757.

Sea-Level Rise Projections for the Year 2100			
Source	Scale	Low (feet)	High (feet)
Intergovernmental Panel on Climate Change ⁸	Global	1.4	2.75
U.S. Global Change Research Program ⁹	Global	1	4.3
Southeast Florida Regional Climate Change Compact Sea Level Rise Work Group ¹⁰	Southeast Florida	2.59	6.75
The Tampa Bay Climate Science Advisory Panel ¹¹	Tampa Bay Region	2	8.5

Florida’s coastal communities are experiencing high-tide flooding events, sometimes referred to as “sunny day” or “nuisance” flooding, with increasing frequency because sea-level rise increases the height of high tides.¹² In Florida, the area at risk from one foot of projected sea-level rise contains more than 65,000 homes and 121,909 people, and Florida’s 35 coastal counties contain 76% of its population.¹³ In the U.S., sea-level rise and flooding threaten approximately \$1 trillion in national wealth held in coastal real estate, and analyses estimate that there is a chance Florida could lose more than \$300 billion in property value by 2100.¹⁴ Sea-level rise affects the salinity of both surface water and groundwater through saltwater intrusion, posing a risk particularly for shallow coastal aquifers.¹⁵ Sea-level rise also pushes saltwater further

⁸ *IPCC Ocean and Cryosphere*, at 1-15, 4-4, CCB9-21. These projections are relative to a period of 1986-2005, and the projected range is based on different “representative concentration pathways,” which are scenarios of future concentrations of greenhouse gases and aerosols and chemically active gases, and land use changes.

⁹ *NCA4*, at 406, 758, available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Oct. 31, 2019).

¹⁰ Southeast Florida Regional Climate Change Compact Sea Level Rise Work Group, *Unified Sea Level Rise Projection, Southeast Florida*, 4-5 (2015), available at <https://southeastfloridacclimatecompact.org/wp-content/uploads/2015/10/2015-Compact-Unified-Sea-Level-Rise-Projection.pdf> (last visited Oct. 21, 2019). These projections are compared to the sea level in 1992.

¹¹ Tampa Bay Climate Science Advisory Panel, *Recommended Projections of Sea Level Rise in the Tampa Bay Region*, 1, 7 (Apr. 2019), available at http://www.tbrpc.org/wp-content/uploads/2019/05/CSAP_SLR_Recommendation_2019.pdf (last visited Oct. 16, 2019).

¹² *SHMP*, at 108, available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Oct. 15, 2019); NOAA, *High-Tide Flooding*, <https://toolkit.climate.gov/topics/coastal-flood-risk/shallow-coastal-flooding-nuisance-flooding> (last visited Oct. 16, 2019).

¹³ *DEP Guidebook*, at III, available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Oct. 16, 2019).

¹⁴ *NCA4*, at 324, 758; Zillow, *Climate Change and Housing: Will a Rising Tide Sink All Homes?* (2017), <https://www.zillow.com/research/climate-change-underwater-homes-12890/> (last visited Oct. 31, 2019) (stating that by 2100 \$883 billion in U.S. homes are at risk of being underwater with the total value of potentially underwater properties in Florida at \$413 billion); Union of Concerned Scientists, *New Study Finds 1 Million Florida Homes Worth \$351 Billion Will Be At Risk From Tidal Flooding* (2018), <https://www.ucsusa.org/about/news/1-million-florida-homes-risk-tidal-flooding> (last visited Oct. 31, 2019).

¹⁵ *SHMP*, at 106, available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Oct. 31, 2019).

upstream in tidal rivers and streams, raises coastal groundwater tables, and pushes saltwater further inland at the margins of coastal wetlands.¹⁶

Storm surge intensity and the intensity and precipitation rates of hurricanes are generally projected to increase.¹⁷ Higher sea levels will cause storm surges to travel farther inland and impact more properties than in the past.¹⁸ Storms and sea-level rise are likely to lead to increased coastal erosion.¹⁹

Increases in evaporation rates and water vapor in the atmosphere increase rainfall intensity and precipitation extremes, and the sudden onset of water can overwhelm stormwater infrastructure.²⁰ As sea levels and groundwater levels rise, low areas drain more slowly, and the combined effects of rising sea levels and extreme rainfall events are increasing the frequency and magnitude of coastal and lowland flood events.²¹

Coastal Construction

Coastal Construction Control Line

Under Florida law, coastal construction is regulated by the Department of Environmental Protection (DEP).²² The state's purpose is to protect Florida's beaches and dunes from imprudent construction that can jeopardize the stability of the beach-dune system, accelerate erosion, provide inadequate protection to upland structures, endanger adjacent properties, or interfere with public beach access.²³ "Coastal construction" is defined as any work or activity likely to have a material physical effect on existing coastal conditions or natural shore and inlet processes.²⁴ Florida's coastal local governments may establish coastal construction zoning and building codes in lieu of the statutory requirements as long as they are approved by DEP.²⁵

The coastal construction control line (CCCL) defines the portion of the beach-dune system that is subject to severe fluctuations caused by a 100-year storm surge, storm waves, or other forces such as wind, wave, or water level changes.²⁶ A 100-year storm is a shore-incident hurricane or any other storm with accompanying wind, wave, and storm surge intensity having a one percent

¹⁶ *Id.* at 108.

¹⁷ *Id.* at 106, 141; *IPCC Ocean and Cryosphere*, at 6-21, available at https://report.ipcc.ch/srocc/pdf/SROCC_FinalDraft_FullReport.pdf (last visited Oct. 16, 2019); *NCA4*, at 95, 97, 116-117, 1482, available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Oct. 31, 2019).

¹⁸ *NCA4*, at 758; *SHMP*, at 107, 112-113, 158-160; see also NOAA, *Florida Marine Debris Emergency Response Guide: Comprehensive Guidance Document* (Jan. 2019), available at https://marinedebris.noaa.gov/sites/default/files/publications-files/FL_Marine_Debris_Emergency_Response_Guide_2019.pdf (last visited Oct. 16, 2019).

¹⁹ *NCA4*, 331, 340-341, 833, 1054, 1495; *SHMP*, at 108; IPCC, *Climate Change and Land*, 4-44–4-45 (Aug. 2019), available at <https://www.ipcc.ch/site/assets/uploads/2019/08/Fullreport-1.pdf> (last visited Oct. 17, 2019).

²⁰ *SHMP*, at 99, 106, 116, 141, 181; *NCA4*, at 88, 763.

²¹ *SHMP*, at 106; *NCA4*, at 763.

²² Chapter 161, F.S.

²³ Section 161.053(1)(a), F.S.

²⁴ Section 161.021(6), F.S.

²⁵ Section 161.053(3), F.S.

²⁶ Section 161.053, F.S.; Fla. Admin. Code R. 62B-33.005(1); DEP, *The Homeowner's Guide to the Coastal Construction Control Line Program*, 3 (2017), available at <https://floridadep.gov/water/coastal-construction-control-line/documents/homeowners-guide-coastal-construction-control-line> (last visited Oct. 18, 2019).

chance of being equaled or exceeded in any given year.²⁷ Seaward of the CCCL, new construction and improvements to existing structures generally require a CCCL permit from DEP.²⁸ Due to the potential environmental impacts and greater risk of hazards from wind and flood, the standards for construction seaward of the CCCL are often more stringent than those applied in the rest of the coastal building zone.²⁹ Applicants must show that the proposed project will not result in a significant adverse impact.³⁰ CCCLs are established by DEP on a county-wide basis, and they currently exist for large portions of Florida's coast.³¹

The “mean high-water line” is the point on the shore marking the average height of the high waters over a 19-year period.³² The mean high-water line is generally the boundary between the publically-owned foreshore (the land alternately covered and uncovered by the tide) and the dry sand above the line which may be privately owned.³³ Generally, construction is prohibited within 50 feet of the mean high-water line, and this is known as the 50-foot setback.³⁴ Any structures below the mean high-water line which DEP determines serve no public purpose, endanger human life, health, or welfare, or prove to be undesirable or unnecessary must be adjusted, altered, or removed.³⁵

Above the mean high-water line is the “seasonal high-water line,” which accounts for variations in the local mean high water, such as spring tides that occur twice per month.³⁶ The seasonal high-water line is used to create 30-year erosion projections of long-term shoreline recession based on historical measurements.³⁷ DEP makes 30-year erosion projections of the location of the seasonal high-water line on a site-specific basis upon receipt of an application.³⁸ With certain exceptions, DEP or local governments may not issue CCCL permits for major structures that are seaward of the 30-year erosion projection.³⁹

²⁷ Fla. Admin. Code R. 62B-33.002(41).

²⁸ Section 161.053, F.S.; Fla. Admin. Code Chapters 62B-33 and 62B-34; DEP, *The Homeowner's Guide to the Coastal Construction Control Line Program*, 2 (2017); DEP, *ASK - Have Questions about the Coastal Construction Control Line (CCCL)?*, <https://floridadep.gov/water/coastal-construction-control-line/content/ask-have-questions-about-coastal-construction> (last visited Oct. 18, 2019).

²⁹ Fla. Admin. Code Ch. 62B-33.

³⁰ Fla. Admin. Code R. 62B-33.005.

³¹ Section 161.053(2), F.S.; DEP Geospatial Open Data, *Coastal Construction Control Lines (CCCL)*, http://geodata.dep.state.fl.us/datasets/4674ee6d93894168933e99aa2f14b923_2?geometry=-102.41%2C25.011%2C-60.596%2C31.77 (last visited Oct. 18, 2019).

³² Section 177.27(14), (15), F.S.

³³ Section 177.28, F.S.; ss. 161.052(1), 161.151(3), 161.161(3)-(5), and 161.191, F.S. Where an “erosion control line” is established, it serves as the mean high-water line when landward of the existing mean high-water line, and all lands seaward of a recorded erosion control line are deemed to be vested in the state.

³⁴ Fla. Admin. Code R. 62B-33.002(17).

³⁵ Section 161.061, F.S.

³⁶ Section 161.053(5)(a)2., F.S. “Seasonal high-water line” is defined as “the line formed by the intersection of the rising shore and the elevation of 150 percent of the local mean tidal range above local mean high water”; NOAA, *What Are Spring and Neap Tides?*, <https://oceanservice.noaa.gov/facts/springtide.html> (last visited Oct. 17, 2019).

³⁷ Fla. Admin. Code R. 62B-33.024.

³⁸ *Id.* Applicants may submit projections by licensed engineers.

³⁹ Section 161.053(5), F.S.; DEP, *The Homeowner's Guide to the Coastal Construction Control Line Program*, 6 (2017), available at <https://floridadep.gov/water/coastal-construction-control-line/documents/homeowners-guide-coastal-construction-control-line> (last visited Oct. 18, 2019).



The Coastal Zone Protection Act

The Coastal Zone Protection Act of 1985 (Act) was created to minimize the impacts that activities or construction near the coast have on Florida’s coastal areas.⁴⁰ The Legislature intended the Act to impose strict construction standards in Florida’s coastal areas to protect the natural environment, private property, and life.⁴¹ The Act covers activities and construction within the “coastal building zone:” an area stretching landward from the seasonal high-water line to a line 1,500 feet landward from the CCCL, except that on coastal barrier islands, the coastal building zone stretches 5,000 feet landward from the CCCL.⁴² The Act uses the term “construction” to mean either the act of construction or the result of construction, and defines construction as “the carrying out of any building, clearing, filling, excavation, or substantial improvement in the size or use of any structure or the appearance of any land.”⁴³

The Act defines certain types of structures regulated within the coastal building zone.⁴⁴ “Major structure[s]” are residential, commercial, or public buildings, and other construction having the potential for substantial impact on coastal zones.⁴⁵ “Nonhabitable major structure[s]” are structures that people would generally not dwell in, such as parking garages, drainage structures, electrical power plants, transmission lines, and underground storage tanks.⁴⁶ “Minor structure[s]” are structures that are considered to be expendable under wind, wave, or storm forces, and examples include walkways, bathhouses, fences, and uncovered paved areas.⁴⁷

⁴⁰ Sections 161.52-161.58, F.S.

⁴¹ Section 161.53(1),(4), and (5), F.S.

⁴² Section 161.54(1), F.S.; s. 161.55(4), F.S.

⁴³ Section 161.54(5), (12) F.S. “Substantial improvement” means “any repair, reconstruction, rehabilitation, or improvement of a structure when the actual cost of the improvement or repair of the structure to its pre-damage condition equals or exceeds 50 percent of the market value of the structure either: (a) Before the improvement or repair is started; or (b) If the structure has been damaged and is being restored, before the damage occurred.”

