

By the Committees on Appropriations; and Infrastructure and Security; and Senators Rodriguez and Berman

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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 after a specified date without first
7 taking certain steps regarding a sea level impact
8 projection study; requiring the Department of
9 Environmental Protection to develop by rule a standard
10 for such studies; providing that such rule operates
11 prospectively on projects that have not yet commenced
12 as of the finalization of the rule; requiring the
13 department to publish such studies on its website,
14 subject to certain conditions; requiring the
15 department to adopt rules; providing for enforcement;
16 providing effective dates.

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

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

22 161.551 Public financing of construction projects within
23 the coastal building zone.-

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

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

27 (b) "Public entity" means the state or any of its political
28 subdivisions, or any municipality, county, agency, special
29 district, authority, or other public body corporate of the state

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30 which is demonstrated to perform a public function or to serve a
31 governmental purpose that could properly be performed or served
32 by an appropriate governmental unit.

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

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

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

43 (2) Beginning 1 year after the date the rule developed by
44 the department pursuant to subsection (3) is finalized and is
45 otherwise in effect, a state-financed constructor may not
46 commence construction of a coastal structure without:

47 (a) Conducting a SLIP study that meets the requirements
48 established by the department;

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

50 (c) Receiving notification from the department that the
51 study was received and that it has been published on the
52 department's website pursuant to paragraph (6)(a) for at least
53 30 days. The state-financed constructor is solely responsible
54 for ensuring that the study submitted to the department for
55 publication meets the requirements under subsection (3).

56 (3) The department shall develop by rule a standard by
57 which a state-financed constructor must conduct a SLIP study and
58 may require that a professional engineer sign off on the study.

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59 The rule must be effective 1 year after the date it is finalized
60 and applies only to projects not yet commenced as of the date
61 the rule is finalized. The rule may not apply retroactively to
62 projects that commenced before the date the rule is finalized.
63 At a minimum, the standard must require that a state-financed
64 constructor do all of the following:

65 (a) Use a systematic, interdisciplinary, and scientifically
66 accepted approach in the natural sciences and construction
67 design in conducting the study.

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

71 1. The assessment must take into account potential relative
72 local sea-level rise and increased storm risk during the
73 expected life of the coastal structure or 50 years, whichever is
74 less, and, to the extent possible, account for the contribution
75 of sea-level rise versus land subsidence to the relative local
76 sea-level rise.

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

80 3. The assessment must use and consider available
81 scientific research and generally accepted industry practices.

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

85 5. The assessment must analyze potential public safety and
86 environmental impacts resulting from damage to the coastal
87 structure, including, but not limited to, leakage of pollutants,

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88 electrocution and explosion hazards, and hazards resulting from
89 floating or flying structural debris.

90 (c) Provide alternatives for the coastal structure's design
91 and siting, and how such alternatives would impact the risks
92 specified in subparagraph (b)5. as well as the risk and cost
93 associated with maintaining, repairing, and constructing the
94 coastal structure.

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96 If multiple coastal structures are to be built concurrently
97 within one project, a state-financed constructor may conduct and
98 submit one SLIP study for the entire project for publication by
99 the department.

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

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

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

110 (5) This section may not be construed to create a cause of
111 action for damages or otherwise authorize the imposition of
112 penalties by a public entity for failure to implement what is
113 contained in the SLIP study.

114 (6) The department:

115 (a) Shall publish and maintain a copy of all SLIP studies
116 submitted pursuant to this section on its website for at least

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117 10 years after receipt. However, any portion of a study
118 containing information that is exempt from s. 119.07(1) and s.
119 24(a), Art. I of the State Constitution must be redacted by the
120 department before publication.

121 (b) Shall adopt rules as necessary to administer this
122 section.

123 (7) The department may enforce the requirements of this
124 section.

125 Section 2. Except as otherwise expressly provided in this
126 act, this act shall take effect July 1, 2020.