⁴⁴ Section 161.54(6), F.S.

⁴⁵ Section 161.54(6)(a), F.S.

⁴⁶ Section 161.54(6)(c), F.S.

⁴⁷ Section 161.54(6)(b), F.S.

The Act generally requires construction to be located a sufficient distance landward of the beach to permit natural shoreline fluctuations and preserve dune stability.⁴⁸ Nonhabitable major structures and minor structures must be designed to produce the minimum adverse impact on the beach and dune system.⁴⁹ Minor structures must be designed to produce the minimum adverse impact to adjacent properties and reduce the potential for water or wind-blown material.⁵⁰ The Act states that both DEP and local governments have the authority to adopt or enforce standards for construction seaward of the CCCL that are as restrictive or more restrictive than the Act.⁵¹

At or before the sale of real property located partially or totally seaward of the CCCL, the seller must give prospective purchasers a certain written disclosure statement, which states that the property may be subject to coastal erosion and to federal, state, and local regulations that govern coastal property.⁵² The disclosure statement indicates that DEP can provide additional information on whether significant erosion conditions are associated with the shoreline of the property being purchased. The Legislature found it necessary to ensure that purchasers of interests in real property located in coastal areas are fully aware that such lands are subject to frequent and severe fluctuations.⁵³

Florida Building Code

Department of Business and Professional Regulation's Florida Building Commission (the Commission) develops, amends, and adopts by rule the Florida Building Code.⁵⁴ The Florida Building Code provides the minimum standard building code which must be applied and enforced by each local government in Florida.⁵⁵ The code contains or incorporates by reference all laws and rules governing the design, construction, and repair of public and private structures in the state. In compliance with statutory requirements, local governments may pass ordinances creating local requirements that are more stringent than the statewide code.⁵⁶

The code contains structural design requirements for the design, construction, improvement, and repair of certain structures seaward of the CCCL or the 50-foot setback line.⁵⁷ Special standards in the code apply in areas such as High-Velocity Hurricane Zones and flood hazard areas.⁵⁸ In flood hazard areas, if repairing "substantial damage," meaning the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the before-damaged market value, all aspects of the structure must comply with the requirements for new construction for

⁴⁸ Section 161.55(3), F.S. The Act makes exceptions for certain structures such as piers, beach access ramps, or shore protection structures.

⁴⁹ Section 161.55(1), (2), F.S. Special requirements for flood proofing nonhabitable major structures exist for sewage treatment plants, public water supply systems, and underground utilities. These are intended to prevent infiltration of surface water from a 100-year storm event, or else loss of function during submersion.

⁵⁰ Section 161.55(1), F.S.

⁵¹ Section 161.56(1), F.S.

⁵² Section 161.57(2), F.S.

⁵³ Section 161.57(1), F.S.

⁵⁴ DBPR, *Building Code Information System*, <https://floridabuilding.org/c/default.aspx> (last visited Oct. 18, 2019).

⁵⁵ Section 553.73, F.S.; Fla. Admin. Code R. 61g20-1.001(1).

⁵⁶ Section 553.73 (4)-(5), F.S. Special exemptions apply to ordinances relating to flooding.

⁵⁷ Section 3109, Florida Building Code, Building, 6th Edition (2017), https://codes.iccsafe.org/content/FBC2017/chapter-31-special-construction#FBC2017_Ch31_Sec3109 (last visited Oct. 18, 2019).

⁵⁸ Section 202, Florida Building Code, Building, 6th Edition (2017).

flood design.⁵⁹ “Substantial structural damage” means certain damage to the load-carrying structures of a building, and the code has separate requirements for repairing such damage.⁶⁰

The Commission updates the code every three years, and the 7th edition will be adopted in 2020.⁶¹ The proposed modifications include changes related to hurricane protection, such as new roofing requirements to mitigate water intrusion, more stringent wind resistance for vinyl siding, additional inspections for exterior wall coverings, and revised wind speed requirements for essential facilities.⁶²

Coastal Resilience

State Programs

Governor DeSantis’ Executive Order 19-12 created the Office of Resilience and Coastal Protection to help prepare Florida’s coastal communities and habitats for impacts from sea-level rise by providing funding, technical assistance, and coordination among state, regional, and local entities.⁶³ In August of 2019, the Governor appointed Florida’s first Chief Resilience Officer, which will report to the Executive Officer of the Governor and collaborate with state agencies, local communities, and stakeholders to prepare for sea-level rise and climate change.⁶⁴

DEP’s Florida Resilient Coastlines Program helps prepare coastal communities and habitats for the effects of climate change and sea-level rise by offering technical assistance and funding to communities dealing with coastal flooding, erosion, and ecosystem changes.⁶⁵ In 2019, DEP awarded funding for numerous projects providing assistance for coastal Florida communities.⁶⁶ Priority areas include implementing statutory requirements and objectives, vulnerability assessments, adaptation plans, regional efforts, and environmental justice.⁶⁷

⁵⁹ Section 404.5, Florida Building Code, Existing Building, 6th Edition (2017), https://codes.iccsafe.org/content/FEBC2017/chapter-4-prescriptive-compliance-method#FEBC2017_Ch04_Sec404.5 (last visited Oct. 21, 2019).

⁶⁰ Section 404, Florida Building Code, Existing Building, 6th Edition (2017).

⁶¹ Section 553.73(7), F.S.; DBPR, *Materials Related to the 2020 Update, Supplements - Post Commission August 13, 2019*, http://www.floridabuilding.org/fbc/thecode/2020_Code_Development/2020_Code_Development_Process.htm (last visited Oct. 19, 2019). In the top table, under Florida Supplement, the links show modifications approved by the Commission.

⁶² Florida Senate, Committee on Community Affairs, *Video of Committee Meeting on 10/14/2019*, 32:00:00 http://www.flsenate.gov/Media/VideoPlayer?EventId=2443575804_2019101070 (last visited Oct. 19, 2019).

⁶³ State of Florida, Office of the Governor, *Executive Order Number 19-12*, 5 (2019), available at <https://www.flgov.com/wp-content/uploads/2019/01/EO-19-12-.pdf> (last visited Oct. 20, 2019).

⁶⁴ Governor Ron DeSantis, News Releases, *Governor Ron DeSantis Announces Dr. Julia Nesheiwat as Florida’s First Chief Resilience Officer* (Aug. 1, 2019), <https://flgov.com/2019/08/01/governor-ron-desantis-announces-dr-julia-nesheiwat-as-floridas-first-chief-resilience-officer/> (last visited Oct. 20, 2019).

⁶⁵ DEP, *Florida Resilient Coastlines Program*, <https://floridadep.gov/ResilientCoastlines> (last visited Oct. 19, 2019).

⁶⁶ DEP, *Funded Projects*, <https://floridadep.gov/rcp/florida-resilient-coastlines-program/content/funded-projects> (last visited Oct. 19, 2019).

⁶⁷ DEP, Resiliency Planning Grants, Fiscal Year 2020-2021, *Grant Goals and Priorities*, <https://floridadep.gov/sites/default/files/RPG-FY-20-21-Goals-and-Priorities.pdf> (last visited Oct. 19, 2019).

The program has published the Florida Adaptation Planning Guidebook to be used by local governments to develop and update adaptation plans for sea-level rise.⁶⁸ The guidebook breaks down the adaptation planning process into four steps, and below is a summary:

- **Context:** organizing and engaging stakeholders, and delineating the geographic boundaries of the planning area, including the assets and structures contained therein.
- **Vulnerability Assessment:** an exposure analysis to determine how much sea-level rise will occur and where, a sensitivity analysis to provide an inventory of community assets and features located in areas at risk, and assigning focus areas that will receive attention in adaptation strategies.
- **Adaptation Strategies:** assess adaptive capacities such as planning capabilities and fiscal capacity, prioritize adaptation needs, and identify adaptation strategies, which may include strategies in the following categories:
 - “Protection” strategies that are structurally defensive measures;
 - “Accommodation” strategies that alter the design of vulnerable structures so structures or land use can stay in place with modification;
 - “Retreat” strategies; and
 - “Avoidance” strategies that guide development away from areas subject to coastal hazards, by implementing policies or offering incentives.
- **Implementation:** survey funding options, create a schedule of activities, actions and actors, and monitor and evaluate adaptation strategies.⁶⁹

DEP’s Florida Coastal Management Program implements the Coastal Partnership Initiative, which makes funding from NOAA available to Florida’s 35 coastal counties, and municipalities therein, that are required to include a coastal zone protection element in their comprehensive plan.⁷⁰ Grant applications must benefit the management of coastal resources, and meet the purpose of at least one of the initiative’s priority areas: resilient communities, coastal resource stewardship, access to coastal resources, and working waterfronts.⁷¹

DEP issues permits for coastal armoring, defined as manmade structures, such as seawalls or bulkheads, that protect upland properties and structures from erosion, wave action, or currents.⁷² While hardened structures may be necessary in areas of high wave energy, armoring can create problems such as costly construction and maintenance, erosion, and loss of biodiversity and ecosystem services.⁷³ Living shorelines are a nature-based approach to coastal protection, using natural elements such as ecosystems, vegetation, stone, or organic materials to increase coastal

⁶⁸ *DEP Guidebook*, available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Oct. 19, 2019).

⁶⁹ *Id.* at 1-61.

⁷⁰ DEP, *Florida Coastal Management Program*, <https://floridadep.gov/rcp/fcmp> (last visited Oct. 19, 2019); DEP, *Coastal Partnership Initiative*, <https://floridadep.gov/rcp/fcmp/content/coastal-partnership-initiative> (last visited Oct. 19, 2019).

⁷¹ Fla. Admin. Code R. Ch. 62S-4.

⁷² Sections 161.053 and 161.085, F.S.; Fla. Admin. Code Rules 62B-33.0051, 62B-34.010(4), and 62B-41.002(4).

⁷³ DEP, *Living Shorelines*, <https://floridadep.gov/rcp/rcp/content/living-shorelines> (last visited Oct. 20, 2019).

resilience and adapt to sea-level rise.⁷⁴ DEP provides exemptions from environmental resource permitting for small-scale shoreline stabilization projects including living shorelines projects.⁷⁵

In addition to DEP, other state agencies are working on coastal resilience in Florida. The Department of Transportation plans for resilience to prepare Florida's transportation system for potential hazards.⁷⁶ The Department of Economic Opportunity works with DEP on the Community Resiliency Initiative, assisting communities with adaptation planning.⁷⁷ The Fish and Wildlife Conservation Commission is Florida's lead agency on addressing the impacts of climate change on fish and wildlife, including adaptation strategies for Florida's coastal ecosystems.⁷⁸ The Division of Emergency Management in the Executive Office of the Governor maintains a state-wide emergency management program, and its roles include administering federal mitigation grant programs and serving as Florida's state coordinating agency for the National Flood Insurance Program.⁷⁹

Regional Programs

The water management districts address flood protection as a core part of their respective missions, and many of their activities are related to resilience efforts. For example, the St. John's River Water Management District provides resources and cost-sharing to increase community resilience.⁸⁰ The South Florida Water Management District is implementing comprehensive plans for addressing sea-level rise, including a flood protection level of service program, incorporating sea-level rise projections into planning, conducting vulnerability assessments, and assisting local governments.⁸¹

In 2010, through a proactive regional collaboration to address climate change, the four counties of Broward, Miami-Dade, Monroe, and Palm Beach signed on to the Southeast Florida Regional Climate Change Compact.⁸² The Compact's innovative work has included developing a Regional

⁷⁴ Bilkovic et. al., *Living Shorelines: The Science and Management of Nature-Based Coastal Protection*, Taylor & Francis Group, 11-25 (2017); Florida Living Shorelines, *Home*, <http://floridalivingshorelines.com/> (last visited Oct. 20, 2019).

⁷⁵ Fla. Admin. Code R. 62-330.051(12)(e); see UF IFAS, *Streamlining Resiliency: Regulatory Considerations in Permitting Small-Scale Living Shorelines in Florida*, 1-3 (Apr. 2018), <https://edis.ifas.ufl.edu/pdf/SG/SG15500.pdf> (last visited Oct. 20, 2019).

⁷⁶ DOT, *Florida Transportation Plan (FTP): Resilience*, <http://www.floridatransportationplan.com/resilience.htm> (last visited Oct. 25, 2019); DOT, *Florida Transportation Plan (FTP): Resilience Subcommittee Members*, http://www.floridatransportationplan.com/resilience_committee.htm (last visited Oct. 31, 2019).

⁷⁷ DEO, *Adaptation Planning*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/adaptation-planning> (last visited Oct. 19, 2019).

⁷⁸ FWC, *What FWC is Doing*, <https://myfwc.com/conservation/special-initiatives/climate-change/fwc/> (last visited Oct. 19, 2019); FWC, *A Guide to Climate Change Adaptation for Conservation*, 6-81-6-108, 9-35-9-51 (2016), available at <https://myfwc.com/media/5864/adaptation-guide.pdf> (last visited Oct. 20, 2019).

⁷⁹ DEM, *Mitigation*, <https://www.floridadisaster.org/dem/mitigation/> (last visited Oct. 20, 2019); DEM, *State Flood Plain Management Program*, <https://www.floridadisaster.org/dem/mitigation/floodplain/> (last visited Oct. 20, 2019).

⁸⁰ St. John's River Water Management District, *Sea-Level Rise*, <https://www.sjrwmd.com/localgovernments/sea-level-rise/#projects> (last visited Oct. 30, 2019).

⁸¹ Akintunde Owosina, South Florida Water Management District, Governing Board Meeting, June 13, 2019, Chief, Hydrology and Hydraulics Bureau, *Impact of Sea Level Rise on the SFWMD Mission, Focus on Flood Protection*, 2, 6, 7-10 (June 13, 2019) available at <https://apps.sfwmd.gov/webapps/publicMeetings/viewFile/21964> (last visited Oct. 20, 2019).

⁸² Regional Climate Leadership Summit, *Southeast Florida Regional Climate Change Compact* (2010), available at <http://southeastfloridaclimatecompact.org/wp-content/uploads/2014/09/compact.pdf> (last visited Oct. 31, 2019); SFRCCC, *What is the Compact?*, <http://southeastfloridaclimatecompact.org/about-us/what-is-the-compact/> (last visited Oct. 31, 2019).

Climate Action Plan and developing a Unified Sea Level Rise Projection.⁸³ One of the many recommendations in the regional plan is for local governments in the region to incorporate the unified sea-level rise projections into their comprehensive plans, and at least 45 municipalities have completed this recommendation.⁸⁴

Florida's regional planning councils have many programs on resilience initiatives.⁸⁵ For example, the Tampa Bay Regional Planning Council formed the ONE BAY Resilient Communities program, which advances collaborative resilience in the Tampa Bay region.⁸⁶ The East Central Florida Regional Planning Council has produced a Regional Resiliency Action Plan and formed the East Central Florida Regional Resilience Collaborative.⁸⁷ The Northeast Florida Regional Council has provided a Regional Action Plan for sea-level rise.⁸⁸

Local Governments

Florida's local governments in coastal areas must have a coastal management element in their comprehensive plans.⁸⁹ These coastal management elements must use principles to eliminate inappropriate and unsafe development in coastal areas when opportunities arise, and they must:

- Include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise.
- Encourage the use of best practices development and redevelopment principles, strategies, and engineering solutions that will result in the removal of coastal real property from flood zone designations established by the Federal Emergency Management Agency (FEMA).
- Identify site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued in Florida.
- Be consistent with, or more stringent than, the flood-resistant construction requirements in the Florida Building Code and applicable federal flood plain management regulations.
- Require that any construction activities seaward of the coastal construction control lines be consistent with Ch. 161, F.S., which regulates coastal construction.

⁸³ SFRCCC, *Regional Climate Action Plan*, <http://southeastfloridaclimatecompact.org/regional-climate-action-plan/> (last visited Oct. 31, 2019); SFRCCC, *Unified Sea Level Rise Projection, Southeast Florida*, 5, 11, 13, 33 (2015), available at <http://www.southeastfloridaclimatecompact.org/wp-content/uploads/2015/10/2015-Compact-Unified-Sea-Level-Rise-Projection.pdf> (last visited Oct. 31, 2019).

⁸⁴ SFRCCC, *ST-1: Incorporate Projections Into Plans*, <http://southeastfloridaclimatecompact.org/recommendations/incorporate-projections-into-plans/> (last visited Oct. 31, 2019); see also SFRCCC, *Integrating the Unified Sea Level Rise Projection into Local Plans*, 17-21 (2017), available at <https://southeastfloridaclimatecompact.org/wp-content/uploads/2017/01/SLRGuidance-Doc.pdf> (last visited Oct. 16, 2019).

⁸⁵ *Peril of Flood - Florida's Coastal Resiliency Portal*, <https://www.perilofflood.net/> (last visited Oct. 30, 2019).

⁸⁶ Tampa Bay Regional Planning Council, *One Bay Resilient Communities*, <http://www.tbrpc.org/onebay/> (last visited Oct. 31, 2019).

⁸⁷ East Central Florida Regional Planning Council, *East Central Florida Regional Resiliency Action Plan* (2018), available at <http://ftp.ecfrpc.org/Projects/East%20Central%20Florida%20Regional%20Resiliency%20Action%20Plan.pdf> (last visited Oct. 31, 2019); East Central Florida Regional Planning Council, *East Central Florida Regional Resilience Collaborative*, <https://metroplanorlando.org/wp-content/uploads/CFMPOA-MOU-presentation.pdf> (last visited Oct. 31, 2019).

⁸⁸ Northeast Florida Regional Council, *Summary and Regional Action Plan: A Report of the Emergency Preparedness Committee on Sea Level Rise*, <http://www.nefrc.org/WiP/PDFs/Resource-Library/Regional-Action-Plan.pdf> (last visited Oct. 31, 2019).

⁸⁹ Sections 380.24 and 163.3177(6)(g), F.S.

- Encourage local governments to participate in the National Flood Insurance Program Community Rating System administered by the FEMA to achieve flood insurance premium discounts for their residents.⁹⁰

Florida's Community Planning Act authorizes local governments to establish an "adaptation action area" designation in their comprehensive plan for low-lying coastal zones that are experiencing coastal flooding and are vulnerable to the impacts of sea-level rise.⁹¹ This enables local governments to develop policies and funding priorities that improve coastal resilience and plan for sea-level rise.

Flood Insurance

The Federal Emergency Management Act (FEMA) administers the National Flood Insurance Program, created to offer federally subsidized flood insurance to property owners and to encourage land-use controls in floodplains.⁹² The National Flood Insurance Program makes flood insurance available to communities that adopt and enforce a floodplain management ordinance to reduce future flood risk to new construction in floodplains.⁹³ Communities eligible to participate in the National Flood Insurance Program community rating system receive discounts on flood insurance premiums.⁹⁴

An important aspect of the National Flood Insurance Program is the flood maps that FEMA creates to support the program.⁹⁵ A Flood Insurance Rate Map is an official map of a community on which FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community.⁹⁶ These maps have many applications relevant to resilience planning, including communicating base flood elevations and flood risk, establishing special flood hazard areas where flood insurance is required, and setting local floodplain and building standards.⁹⁷

SB 7016 Statewide Office of Resiliency

SB 7016 establishes the Statewide Office of Resiliency (SOR) within the Executive Office of the Governor, headed by a Chief Resilience Officer appointed by and serving at the pleasure of the

⁹⁰ Section 163.3178(2)(f), F.S. (referencing 44 C.F.R. part 60, relating to insurance and hazard mitigation, criteria for land management and use); Ch. 2015-69, Laws of Fla. This is referred to as the "Peril of Flood" law.

⁹¹ Sections 163.3177(6)(g) and (10) and 163.3164(1), F.S.; Ch. 2011-139, Laws of Fla.

⁹² 42 U.S.C. § 4001 *et seq.*; 44 C.F.R. Ch. I, Subchap. B.; FEMA, *The National Flood Insurance Program*, <https://www.fema.gov/national-flood-insurance-program> (last visited Oct. 20, 2019).

⁹³ FEMA, *National Flood Insurance Program, Program Description* (Aug. 1, 2002), available at https://www.fema.gov/media-library-data/20130726-1447-20490-2156/nfipdescrip_1_.pdf (last visited Oct. 20, 2019).

⁹⁴ FEMA, *Fact Sheet: Community Rating System* (2017), available at https://www.fema.gov/media-library-data/1507029324530-082938e6607d4d9eba4004890dbad39c/NFIP_CRS_Fact_Sheet_2017_508OK.pdf (last visited Oct. 20, 2019).

⁹⁵ FEMA, *FEMA Flood Map Service Center: Welcome!*, <https://msc.fema.gov/portal/home> (last visited Oct. 20, 2019).

⁹⁶ 44 C.F.R. § 59.1.

⁹⁷ FEMA, *Flood Maps: Know Your Risk and Take Action Against Flooding*, 2, available at https://www.fema.gov/media-library-data/1516468489259-8eb4bfef27ab35159b2f140a2926e809/What_Goes_Into_a_Flood_Map.pdf (last visited Oct. 20, 2019); *SHMP*, at 102-103, available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Oct. 16, 2019); *DEP Guidebook*, at 40-41, available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Oct. 16, 2019).

Governor. The bill also creates the Statewide Sea-Level Rise Task Force adjunct to the SOR. The task force is directed to develop scientific information from appropriate sources necessary to develop and recommend consensus baseline projections of the expected sea-level rise and flooding impacts along the state's coastline for planning horizons selected by the task force.

The bill requires the task force, by January 1, 2021, to submit its recommended consensus baseline projections to the Environmental Regulation Commission (Commission), which is required to adopt or reject the recommended projections. If adopted, the projections will serve as the state's official estimates for sea-level rise and flooding impacts when developing future state projects, plans, and programs, providing scientifically-based guidance for state agencies in planning and implementing their various duties and responsibilities.

III. Effect of Proposed Changes:

Section 1 creates s. 161.551, F.S., titled "Public financing of construction projects within the coastal building zone."

The bill creates definitions for five terms, defining them as they are used in the section:

- "Coastal structure" is defined as "a major structure or nonhabitable major structure within the coastal building zone." As used within the section, the term "coastal structure" would generally include residential, commercial, and public buildings that could substantially impact coastal zones, as well as major uninhabited structures such as parking garages or drainage structures, that are located landward of the seasonal high-water line to a line 1,500 feet landward from the coastal construction control line.
- "Public entity" is defined as "the state or any of its political subdivisions, or any municipality, county, agency, special district, authority, or other public body corporate of the state which is demonstrated to perform a public function or to serve a governmental purpose that could properly be performed or served by an appropriate governmental unit."
- "SLIP study" is defined as "a sea level impact projection study" as established by the Department of Environmental Protection (DEP) pursuant to requirements specified in the bill.
- "State-financed constructor" is defined as "a public entity that commissions or manages a construction project using funds appropriated from the state."
- "Substantial flood damage" is defined to mean "flood, inundation, or wave action damage resulting from a single event, such as a flood or tropical weather system, where such damage exceeds 25 percent of the market value of the coastal structure at the time of the event."

The bill requires DEP to develop by rule the standards for a SLIP study. The standards may require that a professional engineer sign off on the study. The standards must require that state-financed constructors, at a minimum, do all of the following for conducting a SLIP study:

- Use a systematic, interdisciplinary, and scientifically accepted approach in the natural sciences and construction design in conducting the study.
- Based on the official baseline projections of sea-level rise and flooding impacts adopted by the Commission, assess the flooding, inundation, and wave action damage risks relating to

the coastal structure over its expected life or 50 years, whichever is less. This assessment must:

- Take into account potential sea-level rise and increased storm risk during the expected life of the coastal structure or 50 years, whichever is less;
- Provide scientific and engineering evidence of the risk to the coastal structure and methods used to mitigate, adapt to, or reduce this risk;
- Use and consider available scientific research and generally accepted industry practices;
- Provide the mean average annual chance of substantial flood damage over the expected life of the coastal structure or 50 years, whichever is less; and
- Analyze potential public safety and environmental impacts resulting from damage to the coastal structure including, but not limited to, leakage of pollutants, electrocution and explosion hazards, and hazards resulting from floating or flying structural debris.
- Provide alternatives for the coastal structure's design and siting, including discussion of how such alternatives would affect the potential public safety and environmental impacts assessed in the study, as well as the risks and costs associated with maintaining, repairing, and constructing the coastal structure.

The bill requires DEP to publish and maintain on its website a copy of all SLIP studies it receives pursuant to the bill for a period of at least ten years following receipt. However, the bill requires DEP to redact, prior to publication, any portion of a SLIP study containing information that is exempt from Art. I, s. 24(a) of the State Constitution and s. 119.07(1), F.S., which provide for access to public records.

After July 1, 2021, and if official baseline projections are adopted pursuant to SB 7016,⁹⁸ the bill requires state-financed constructors to conduct SLIP studies pursuant to DEP's standards. The bill prohibits a state-financed constructor from commencing construction of a coastal structure without first doing all of the following:

- Conducting a SLIP study meeting the standards established by DEP.
- Submitting the SLIP study to DEP. If multiple coastal structures are to be built concurrently within one project, a state-financed constructor may conduct and submit one SLIP study for the entire project.
- Receiving notification from DEP that the study was received and published on DEP's website for at least 30 days. The bill states that the state-financed constructor is solely responsible for ensuring that the study submitted to DEP meets the established standards.

If a state-financed constructor begins construction of a coastal structure without first submitting a SLIP study as required under the section, then DEP is authorized to institute a civil action. Such civil action may be brought to:

- Seek injunctive relief to cease further construction of the coastal structure;
- Enforce compliance with s. 161.551, F.S., or rules adopted by DEP pursuant to it; or,
- If the coastal structure has been completed or substantially completed, seek recovery of all or a portion of state funds expended on the coastal structure.

⁹⁸ The Commission is provided six months (between January 1, 2021, when the task force must submit its recommended projections, and July 1, 2021) within which to review and adopt or reject the recommendations.

DEP is required to adopt rules as necessary to administer the section. DEP is authorized to enforce the requirements of the section. The section may not be construed to create a cause of action for damages.

Section 2 provides the bill takes effect on the same date that SB 7016 or similar legislation takes effect (July 1, 2020), if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill requires procedures that identify long-term risks to coastal structures, and potentially avoid some of the large costs of mitigating and dealing with future damage to, or even loss of, coastal structures. To the extent that costs of damage or destruction are avoided, residents and businesses may benefit. The bill may also have a positive, indeterminate impact on private service providers who may be engaged to perform the studies required by the bill. Therefore, the bill may have a positive, indeterminate impact on the private sector.

C. Government Sector Impact:

The bill requires DEP to promulgate and administer new regulations which may cause DEP to incur additional costs.

Requiring government entities to conduct a sea-level impact study prior to construction may result in an indeterminate, negative fiscal impact on the government sector in the short-term. However, the bill requires procedures that identify risks and potentially avoid damage and loss of coastal structures that are constructed, at least in part, using funds appropriated from the state. This may result in state funds, or potentially federal grant money that is appropriated from the state, being used for coastal structures that have less risk of damage or loss over time, or coastal structures that may remain undamaged or intact for a longer period of time. Therefore, the bill may result in an indeterminate, positive impact on the government sector in the long-term.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following section of the Florida Statutes: 161.551

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Infrastructure and Security on December 9, 2019:

The committee substitute:

- Delays the effective date of the bill until the date on which SB 7016 takes effect, July 1, 2020.
- Applies the requirement for a SLIP study after July 1, 2021, contingent on the Sea-Level Rise Task Force's recommended baseline projections being adopted by the Environmental Regulation Commission.
- Provides the flooding, inundation, and wave action damage risk assessment required by the bill be based on the State's official baseline projections.
- Clarifies that the remedies provided in the bill do not apply until after July 1, 2021.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/09/2019	.	
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The Committee on Infrastructure and Security (Rodriguez)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Effective July 1, 2021, section 161.551, Florida
Statutes, is created to read:

161.551 Public financing of construction projects within
the coastal building zone.—

(1) As used in this section, the term:

(a) "Coastal structure" means a major structure or



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11 nonhabitable major structure within the coastal building zone.

12 (b) "Public entity" means the state or any of its political
13 subdivisions, or any municipality, county, agency, special
14 district, authority, or other public body corporate of the state
15 which is demonstrated to perform a public function or to serve a
16 governmental purpose that could properly be performed or served
17 by an appropriate governmental unit.

18 (c) "SLIP study" means a sea level impact projection study
19 as established by the department pursuant to subsection (3).

20 (d) "State-financed constructor" means a public entity that
21 commissions or manages a construction project using funds
22 appropriated from the state.

23 (e) "Substantial flood damage" means flood, inundation, or
24 wave action damage resulting from a single event, such as a
25 flood or tropical weather system, where such damage exceeds 25
26 percent of the market value of the coastal structure at the time
27 of the event.

28 (2) After July 1, 2021, if official baseline projections
29 are adopted as provided in s. 14.203, a state-financed
30 constructor may not commence construction of a coastal structure
31 without:

32 (a) Conducting a SLIP study that meets the requirements
33 established by the department;

34 (b) Submitting the study to the department; and

35 (c) Receiving notification from the department that the
36 study was received and that it has been published on the
37 department's website pursuant to paragraph (6) (a) for at least
38 30 days. The state-financed constructor is solely responsible
39 for ensuring that the study submitted to the department for



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40 publication meets the requirements under subsection (3).

41 (3) The department shall develop by rule a standard by
42 which a state-financed constructor must conduct a SLIP study and
43 may require that a professional engineer sign off on the study.
44 At a minimum, this standard must require that a state-financed
45 constructor do all of the following:

46 (a) Use a systematic, interdisciplinary, and scientifically
47 accepted approach in the natural sciences and construction
48 design in conducting the study.

49 (b) Based on the official baseline projections of sea-level
50 rise and flooding impacts adopted as provided in s. 14.203,
51 assess the flooding, inundation, and wave action damage risks
52 relating to the coastal structure over its expected life or 50
53 years, whichever is less.

54 1. The assessment must take into account potential sea
55 level rise and increased storm risk during the expected life of
56 the coastal structure or 50 years, whichever is less.

57 2. The assessment must provide scientific and engineering
58 evidence of the risk to the coastal structure and methods used
59 to mitigate, adapt to, or reduce this risk.

60 3. The assessment must use and consider available
61 scientific research and generally accepted industry practices.

62 4. The assessment must provide the mean average annual
63 chance of substantial flood damage over the expected life of the
64 coastal structure or 50 years, whichever is less.

65 5. The assessment must analyze potential public safety and
66 environmental impacts resulting from damage to the coastal
67 structure including, but not limited to, leakage of pollutants,
68 electrocution and explosion hazards, and hazards resulting from



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69 floating or flying structural debris.

70 (c) Provide alternatives for the coastal structure's design
71 and siting, and how such alternatives would impact the risks
72 specified in subparagraph (b)5. as well as the risk and cost
73 associated with maintaining, repairing, and constructing the
74 coastal structure.

75
76 If multiple coastal structures are to be built concurrently
77 within one project, a state-financed constructor may conduct and
78 submit one SLIP study for the entire project for publication by
79 the department.

80 (4) If a state-financed constructor commences construction
81 of a coastal structure, but has not complied with the SLIP study
82 requirement under subsection (2), the department may institute a
83 civil action in a court of competent jurisdiction to:

84 (a) Seek injunctive relief to cease further construction of
85 the coastal structure or enforce compliance with this section or
86 with rules adopted by the department pursuant to this section.

87 (b) If the coastal structure has been completed or has been
88 substantially completed, seek recovery of all or a portion of
89 state funds expended on the coastal structure.

90 (5) This section may not be construed to create a cause of
91 action for damages.

92 (6) The department:

93 (a) Shall publish and maintain a copy of all SLIP studies
94 submitted pursuant to this section on its website for at least
95 10 years after receipt. However, any portion of a study
96 containing information that is exempt from s. 119.07(1) and s.
97 24(a), Art. I of the State Constitution must be redacted by the



143802

98 department before publication.

99 (b) Shall adopt rules as necessary to administer this
100 section.

101 (7) The department may enforce the requirements of this
102 section.

103 Section 2. This act shall take effect on the same date that
104 SB 7016 or similar legislation takes effect, if such legislation
105 is adopted in the same legislative session or an extension
106 thereof and becomes law.

107
108 ===== T I T L E A M E N D M E N T =====

109 And the title is amended as follows:

110 Delete everything before the enacting clause
111 and insert:

112 A bill to be entitled
113 An act relating to public financing of construction
114 projects; creating s. 161.551, F.S.; defining terms;
115 prohibiting state-financed constructors from
116 commencing construction of certain structures in
117 coastal areas after a specified date without first
118 conducting a sea level impact projection study;
119 requiring the Department of Environmental Protection
120 to develop by rule a standard for such studies;
121 requiring the department to publish such studies on
122 its website, subject to certain conditions; requiring
123 the department to enforce certain requirements and to
124 adopt rules; providing for enforcement; providing a
125 contingent effective date.

By Senator Rodriguez

37-00373-20

2020178__

1 A bill to be entitled
 2 An act relating to public financing of construction
 3 projects; creating s. 161.551, F.S.; defining terms;
 4 prohibiting state-financed constructors from
 5 commencing construction of certain structures in
 6 coastal areas without first conducting a sea level
 7 impact projection study; requiring the Department of
 8 Environmental Protection to develop by rule a standard
 9 for such studies; requiring the department to publish
 10 such studies on its website, subject to certain
 11 conditions; requiring the department to enforce
 12 certain requirements and to adopt rules; providing for
 13 enforcement; providing an effective date.

14 Be It Enacted by the Legislature of the State of Florida:

15 Section 1. Section 161.551, Florida Statutes, is created to
 16 read:

17 161.551 Public financing of construction projects within
 18 the coastal building zone.—

19 (1) As used in this section, the term:

20 (a) "Coastal structure" means a major structure or
 21 nonhabitable major structure within the coastal building zone.

22 (b) "Public entity" means the state or any of its political
 23 subdivisions, or any municipality, county, agency, special
 24 district, authority, or other public body corporate of the state
 25 which is demonstrated to perform a public function or to serve a
 26 governmental purpose that could properly be performed or served
 27 by an appropriate governmental unit.

28 Page 1 of 4

29 CODING: Words ~~stricken~~ are deletions; words underlined are additions.

37-00373-20

2020178__

30 (c) "SLIP study" means a sea level impact projection study
 31 as established by the department pursuant to subsection (3).

32 (d) "State-financed constructor" means a public entity that
 33 commissions or manages a construction project using funds
 34 appropriated from the state.

35 (e) "Substantial flood damage" means flood, inundation, or
 36 wave action damage resulting from a single event, such as a
 37 flood or tropical weather system, where such damage exceeds 25
 38 percent of the market value of the coastal structure at the time
 39 of the event.

40 (2) A state-financed constructor may not commence
 41 construction of a coastal structure without:

42 (a) Conducting a SLIP study that meets the requirements
 43 established by the department;

44 (b) Submitting the study to the department; and

45 (c) Receiving notification from the department that the
 46 study was received and that it has been published on the
 47 department's website pursuant to paragraph (6) (a) for at least
 48 30 days. The state-financed constructor is solely responsible
 49 for ensuring that the study submitted to the department for
 50 publication meets the requirements under subsection (3).

51 (3) The department shall develop by rule a standard by
 52 which a state-financed constructor must conduct a SLIP study and
 53 may require that a professional engineer sign off on the study.
 54 At a minimum, this standard must require that a state-financed
 55 constructor do all of the following:

56 (a) Use a systematic, interdisciplinary, and scientifically
 57 accepted approach in the natural sciences and construction
 58 design in conducting the study.

Page 2 of 4

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59 (b) Assess the flooding, inundation, and wave action damage
 60 risks relating to the coastal structure over its expected life
 61 or 50 years, whichever is less.

62 1. The assessment must take into account potential sea
 63 level rise and increased storm risk during the expected life of
 64 the coastal structure or 50 years, whichever is less.

65 2. The assessment must provide scientific and engineering
 66 evidence of the risk to the coastal structure and methods used
 67 to mitigate, adapt to, or reduce this risk.

68 3. The assessment must use and consider available
 69 scientific research and generally accepted industry practices.

70 4. The assessment must provide the mean average annual
 71 chance of substantial flood damage over the expected life of the
 72 coastal structure or 50 years, whichever is less.

73 5. The assessment must analyze potential public safety and
 74 environmental impacts resulting from damage to the coastal
 75 structure including, but not limited to, leakage of pollutants,
 76 electrocution and explosion hazards, and hazards resulting from
 77 floating or flying structural debris.

78 (c) Provide alternatives for the coastal structure's design
 79 and siting, and how such alternatives would impact the risks
 80 specified in subparagraph (b)5. as well as the risk and cost
 81 associated with maintaining, repairing, and constructing the
 82 coastal structure.

83
 84 If multiple coastal structures are to be built concurrently
 85 within one project, a state-financed constructor may conduct and
 86 submit one SLIP study for the entire project for publication by
 87 the department.

Page 3 of 4

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37-00373-20

2020178__

88 (4) If a state-financed constructor commences construction
 89 of a coastal structure but has not complied with the SLIP study
 90 requirement under subsection (2), the department may institute a
 91 civil action in a court of competent jurisdiction to:

92 (a) Seek injunctive relief to cease further construction of
 93 the coastal structure or enforce compliance with this section or
 94 with rules adopted by the department pursuant to this section.

95 (b) If the coastal structure has been completed or has been
 96 substantially completed, seek recovery of all or a portion of
 97 state funds expended on the coastal structure.

98 (5) This section may not be construed to create a cause of
 99 action for damages.

100 (6) The department:

101 (a) Shall publish and maintain a copy of all SLIP studies
 102 submitted pursuant to this section on its website for at least
 103 10 years after receipt. However, any portion of a study
 104 containing information that is exempt from s. 119.07(1) and s.
 105 24(a), Art. I of the State Constitution must be redacted by the
 106 department before publication.

107 (b) Shall adopt rules as necessary to administer this
 108 section.

109 (7) The department may enforce the requirements of this
 110 section.

111 Section 2. This act shall take effect July 1, 2020.

Page 4 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/9/19
Meeting Date

SB 178
Bill Number (if applicable)

Topic Public Financing of Construction Projects

Amendment Barcode (if applicable)

Name Carol Bowen

Job Title Chief Lobbyist

Address 3730 Coconut Creek Pkwy, Ste 200 Phone (954) 465-6811
Street

Coconut Creek, FL 33066 Email cbowen@abeastfence.com
City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Associated Builders and Contractors

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/09/2019

Meeting Date

SB 0178

Bill Number (if applicable)

Topic Public Financing of Construction Projects

Amendment Barcode (if applicable)

Name Elizabeth Alvi

Job Title Director of Policy

Address 308 North Monroe Street

Phone (850) 222.2473

Street

Tallahassee

FL

32301

Email Beth.Alvi@Audubon.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Audubon Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12-9-19

Meeting Date

178

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name DAVID CURRAN

Job Title _____

Address 9935 Sun St

Phone _____

Street

Orlando

City

FL

State

32819

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing SERRA CLUB FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Infrastructure and Security

BILL: SB 7018

INTRODUCER: Infrastructure and Security Committee

SUBJECT: Electric Vehicle Charging Station Infrastructure

DATE: December 10, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Price	Miller		IS Submitted as Comm. Bill/Fav

I. Summary:

SB 7018 requires the Public Service Commission (PSC), in coordination with the Department of Transportation and the Department of Agriculture and Consumer Services, to develop and recommend a plan for the development of electric vehicle (EV) charging station infrastructure along the State Highway System (SHS). The bill sets out a number of Legislative findings, as well as the nonexclusive goals and objectives of the recommended plan.

The bill requires the recommended plan to be developed and submitted to the Governor, the Senate President, and the House Speaker by July 1, 2021. The plan must include recommendations for legislation and may include other recommendations as determined by the PSC. The bill also requires the PSC, by December 1, 2020, to file a status report containing any preliminary recommendations, including recommendations for legislation.

The bill presents an indeterminate negative fiscal impact in the short-term but an expected positive, indeterminate fiscal impact in the long-term. See the “Fiscal Impact Statement” heading below for details.

The bill takes effect July 1, 2020.

II. Present Situation:

Burning fossil fuels such as gasoline and diesel releases carbon dioxide into the atmosphere. Increased levels of carbon dioxide, along with other greenhouse gas levels, warm the earth’s atmosphere, resulting in documented effects such as sea-level rise, storm surge intensity, and increased rainfall and intensity.¹ According to information released in February of this year by the United States Energy Information Administration, of the 230.1 million metric tons (MMTs)

¹ Florida Division of Emergency Management, *Enhanced State Hazard Mitigation Plan, State of Florida*, 106, 141 (2018) available at <https://www.floridadisaster.org/globalasset> (last visited November 16, 2019).

of carbon dioxide produced in Florida in 2016, the transportation sector accounted for 103.6 MMTs.²

Electric vehicles (EVs) offer a cleaner fuel source, and interest in EV use has been driven in part by their potential for reduction in greenhouse gas emissions. However, their relative high cost compared to conventional fuel-powered vehicles and their relative limited range have restricted the commercial viability of EVs.³ Yet, while advancements in EV-related technology are continuing, EV manufacturing is rising, and EV prices have been dropping, representatives in both the government and the private sector suggest that successful adoption of EV use is heavily dependent on the accessibility of charging stations.⁴

Types of EVs

The U.S. Department of Energy's Alternative Fuels Data Center (AFDC) uses the term, "electric-drive vehicles," to collectively refer to hybrid electric vehicles (HEVs), plug-in hybrid electric vehicles (PHEVs), and all-electric vehicles (AEVs). According to the AFDC:

- HEVs are primarily powered by an internal combustion engine that runs on conventional or alternative fuel and an electric motor that uses energy stored in a battery. The battery is charged through regenerative braking and by the internal combustion engine and is not plugged in to charge.
- PHEVs are powered by an internal combustion engine that can run on conventional or alternative fuel and an electric motor that uses energy stored in a battery. The vehicle can be plugged in to an electric power source to charge the battery. Some can travel nearly 100 miles on electricity alone, and all can operate solely on gasoline (similar to a conventional hybrid).
- AEVs use a battery to store the electric energy that powers the motor. AEV batteries are charged by plugging the vehicle in to an electric power source.⁵

EV Charging Equipment

EV charging equipment is generally classified based on the rate at which the equipment charges the EV batteries. Charging times vary, depending on the depletion level of the battery, how much energy the battery holds, the type of battery, and the type of supply equipment. According to the AFDC, charging times can range from less than 20 minutes to 20 hours or more, depending on the identified factors. Potential driving distance ranges from:

- Two to five miles of range per one hour of charging for AC Level 1 supply equipment;
- Ten to twenty miles per one hour of charging for AC Level 2 supply equipment; and

² U.S. Energy Information Administration, *Energy-Related Carbon Dioxide Emissions By State, 2005-2016* (February 2019), Table 4., available at <https://www.eia.gov/environment/emissions/state/analysis/pdf/stateanalysis.pdf> (last visited November 16, 2019).

³ See the Federal Highway Administration's *FHWA NHTS Brief, Electric Vehicle Feasibility*, July 2016, pp. 1-2, available at <https://nhts.ornl.gov/briefs/EVFeasibility20160701.pdf> (last visited November 16, 2019).

⁴ *Id.* at p. 2. See also CBSChicago, *Electric Vehicle Sales on the Rise, But More Charging Stations Needed To Keep the Trend Going*, September 19, 2019, available at <https://chicago.cbslocal.com/2019/09/19/electric-vehicles-super-fast-charging-stations/> (last visited November 16, 2019).

⁵ See the AFDC's website available at: <https://www.afdc.energy.gov/vehicles/electric.html>. (Last visited November 20, 2017.)

- Sixty to eighty miles per twenty minutes of charging for DC fast charging supply equipment.⁶

According to the AFDC, for most drivers, charging currently occurs at home or at fleet facilities.⁷

More specifically, Level 1 (home) charging cords come as standard equipment on new EVs, only require a standard 120-volt outlet, and can add about 50 miles of range in an overnight charge. Level 1 charging is sufficient for low- and medium-range PHEVs and all AEVs for drivers with relatively low daily driving.⁸

Level 2 (home and public) charging commonly requires a charging unit on a 240-volt circuit, such as is used to run a household clothes dryer, with the charging rate dependent on the rate at which a vehicle can accept a charge and the maximum current available. An eight-hour charge will add about 180 miles of range with a typical 30-amp circuit. This method may require the purchase of a home charging unit and modifications to a home electric system but charges from two to eight times faster than a Level 1, depending on the amperage and the vehicle. These chargers are said to be the most common at public charging places like offices, grocery stores, and parking garages.⁹

DC Fast Chargers (public charging) can typically add 50 to 90 miles in 30 minutes, depending on the charging station's power capacity and the make of the EV. These chargers are best used for longer travel distances; vehicles used the major portion of a day, such as taxis; and for vehicles whose drivers have limited access to home charging.¹⁰

Tesla recently opened a "next-generation" EV charging station in Las Vegas supporting a peak rate of up to 250 kilowatts capable of charging up to 1,500 vehicles per day. However only one Tesla vehicle can charge at the peak rate, resulting in up to 180 miles of range in 15 minutes on a Tesla Model 3 Long Range.¹¹

Additional charging options are under development, such as an industry standard for higher rates of charging using power levels common at commercial and industrial locations in the United States. The standard's target is power levels far exceeding currently typical voltages.¹²

⁶ *Id.*

⁷ AFDC, *Developing Infrastructure to Charge Electric Plug-In Vehicles*, available at https://afdc.energy.gov/fuels/electricity_infrastructure.html (last visited November 16, 2019).

⁸ UCSUSA, *Electric Vehicle Charging, Types, Time, Cost and Savings*, (March 2018) available at <https://www.ucsusa.org/resources/electric-vehicle-charging-types-time-cost-and-savings> (last visited November 18, 2019).

⁹ *Id.*

¹⁰ *Id.*

¹¹ See TechCrunch, *Tesla's new V3 Supercharger can charge up to 1,500 electric vehicles a day*, Korosec, K., (July 2019), available at <https://techcrunch.com/2019/07/18/teslas-new-v3-supercharger-can-charge-up-to-1500-electric-vehicles-a-day/2019/07/18/teslas-new-v3-supercharger-can-charge-up-to-1500-electric-vehicles-a-day/>.

¹² *Supra* note 7.

Current Availability of EV Charging Stations in Florida

Section 377.815, F.S., authorizes, but does not require, the Florida Department of Agriculture and Consumer Services to post information on its website relating to alternative fueling stations (including electric vehicle charging stations) that are available for public use in this state. The Department's website contains addresses by city and county on EV charging station locations in Florida reflecting 930 charging station locations by specific address.¹³ The AFDC currently totals the number of public EV charging stations in Florida at 1,324, representing 3,518 charging outlets.¹⁴

As a tool against the effects of climate change, whether the currently available charging stations are sufficient (in number, location, and charging capability) to encourage expansion of EV use in Florida, by individuals and by commercial fleets, is in question.

III. Effect of Proposed Changes:

The bill requires development of a recommended plan for the development of EV charging station infrastructure along the SHS.¹⁵

The bill recites the following Legislative findings:

- Climate change may have significant impacts to the State of Florida which will require the development of avoidance, adaptation, and mitigation strategies to address these potential impacts on future state projects, plans, and programs;
- A significant portion of the carbon dioxide emissions in Florida are produced by the transportation sector;
- EVs can help reduce these emissions, thereby helping to reduce the impact of climate change on the state;
- Use of EVs for non-local driving requires adequate, reliable charging stations to help with electric vehicle battery range limitations;
- Having adequate, reliable charging stations along the SHS will also help with evacuations during hurricanes or other disasters;
- Ensuring the prompt installation of adequate, reliable charging stations is in the public interest; and
- A recommended plan for electric vehicle charging station infrastructure should be established to address changes in the emerging electric vehicle market and necessary charging infrastructure.

¹³ See the Florida Department of Agriculture and Consumer Services website, select *Electricity*, available at <https://www.fdacs.gov/Energy/Florida-Energy-Clearinghouse/Transportation> (last visited November 16, 2019).

¹⁴ AFDC, *Alternative Fueling Station Counts By State*, available at <https://afdc.energy.gov/stations/states> (last visited November 16, 2019).

¹⁵ Section 334.03(24), F.S., defines the SHS as "the interstate system and all other roads within the state which were under the jurisdiction of the state on June 10, 1995, and roads constructed by an agency of the state for the State Highway System, plus roads transferred to the state's jurisdiction after that date by mutual consent with another governmental entity, but not including roads so transferred from the state's jurisdiction. These facilities shall be facilities to which access is regulated."

The Public Service Commission (PSC),¹⁶ in coordination with the Department of Transportation and the Department of Agriculture and Consumer Services, is directed to develop and recommend a plan for current and future plans for the development of EV charging station infrastructure along the SHS. The PSC is authorized to consult with other agencies as it deems appropriate.

The bill requires the recommended plan to be developed and submitted to the Governor, the Senate President, and the House Speaker by July 1, 2021. The plan must include recommendations for legislation and may include any other recommendations as determined by the PSC.

The bills sets out the following goals and objectives of the plan, including, but not limited to:

- Projecting the increase in use of EVs in the state over the next 20 years and determining how to ensure an adequate supply of reliable EV charging stations to support and encourage this growth in a manner supporting a competitive market with ample consumer choice;
- Evaluating and comparing the types of EV charging stations available at present and in the future, including the technology and infrastructure incorporated in such stations, along with the circumstances within which each type of station and infrastructure is typically used, including fleet charging, for the purpose of identifying any advantages to developing particular types or uses of these stations;
- Considering strategies to develop this supply of charging stations, including, but not limited to, methods of building partnerships with local governments, other state and federal entities, electric utilities, the business community, and the public in support of EV charging stations;
- Identifying the types or characteristics of locations along the SHS to support a supply of electric vehicle charging stations that will:
 - Accomplish the goals and objectives of this section;
 - Support both short-range and long-range electric vehicle travel;
 - Encourage the expansion of EV use in this state; and
 - Adequately serve evacuation routes in this state;
- Identifying any barriers to the use of EVs and EV charging station infrastructure both for short- and long-range EV travel along the SHS;
- Identifying an implementation strategy for expanding electric vehicle and charging station infrastructure use in this state;
- Identifying the type of regulatory structure for the delivery of electricity to EVs and charging station infrastructure, including competitive neutral policies and the participation of public utilities in the marketplace; and

¹⁶ Sections 350.011, 366.04, and 366.05, F.S., set out the jurisdiction, powers, and duties of the PSC. With respect to the PSC's current regulation of electric industries, the PSC regulates investor-owned electric companies and matters such as rates and charges, meter and billing accuracy, electric lines up to a meter, reliability of electric service, new construction safety code compliance for transmission and distribution; territorial agreements and disputes, and the need for certain power plants and transmission lines. The PSC does not regulate rates and adequacy of services provided by municipally-owned and rural cooperative electric utilities, except for safety oversight; electrical wiring inside a customer's building; taxes on the electric bill; physical placement of transmission and distribution lines; damages claims; right of way matters, or physical placement or relocation of utility poles. See PSC, *When to Call The Florida Public Service Commission*, available at http://www.psc.state.fl.us/Files/PDF/Publications/Consumer/Brochure/When_to_Call_the_PSC.pdf (last visited November 25, 2019).

- Reviewing emerging technologies in the electric and alternative vehicle market, including alternative fuel sources.

Lastly, the bill requires the PSC, by December 1, 2020, to file a status report with the Governor, the Senate President, and the House Speaker containing any preliminary recommendations, including recommendations for legislation.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that development of the required plan increases the number of EV charging stations in the state, residents, businesses, and tourists are expected to benefit from increased availability of EV charging stations, facilitating mobility and commerce and reducing costs related to EV travel time. To the extent that increased EV use is encouraged, the state may realize reduced greenhouse gas emissions, thereby contributing to the overall health of the state's residents and environmental resources. Indeterminate but positive economic, environmental, and social benefits may be realized.

C. Government Sector Impact:

The PSC will incur expenses in unknown amounts associated with developing and submitting the required status report and recommended plan and legislation. The Departments of Transportation and of Agriculture and Consumer Services will incur indeterminate expenses relating to the required coordination in developing the recommended plan. Increased availability of EV charging stations is expected to produce positive fiscal impacts through increased mobility and commerce and reduction of costs related to EV travel time, as well as reducing greenhouse gas emissions, thereby contributing to the overall health of the state's residents and environmental resources. Indeterminate but positive economic, environmental, and social benefits may be realized.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following section of the Florida Statutes: 366.945.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Infrastructure and Security

596-01915-20

20207018pb

1 A bill to be entitled
 2 An act relating to electric vehicle charging station
 3 infrastructure; creating s. 366.945, F.S.; providing
 4 legislative findings; requiring the Public Service
 5 Commission, in consultation with the Department of
 6 Transportation and the Office of Energy within the
 7 Department of Agriculture and Consumer Services, to
 8 develop and recommend, by a specified date, to the
 9 Governor, the President of the Senate, and the Speaker
 10 of the House of Representatives a plan for the
 11 development of electric vehicle charging station
 12 infrastructure along the State Highway System;
 13 authorizing the commission to consult with other
 14 agencies as the commission deems appropriate;
 15 requiring the plan to include recommendations for
 16 legislation; authorizing the plan to include other
 17 recommendations as determined by the commission;
 18 providing the goals and objectives of the plan;
 19 requiring the commission to file a status report with
 20 the Governor and the Legislature by a specified date
 21 containing any preliminary recommendations, including
 22 recommendations for legislation; providing an
 23 effective date.

24
 25 Be It Enacted by the Legislature of the State of Florida:

26
 27 Section 1. Section 366.945, Florida Statutes, is created to
 28 read:
 29 366.945 Electric vehicle charging stations; infrastructure

Page 1 of 4

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596-01915-20

20207018pb

30 plan development.
 31 (1) The Legislature finds that:
 32 (a) Climate change may have significant impacts to this
 33 state which will require the development of avoidance,
 34 adaptation, and mitigation strategies to address these potential
 35 impacts on future state projects, plans, and programs;
 36 (b) A significant portion of the carbon dioxide emissions
 37 in this state are produced by the transportation sector;
 38 (c) Electric vehicles can help reduce these emissions,
 39 thereby helping to reduce the impact of climate change on this
 40 state;
 41 (d) The use of electric vehicles for non-local driving
 42 requires adequate, reliable charging stations to address
 43 electric vehicle battery range limitations;
 44 (e) Having adequate, reliable charging stations along the
 45 State Highway System will also help with evacuations during
 46 hurricanes or other disasters;
 47 (f) Ensuring the prompt installation of adequate, reliable
 48 charging stations is in the public interest; and
 49 (g) A recommended plan for electric vehicle charging
 50 station infrastructure should be established to address changes
 51 in the emerging electric vehicle market and necessary charging
 52 infrastructure.
 53 (2) (a) The commission, in coordination with the Department
 54 of Transportation and the Office of Energy within the Department
 55 of Agriculture and Consumer Services, shall develop and
 56 recommend a plan for current and future plans for the
 57 development of electric vehicle charging station infrastructure
 58 along the State Highway System, as defined in s. 334.03(24). The

Page 2 of 4

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596-01915-20

20207018pb

59 commission may consult with other agencies as the commission
 60 deems appropriate. The recommended plan must be developed and
 61 submitted to the Governor, the President of the Senate, and the
 62 Speaker of the House of Representatives by July 1, 2021. The
 63 plan must include recommendations for legislation and may
 64 include other recommendations as determined by the commission.

65 (b) The goals and objectives of the plan include, but are
 66 not limited to, all of the following:

67 1. Projecting the increase in the use of electric vehicles
 68 in this state over the next 20 years and determining how to
 69 ensure an adequate supply of reliable electric vehicle charging
 70 stations to support and encourage this growth in a manner
 71 supporting a competitive market with ample consumer choice.

72 2. Evaluating and comparing the types of electric vehicle
 73 charging stations available at present and that may become
 74 available in the future, including the technology and
 75 infrastructure incorporated in such stations, along with the
 76 circumstances within which each type of station and
 77 infrastructure is typically used, including fleet charging, for
 78 the purpose of identifying any advantages to developing
 79 particular types or uses of these stations.

80 3. Considering strategies to develop this supply of
 81 charging stations, including, but not limited to, methods of
 82 building partnerships with local governments, other state and
 83 federal entities, electric utilities, the business community,
 84 and the public in support of electric vehicle charging stations.

85 4. Identifying the types or characteristics of possible
 86 locations for electric vehicle charging station infrastructure
 87 along the State Highway System to support a supply of electric

596-01915-20

20207018pb

88 vehicle charging stations that will:

89 a. Accomplish the goals and objectives of this section;

90 b. Support both short-range and long-range electric vehicle
 91 travel;

92 c. Encourage the expansion of electric vehicle use in this
 93 state; and

94 d. Adequately serve evacuation routes in this state.

95 5. Identifying any barriers to the use of electric vehicles
 96 and electric vehicle charging station infrastructure both for
 97 short-range and long-range electric vehicle travel along the
 98 State Highway System.

99 6. Identifying an implementation strategy for expanding
 100 electric vehicle and charging station infrastructure use in this
 101 state.

102 7. Identifying the type of regulatory structure necessary
 103 for the delivery of electricity to electric vehicles and
 104 charging station infrastructure, including competitive neutral
 105 policies and the participation of public utilities in the
 106 marketplace.

107 8. Reviewing emerging technologies in the electric and
 108 alternative vehicle market, including alternative fuel sources.

109 (c) By December 1, 2020, the commission shall file a status
 110 report with the Governor, the President of the Senate, and the
 111 Speaker of the House of Representatives containing any
 112 preliminary recommendations, including recommendations for
 113 legislation.

114 Section 2. This act shall take effect July 1, 2020.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/9/19

Meeting Date

SPB 7018

Bill Number (if applicable)

Topic ELECTRIC VEHICLE CHARGING STATION

Amendment Barcode (if applicable)

Name LENA JUAREZ

INFRASTRUCTURE

Job Title

Address

PO BOX 10390

Phone

880 212 8330

Street

TALLAHASSEE

FL

32302

Email

lenajuarez@cc

City

State

Zip

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing

CHARGEPOINT

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/19/2019
Meeting Date

7018
Bill Number (if applicable)

Topic Electric Vehicle Charging Station Infrastructure Amendment Barcode (if applicable)

Name Melanie Bostick

Job Title Vice President

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Tallahassee FL 32302
City State Zip

Email melanie@libertypartnersfl.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Advanced Energy Economy (AEE)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/9/2019
Meeting Date

SB 7018
Bill Number (if applicable)

Topic EV Infrastructure

Amendment Barcode (if applicable)

Name Leighanne Boone

Job Title

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Street

Phone

Tallahassee FL 32301
City State Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Sierra Club of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Infrastructure and Security

BILL: SB 7020

INTRODUCER: For consideration by the Committee on Infrastructure and Security

SUBJECT: Emergency Staging Areas

DATE: December 10, 2019 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Price	Miller		IS Submitted as Comm. Bill/Fav

I. Summary:

SB 7020 authorizes the Florida Department of Transportation (FDOT) to plan, design, and construct staging areas for emergencies as part of the turnpike system. These sites are intended to be designated areas for the staging of emergency supplies to facilitate the prompt provision of emergency assistance to the public in response to a declared state of emergency. The bill recites that emergency supplies staged at key geographic points will aide in emergency response and assistance.

The bill directs the FDOT, in consultation with the Division of Emergency Management (DEM), to consider certain factors when selecting a proposed site, and the FDOT is authorized to acquire property necessary for such staging areas. Under the bill, the FDOT is required to give priority consideration to placement of such staging areas in counties with a population of 200,000 or less in which an M-CORES corridor is located.

The bill grants the FDOT power to authorize certain other uses of a staging area and requires that staging-area projects be included in the FDOT's work program.

The bill presents no immediate fiscal impact to state or local revenues or expenditures. The future fiscal impact to the FDOT is indeterminate, as the details of the costs to acquire property for and construct any staging area, and the number of staging areas to be constructed, is unknown. Increased availability of staging areas along the turnpike system may offset future costs. See the "Fiscal Impact Statement" heading below for additional information.

The bill takes effect July 1, 2020.

II. Present Situation:

Emergency Declaration and Staging Areas

Chapter 252, F.S., confers certain emergency powers upon the Governor, the DEM, and the governing bodies of each political subdivision of the state with respect to emergencies that occur within the state.¹ With respect to the Governor, and among other related emergency powers, s. 252.36(2), F.S., provides for declaration of a state of emergency by executive order or proclamation if the Governor finds an emergency or the threat of an emergency has occurred or is about to occur.² The Governor's order or proclamation, among other items:

- Activates the emergency mitigation, response, and recovery aspects of the applicable state, local, and inter-jurisdictional emergency management plans, and
- Serves as authority for the deployment and use of any forces to which the plan or plans apply and for the use or distribution of any supplies, equipment, and materials and facilities relating to emergencies.

Among various other emergency powers, “to meet the needs of residents affected during a declared emergency and ensure continuing economic resilience of communities impacted by a disaster,” the DEM is charged with establishing “a statewide system to facilitate the transportation and distribution of essentials in commerce.”³ Similarly, among other related authority, political subdivisions are likewise authorized to obtain and distribute equipment, materials, and supplies for emergency management purposes.⁴

Generally, when the Governor declares a state of emergency, the acquisition of property for staging area purposes involves similar processes at both the state and local level – identification of a potential site and execution of an agreement for use of the site. For example, DEM logistics personnel work with regional coordination teams and other DEM field staff to identify potential staging area sites, given the expected emergency. For purposes of executing a memorandum of agreement (MOU), the DEM requires the site location and owner, a point of contact, the square footage of the site, and photos or maps of the site. Locations are finalized after a site visit with the site owner to verify the site's feasibility for use. If agreement is reached, an MOU is executed. The acquired sites are mobilized to ensure resources are logged, prepared, and readied for redeployment to an impacted area.⁵

Pre-designated sites are also used for staging. For example, the FDOT allows utility providers and first responders to use commercial motor vehicle weigh stations as staging areas, most of

¹ Section 252.32(1)(b), F.S.

² The law provides that the state of emergency continues until the Governor finds the emergency conditions no longer exist and terminates the state of emergency. However, a state of emergency may not exist for more than 60 days unless the Governor renews it. The Legislature may terminate a state of emergency at any time by concurrent resolution.

³ Section 252.359, F.S. That section defines the term, “essentials,” to mean goods that are consumed or used as a direct result of a declared emergency, or that are consumed or used to preserve, protect, or sustain life, health, safety, or economic well-being.

⁴ Section 252.38(3), F.S.

⁵ See DEM email to committee staff November 14, 2019 (copy on file in the Senate Infrastructure and Security Committee).

which are along I-75. The FDOT also uses its maintenance yards and operations centers to stage FDOT crews and, sometimes, contracted crews.^{6,7}

At the local level, both pre-designated sites and sites identified in anticipation of need may be used. For example, Leon County Emergency Management staff advise that both the county and the City of Tallahassee have regularly used public property (such as the fairgrounds and the airport), as well as private property for staging areas, obtained for use through private agreements.⁸

Florida's Turnpike

The Florida Turnpike Enterprise (FTE) within the FDOT is empowered to plan, construct, maintain, repair, and operate the Florida Turnpike System. The term, "turnpike system," is defined to mean "those limited access toll highways and associated feeder roads and other structures, appurtenances, or rights previously designated, acquired, or constructed pursuant to the Florida Turnpike Enterprise Law and such other additional turnpike projects as may be acquired or constructed as approved by the Legislature."⁹ The turnpike system currently includes the mainline from Miami to Central Florida, as well as the Homestead Extension, Sawgrass Expressway, Seminole Expressway, Beachline Expressway, Southern Connector Extension, Veterans Expressway, Suncoast Parkway, Polk Parkway, Western Beltway, and the I-4 Connector.¹⁰

In addition, any future multi-use corridor of regional significance (M-CORES corridor) constructed as authorized under s. 338.2278, F.S., will be part of the turnpike system. Enacted during the 2019 Session, M-CORES is a program designed to advance construction of regional corridors that will accommodate multiple modes of transportation and multiple types of infrastructure. The specific purpose of the program is to revitalize rural communities, encourage job creation in those communities, and provide regional connectivity while leveraging technology, enhancing quality of life and public safety, and protecting the environment and natural resources. The following three corridors comprise the M-CORES Program:

- Southwest-Central Florida Connector (Collier County to Polk County);
- Suncoast Connector (Citrus County to Jefferson County); and
- Northern Turnpike Connector (northern terminus of the Florida Turnpike northwest to the Suncoast Parkway).¹¹

⁶ See the FDOT email to committee staff November 18, 2019 (copy on file in the Senate Infrastructure and Security Committee).

⁷ For a map of the FDOT's maintenance yards and operations centers, see FDOT, *Transportation Organizational Partners Map*, select Legend icon, bottom left, available at <https://fdot.maps.arcgis.com/apps/webappviewer/index.html?id=659db618c58d4a279bc95386ab20fe30> (last visited November 19, 2019).

⁸ Telephone conversation with Leon County Emergency Management staff, November 12, 2019.

⁹ Section 338.221(6), F.S.

¹⁰ For a map of the system, see Florida's Turnpike, under the *About* heading, available at <http://www.floridasturnpike.com/about.html> (last visited November 14, 2019).

¹¹ For additional detailed M-CORES information, see the FDOT M-CORES site available at <https://floridamcores.com/#home> (last visited November 15, 2019).

FDOT Acquisition of Property

Section 338.04, F.S., grants the FDOT's FTE (and others, collectively called "authorities") authorization to acquire private or public property and property rights for limited access facilities and service roads in the same manner as they are authorized to acquire property or property rights for highways. That process involves negotiated sales or, failing successful negotiation, the power of eminent domain granted to the FDOT under s. 337.27, F.S.

Eminent domain is the constitutional power of the government to take private property for public use. Chapters 73 and 74, F.S., provide for eminent domain and proceedings supplemental to eminent domain, respectively. Chapter 73, F.S., specifies the pre-suit negotiation requirements, the petition filing requirements, the service of process and publication requirements, the pretrial process, jury trial process, and post-trial process. Chapter 74, F.S., sets out the supplemental proceedings to eminent domain, including provisions allowing a governmental entity to take possession and title of property in advance of entry of final judgment by depositing with the court an amount no less than the governmental entity's good faith estimate of the value of the property being sought.

Before an eminent domain proceeding can be filed, the FDOT must attempt to negotiate in good faith with the fee owner of the property to be acquired and attempt to reach an agreement regarding the amount of compensation to be paid for the owner's property.¹² The condemning authority must meet additional requirements, such as providing the owner with a written offer, notifying the owner of statutory rights to receive fees and costs,¹³ and notifying business owners of all of their rights.¹⁴ Once a petition for eminent domain is filed, both the FDOT and the owner must make offers of judgment; *i.e.*, an offer to have judgment entered for payment of compensation for amounts specified in the offers.

In accordance with s. 73.071, F.S., eminent domain trials for valuation of property are argued before a twelve-person jury. The amount of compensation is determined as of the date of trial, or the date upon which title passes, whichever occurs first. The jury determines solely the amount of compensation to be paid. Generally, whether the parties settle prior to or after a petition is filed, the landowners and business owners are entitled to attorney fees¹⁵ and reasonable costs incurred, including appraisal fees and accountant fees.¹⁶

The Florida Transportation Code

The Florida Transportation Code¹⁷ sets out a variety of duties and responsibilities for the FDOT, including many for which the staging areas might serve during non-emergency periods. Under authorizations contained in the Code, the proposed sites may, for example, provide space to facilitate the conduct of research and demonstration projects relative to innovative transportation

¹² Section 73.015, F.S.

¹³ Section 73.0511, F.S.

¹⁴ *Supra* note 10.

¹⁵ Section 73.092, F.S.

¹⁶ Section 73.091, F.S.

¹⁷ Chapters 334-339, 348, and 349 and ss. 332.003-332.007, 351.35, 351.36 351.37, and 861.011, F.S.

technologies¹⁸ or serve as staging areas for the FDOT's construction and maintenance contractors.¹⁹ The sites may provide additional or overflow parking for both commercial motor vehicles and other vehicular traffic²⁰ or serve other functions, such as making fuel or food services available to travelers.²¹

III. Effect of Proposed Changes:

The bill authorizes the FDOT to plan, design, and construct staging areas for emergencies as part of the turnpike system. The sites are intended to be designated areas for the staging of emergency supplies to facilitate the prompt provision of emergency assistance to the public in response to a declared state of emergency. The bill includes a recitation that emergency supplies, such as water, fuel, generators, vehicles, equipment, and other related materials, staged at key geographic points will aide in emergency response and assistance, including evacuations, deployment of emergency-related supplies and personnel, and restoration of essential services.

In selecting a proposed site, the bill directs the FDOT, in consultation with the DEM, to consider the extent to which a proposed site for a staging area:

- Is located in a geographic area that best facilitates wide dissemination of emergency-related supplies and equipment;
- Provides ease of access to major highways and other transportation facilities;
- Is sufficiently large to accommodate staging of a significant amount of emergency-related supplies and equipment;
- Provides space in support of emergency preparedness and evacuation activities, such as fuel reserve capacity;
- Could be used during non-emergency periods for commercial motor vehicle parking; and
- Is consistent with other state and local emergency management considerations.

The FDOT is directed to give priority consideration to placement of such staging areas in counties with a population of 200,000 or less as determined by the most recent official estimate pursuant to s. 186.901 in which an M-CORES corridor is located.

The bill authorizes the FDOT to acquire property and property rights necessary for such staging areas as provided in s. 338.04, F.S.; *i.e.*, through negotiated sales or the eminent domain process. The FDOT is also granted the power to authorize other uses of a staging area, as provided in the Florida Transportation Code, including, but not limited to, commercial motor vehicle parking to comply with federal hours of service off-duty and sleeper berth requirements and for other vehicular parking to provide rest for drivers.

Lastly, the bill requires that staging area projects be included in the FDOT's work program.²²

¹⁸ See s. 334.044(21), F.S.

¹⁹ See s. 337.11(1), F.S.

²⁰ *Id.*

²¹ See s. 338.234, F.S.

²² The FDOT's work program is developed pursuant to s. 339.175, F.S. FDOT is responsible for developing a five-year plan of transportation projects in partnership with other entities such as communities, metropolitan planning organizations, local governments, other state and federal agencies, modal partners, and regional entities.

The increased availability of staging areas may elevate the efficiency of response to emergencies in this state, thereby facilitating faster recovery from such emergencies for both the public and private sectors, including, but not limited to, quicker resumption of market activity, such as tourism. Authorization for other appropriate uses of the proposed staging areas during non-emergency periods of time may result in other economic efficiencies.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Increased availability of staging areas on the turnpike system may provide the general public with earlier provision of essential emergency supplies during emergencies and may provide additional benefits, such as increased availability of parking on the turnpike system, during non-emergency periods. The business community may experience a positive impact in that more efficient emergency response may allow for a faster return to normal market activity. The FDOT's maintenance and construction contractors may benefit from increased availability of staging areas during non-emergency periods.

C. Government Sector Impact:

The bill presents no immediate fiscal impact to state or local revenues or expenditures. The details of the costs of any property to be acquired for staging areas, the number of such areas to be acquired, and the costs of any related modifications to accomplish

suitability for such purposes is unknown. However, having such staging areas in place may reduce costs associated with providing necessary staging areas for emergency response purposes, for both state and local governments, and may reduce costs incurred by the FDOT for the provision of other uses authorized by the bill during non-emergency periods of time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 338.236.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Infrastructure and Security

596-01914A-20

20207020pb

A bill to be entitled

An act relating to emergency staging areas; creating s. 338.236, F.S.; authorizing the Department of Transportation to plan, design, and construct staging areas as part of the turnpike system for the intended purpose of staging supplies for prompt provision of assistance to the public in a declared state of emergency; requiring the department, in consultation with the Division of Emergency Management, to select sites for such areas; providing factors to be considered by the department and division in selecting sites; requiring the department to give priority consideration to placement of such staging areas in specified counties; authorizing the department to acquire property necessary for such staging areas; authorizing the department to authorize certain other uses of staging areas; requiring staging area projects to be included in the department's work program; providing an effective date.

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

Section 1. Section 338.236, Florida Statutes, is created to read:

338.236 Staging areas for emergencies.—The Department of Transportation may plan, design, and construct staging areas to be activated during a declared state of emergency at key geographic locations on the turnpike system. Such staging areas must be used for the staging of emergency supplies, such as

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

596-01914A-20

20207020pb

water, fuel, generators, vehicles, equipment, and other related materials, to facilitate the prompt provision of emergency assistance to the public, and to otherwise facilitate emergency response and assistance, including evacuations, deployment of emergency-related supplies and personnel, and restoration of essential services.

(1) In selecting a proposed site for a designated staging area under this section, the department, in consultation with the Division of Emergency Management, must consider the extent to which such site:

(a) Is located in a geographic area that best facilitates the wide dissemination of emergency-related supplies and equipment;

(b) Provides ease of access to major highways and other transportation facilities;

(c) Is sufficiently large to accommodate the staging of a significant amount of emergency-related supplies and equipment;

(d) Provides space in support of emergency preparedness and evacuation activities, such as fuel reserve capacity;

(e) Could be used during nonemergency periods for commercial motor vehicle parking and for other uses; and

(f) Is consistent with other state and local emergency management considerations.

The department must give priority consideration to placement of such staging areas in counties with a population of 200,000 or fewer, as determined by the most recent official estimate pursuant to s. 186.901, in which a multi-use corridor of regional economic significance, as provided in s. 338.2278, is

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59 located.

60 (2) The department may acquire property and property rights
61 necessary for such staging areas as provided in s. 338.04.

62 (3) The department may authorize other uses of a staging
63 area as provided in the Florida Transportation Code, including,
64 but not limited to, for commercial motor vehicle parking to
65 comply with federal hours-of-service off-duty requirements or
66 sleeper berth requirements and for other vehicular parking to
67 provide rest for drivers.

68 (4) Staging area projects must be included in the work
69 program developed by the department pursuant to s. 339.135.

70 Section 2. This act shall take effect July 1, 2020.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12-9-18 Meeting Date

7020 Bill Number (if applicable)

Topic

Name DAVID CULLEN

Amendment Barcode (if applicable)

Job Title

Address 4830 E. W. ST. Street

Phone

DC MD 31872 City State Zip

Email

Speaking: [] For [] Against [x] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing Sierra Energy Inc

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Infrastructure and Security

BILL: SB 7022

INTRODUCER: Infrastructure and Security Committee

SUBJECT: OGSR/E-mail Addresses/Department of Highway Safety and Motor Vehicles

DATE: December 10, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Proctor	Miller		IS Submitted as Comm. Bill/Fav

I. Summary:

SB 7022 amends s. 119.0712, F.S., to save from repeal the current exemption from public records disclosure for e-mail addresses provided to the Department of Highway Safety and Motor Vehicles (DHSMV) for the purpose of providing notifications and renewal notices. The bill removes the scheduled repeal date of the exemption, October 2, 2020, thus continuing the exemption.

The bill does not appear to have a fiscal impact on state or local governments.

The bill takes effect on October 1, 2020.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(a).

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that:

[i]t is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to open meetings requirements by passing a general law by a two-thirds vote of the House and the Senate.⁹ The exemption must explicitly lay out the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁰ A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.¹¹

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹² Records designated as ‘confidential and exempt’ may be released by the records custodian only under the circumstances defined by the Legislature.

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹² If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

Records designated as ‘exempt’ may be released at the discretion of the records custodian under certain circumstances.¹³

Open Government Sunset Review Act

The Open Government Sunset Review Act (referred to hereafter as the “OGSR”) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.¹⁴ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁵ In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁶ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹⁷
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;¹⁸ or
- It protects trade or business secrets.¹⁹

The OGSR also requires specified questions to be considered during the review process.²⁰ In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²¹ If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote

¹³ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁴ Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to section 119.15(2), F.S.

¹⁵ Section 119.15(3), F.S.

¹⁶ Section 119.15(6)(b), F.S.

¹⁷ Section 119.15(6)(b)1., F.S.

¹⁸ Section 119.15(6)(b)2., F.S.

¹⁹ Section 119.15(6)(b)3., F.S.

²⁰ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²¹ FLA. CONST. art. I, s. 24(c).

for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²²

Department of Highway Safety and Motor Vehicles and E-Mail Addresses

The DHSMV is the records custodian of motor vehicle records,²³ which contain personal information about drivers and motor vehicle owners. Florida's motor vehicle records contain personal information such as a driver's social security number, driver license number, name, address, telephone number, and medical or disability information. The DHSMV is authorized to collect e-mail addresses and use e-mail, in lieu of the United States Postal Service, as a method of providing title certificate notifications,²⁴ for the purpose of providing motor vehicle registration renewal notices,²⁵ and for the purpose of providing driver license renewal notices.²⁶

Open Government Sunset Review of the Public Record Exemption for E-Mail Addresses

In 2015, the Legislature created a public record exemption for e-mail addresses held by the DHSMV for the purpose of providing notification regarding title certificates, motor vehicle registration renewals, or driver license renewals.²⁷

The 2015 public necessity statement²⁸ for the exemption provides that:

The Legislature finds that . . . e-mail addresses are unique to each individual and, when combined with other personal identifying information, can be used for identity theft, consumer scams, unwanted solicitations, or other invasive contacts. The public availability of personal e-mail addresses puts department customers at increased risk of these problems. Such risk may be significantly limited by permitting the department to keep customer e-mail addresses exempt. The Legislature finds that the risks to consumers outweigh the state's public policy favoring open government.²⁹

Section 119.0712, F.S., is subject to the OGSR and stands repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

²² Section 119.15(7), F.S.

²³ Section 119.0712(2)(a), defines the term "motor vehicle record" to mean "any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by the Department of Highway Safety and Motor Vehicles."

²⁴ Section 319.40(3), F.S.

²⁵ Section 320.95(2), F.S.

²⁶ Section 322.08(10), F.S.

²⁷ Section 119.0712(2)(c), F.S.

²⁸ Article I, s. 24(c), FLA. CONST., requires each public record exemption "state with specificity the public necessity justifying the exemption."

²⁹ Chapter 2015-32, L.O.F.

The DHSMV has collected approximately 12.9 million e-mail addresses for both active and inactive drivers.³⁰ The DHSMV recommends that the public records exemption be reenacted as is.

Based upon a review of this public records exemption under the OGSR and discussions with the DHSMV, the professional staff of the Senate Infrastructure and Security Committee recommends that the Legislature retain the public records exemption established in s. 119.0712, F.S.

III. Effect of Proposed Changes:

The bill is based on an Open Government Sunset Review of a public records exemption for e-mail addresses furnished to the DHSMV for the purpose of providing notifications and renewal notices. The justification upon which the public records exemption is based remains valid. The bill reenacts the exemption.

The bill amends s. 119.0712, F.S., to delete the scheduled repeal of the current public records exemption for e-mail addresses furnished to the DHSMV for the purpose of providing notifications and renewal notices. If the bill passes, these records will continue to be exempt from public disclosure.

The bill also corrects a statutory cross-reference from s. 322.08(9), F.S., to s. 322.08(10), F.S., which relates to DHSMV's authority to collect and use e-mail addresses for driver licensing purposes. See VII. Related Issues below for details.

The bill requires a majority vote for passage.

The bill takes effect October 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

³⁰ Email from the DHSMV staff to Senate Committee on Infrastructure and Security staff on September 4, 2019 (on file with Senate Committee on Infrastructure and Security).

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

In 2016, the Legislature enacted ch. 2016-242, L.O.F., which amended s. 322.08, F. S., and moved s. 322.08(9), F.S., to s. 322.08(10), F.S. However, the reference to that subsection in s. 119.0712(2)(c), F. S., was not amended to reflect this change. The bill corrects the reference.

VIII. Statutes Affected:

The bill substantially amends section 119.0712 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Infrastructure and Security

596-01105-20

20207022pb

1 A bill to be entitled
2 An act relating to a review under the Open Government
3 Sunset Review Act; amending s. 119.0712, F.S., which
4 provides an exemption from public records requirements
5 for certain e-mail addresses collected by the
6 Department of Highway Safety and Motor Vehicles;
7 correcting a cross-reference; removing the scheduled
8 repeal of the exemption; providing an effective date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Paragraph (c) of subsection (2) of section
13 119.0712, Florida Statutes, is amended to read:
14 119.0712 Executive branch agency-specific exemptions from
15 inspection or copying of public records.—
16 (2) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.—
17 (c) E-mail addresses collected by the Department of Highway
18 Safety and Motor Vehicles pursuant to s. 319.40(3), s.
19 320.95(2), or s. 322.08(10) ~~s. 322.08(9)~~ are exempt from s.
20 119.07(1) and s. 24(a), Art. I of the State Constitution. This
21 exemption applies retroactively. ~~This paragraph is subject to~~
22 ~~the Open Government Sunset Review Act in accordance with s.~~
23 ~~119.15 and shall stand repealed on October 2, 2020, unless~~
24 ~~reviewed and saved from repeal through reenactment by the~~
25 ~~Legislature.~~
26 Section 2. This act shall take effect October 1, 2020.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Health and Human Services, *Chair*
Appropriations
Appropriations Subcommittee on Agriculture, Environment and General Government
Children, Families, and Elder Affairs
Governmental Oversight and Accountability
Health Policy
Infrastructure and Security

SENATOR AARON BEAN

4th District

December 9, 2019

Senator Tom Lee
Chair – Infrastructure & Security
418 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Lee:

Please excuse my absence from your Committee on Infrastructure & Security scheduled on Monday, December 9, 2019.

Thank you for your consideration of this request.

Sincerely,



Aaron Bean
State Senator | 4th District

REPLY TO:

- Duval Station, 13453 North Main Street, Suite 301, Jacksonville, Florida 32218 (904) 757-5039 FAX: (888) 263-1578
- 405 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5004 FAX: (850) 410-4805

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Senate Infrastructure and Security Committee

Judge:

Started: 12/9/2019 4:07:21 PM

Ends: 12/9/2019 4:46:32 PM

Length: 00:39:12

4:07:20 PM Meeting called to order by Chair Lee
4:07:24 PM Roll call by Administrative Assistant Marilyn Hudson
4:07:35 PM Quorum present
4:07:47 PM Comments from Chair Lee
4:08:00 PM Chair turned over to Chair Hooper
4:08:08 PM Comments from Chair Hooper
4:08:21 PM Introduction of Tab1 by Chair Hooper
4:08:37 PM Explanation of SPB 7016, Statewide Office of Resiliency by Senator Lee
4:12:41 PM Comments from Chair Hooper
4:13:43 PM Question from Senator Stewart
4:14:02 PM Response from Senator Lee
4:14:44 PM Response from Mr. Phillip Miller
4:15:31 PM Elizabeth Alvi, Director Policy, Audubon Florida waives in support
4:15:44 PM Tara Taggart, Legislative Policy Analyst, Florida League of Cities waives in support
4:15:48 PM David Cullen, Sierra Club Florida waives in support
4:16:06 PM Comments from Chair Hooper
4:16:19 PM Senator Cruz in debate
4:17:43 PM Senator Lee in closure
4:17:56 PM Senator Hutson moves that SPB 7016 be submitted as a committee bill
4:18:56 PM Roll call by AA
4:19:00 PM SPB 7016 is favorably reported as a committee bill
4:19:17 PM Chair returned to Chair Lee
4:19:32 PM Introduction of Tab 2 by Chair Lee
4:19:45 PM Introduction of Amendment Barcode No. 143802 by Chair Lee
4:20:04 PM Explanation of Strike-all Amendment by Senator Rodriguez
4:21:28 PM Comments from Chair Lee
4:21:32 PM Question from Senator Stewart
4:21:40 PM Response from Senator Rodriguez
4:22:52 PM Closure waived
4:22:57 PM Amendment Barcode No. 143802 adopted
4:23:06 PM Carol Bowen, Associated Builders and Contractors waives in support
4:23:27 PM Elizabeth Alvi, Director of Policy, Audubon Florida waives in support
4:23:33 PM Tara Taggart, Legislative Policy Analyst, Florida League of Cities waives in support
4:23:42 PM David Cullen, Sierra Club Florida waives in support
4:24:00 PM Comments from Chair Lee
4:24:18 PM Closure by Senator Rodriguez
4:24:40 PM Roll call by AA
4:25:40 PM CS/SB 178 reported favorably
4:26:00 PM Chair passed to Senator Perry
4:26:10 PM Introduction of Tab 3 by Chair Perry
4:26:22 PM Explanation of SPB 7018, Electric Vehicle Charging Station Infrastructure by Senator Lee
4:30:24 PM Question from Senator Stewart
4:30:35 PM Response from Senator Lee
4:32:00 PM Speaker Leighanne Boone, Sierra Club of Florida
4:33:58 PM Speaker Melanie Bostick, Vice President, Advanced Energy Economy in support
4:35:14 PM Lena Juarez, Chargepoint waives in support
4:35:56 PM Comments from Senator Cruz
4:36:20 PM Senator Cruz moves that SPB 7018 be submitted as a committee bill
4:36:32 PM Roll call by AA
4:36:38 PM SPB 7018 reported favorably as committee bill
4:37:01 PM Introduction of SPB 7020 by Chair Perry
4:37:13 PM Explanation of SPB 7020, Emergency Staging Areas by Senator Lee

4:39:40 PM Question from Senator Cruz
4:39:48 PM Response from Senator Lee
4:40:55 PM Response from Phillip Miller
4:41:44 PM Follow-up question from Senator Cruz
4:42:02 PM Response from Mr. Miller
4:42:17 PM David Cullen, Sierra Club Florida waives in support
4:42:29 PM Comments from Chair Perry
4:42:34 PM Senator Stewart moves that SPB 7020 be submitted as a committee bill
4:42:42 PM Roll call by AA
4:42:46 PM SPB 7020 reported favorably as a committee bill
4:42:59 PM Introduction of Tab 5 by Chair Perry
4:43:11 PM Explanation of SPB 7022, OGSR/E-mail Addresses/Department of Highway Safety and Motor Vehicles by Senator Lee
4:44:09 PM Comments from Chair Perry
4:44:16 PM Senator Cruz in debate
4:45:09 PM Senator Taddeo moves that SPB 7022 be submitted as a committee bill
4:45:19 PM Roll call by AA
4:45:23 PM SPB 7022 reported favorably as committee bill
4:45:37 PM Senator Hutson moves to make technical and conforming changes to committee bills and committee substitutes considered
4:45:55 PM Comments from Chair Perry
4:46:05 PM Senator Hooper moves to be shown voting in the affirmative on SB 178
4:46:15 PM Senator Hutson moves to adjourn, meeting adjourned