

1                                   A bill to be entitled  
 2           An act relating to public financing of potentially at-  
 3           risk structures and infrastructure; transferring,  
 4           renumbering, and amending s. 161.551, F.S.; providing  
 5           and revising definitions; providing that certain areas  
 6           are at risk due to sea level rise and structures and  
 7           infrastructure within those areas are potentially at  
 8           risk; conforming provisions to changes made by the  
 9           act; providing an effective date.

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

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13           Section 1. Section 161.551, Florida Statutes, is  
 14           transferred, renumbered as section 380.0937, Florida Statutes,  
 15           and amended to read:

16           380.0937 ~~161.551~~ Public financing of construction projects  
 17           within areas at risk due to sea level rise ~~the coastal building~~  
 18           ~~zone.~~

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

20           (a) "Area at risk due to sea level rise" means any  
 21           location that is projected to be below the threshold for tidal  
 22           flooding within the next 50 years by adding sea level rise using  
 23           the 2017 National Oceanic and Atmospheric Administration  
 24           intermediate-high sea level rise projection. For purposes of  
 25           this paragraph, the threshold for tidal flooding is 2 feet above

26 | mean higher high water.

27 |       (b) "Department" means the Department of Environmental  
 28 | Protection.

29 |       (c)(a) "Potentially at-risk Coastal structure or  
 30 | infrastructure" means any of the following when within an area  
 31 | at risk due to sea level rise:

32 |           1. A critical asset as defined in s. 380.093(2)(a)1.-3.

33 |           2. A historical or cultural asset ~~a major structure or~~  
 34 | ~~nonhabitable major structure within the coastal building zone.~~

35 |       (d)(b) "Public entity" means the state or any of its  
 36 | political subdivisions, or any municipality, county, agency,  
 37 | special district, authority, or other public body corporate of  
 38 | the state which is demonstrated to perform a public function or  
 39 | to serve a governmental purpose that could properly be performed  
 40 | or served by an appropriate governmental unit.

41 |       (f)(e) "SLIP study" means a sea level impact projection  
 42 | study as established by the department pursuant to subsection  
 43 | (3).

44 |       (e)(e) "Significant ~~Substantial~~ flood damage" means flood,  
 45 | erosion, inundation, or wave action damage resulting from a  
 46 | discrete or compound natural hazard ~~single~~ event, such as a  
 47 | flood or tropical weather system, where such damage exceeds:

48 |           1. Twenty-five ~~25~~ percent of the replacement cost ~~market~~  
 49 | value of the potentially at-risk coastal structure or  
 50 | infrastructure at the time of the event; or

51        2. A defined threshold established by the department by  
52 rule, in coordination with the Department of Transportation and  
53 water management districts, for a potentially at-risk structure  
54 or infrastructure where replacement cost is not an appropriate  
55 metric, such as roadways. The threshold must be established by  
56 July 1, 2023.

57        (g)-(d) "State-financed constructor" means a public entity  
58 that commissions or manages a construction project using funds  
59 appropriated from the state.

60        (2) Beginning July 1, 2023 ~~1 year after the date the rule~~  
61 ~~developed by the department pursuant to subsection (3) is~~  
62 ~~finalized and is otherwise in effect~~, a state-financed  
63 constructor may not commence construction of a potentially at-  
64 risk coastal structure or infrastructure without:

65        (a) Conducting a SLIP study that meets the requirements  
66 established by the department;

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

68        (c) Receiving notification from the department that the  
69 study was received and that it has been published on the  
70 department's website pursuant to paragraph (6)(a) for at least  
71 30 days. The state-financed constructor is solely responsible  
72 for ensuring that the study submitted to the department for  
73 publication meets the requirements under subsection (3).

74        (3) The department shall develop by rule a standard by  
75 which a state-financed constructor must conduct a SLIP study and

76 may require that a professional engineer sign off on the study.  
77 The rule ~~must be effective 1 year after the date it is finalized~~  
78 ~~and~~ applies only to projects not yet commenced as of the date  
79 the rule is finalized. The rule may not apply retroactively to  
80 projects that commenced before the date the rule is finalized.  
81 At a minimum, the standard must require that a state-financed  
82 constructor do all of the following:

83 (a) Use a systematic, interdisciplinary, and  
84 scientifically accepted approach in the natural sciences and  
85 construction design in conducting the study.

86 (b) Assess the flooding, inundation, and wave action  
87 damage risks relating to the potentially at-risk coastal  
88 structure or infrastructure over its expected life or 50 years,  
89 whichever is less.

90 1. The assessment must take into account potential  
91 relative local sea-level rise and increased storm risk during  
92 the expected life of the potentially at-risk coastal structure  
93 or infrastructure or 50 years, whichever is less, and, to the  
94 extent possible, account for the contribution of sea-level rise  
95 versus land subsidence to the relative local sea-level rise.

96 2. The assessment must provide scientific and engineering  
97 evidence of the risk to the potentially at-risk coastal  
98 structure or infrastructure and methods used to mitigate, adapt  
99 to, or reduce this risk.

100 3. The assessment must use and consider available

101 scientific research and generally accepted industry practices.

102 4. The assessment must provide an estimated probability of  
103 significant ~~the mean average annual chance of substantial~~ flood  
104 damage to the potentially at-risk structure or infrastructure  
105 over the expected life of the ~~coastal~~ structure or  
106 infrastructure or 50 years, whichever is less.

107 5. The assessment must analyze potential public safety and  
108 environmental impacts resulting from damage to the potentially  
109 at-risk ~~coastal~~ structure or infrastructure, including, but not  
110 limited to, leakage of pollutants, electrocution and explosion  
111 hazards, and hazards resulting from floating or flying  
112 structural debris.

113 (c) Provide alternatives for the ~~coastal structure's~~  
114 design and siting of the potentially at-risk structure or  
115 infrastructure, and how such alternatives would impact the risks  
116 specified in subparagraph (b)5. as well as the risk and cost  
117 associated with maintaining, repairing, and constructing the  
118 potentially at-risk ~~coastal~~ structure or infrastructure.

119 (d) Provide a list of flood mitigation strategies  
120 evaluated as part of the design of the potentially at-risk  
121 structure or infrastructure, and identify appropriate flood  
122 mitigation strategies for consideration as part of the  
123 potentially at-risk structure or infrastructure design.

124  
125 If multiple potentially at-risk ~~coastal~~ structures or

126 infrastructure are to be built concurrently within one project,  
 127 a state-financed constructor may conduct and submit one SLIP  
 128 study for the entire project for publication by the department.

129 (4) If a state-financed constructor commences construction  
 130 of a potentially at-risk ~~coastal~~ structure or infrastructure but  
 131 has not complied with the SLIP study requirement under  
 132 subsection (2), the department may institute a civil action in a  
 133 court of competent jurisdiction to:

134 (a) Seek injunctive relief to cease further construction  
 135 of the potentially at-risk ~~coastal~~ structure or infrastructure  
 136 or to enforce compliance with this section or with rules adopted  
 137 by the department pursuant to this section.

138 (b) If the potentially at-risk ~~coastal~~ structure or  
 139 infrastructure has been completed or has been substantially  
 140 completed, seek recovery of all or a portion of state funds  
 141 expended on the potentially at-risk ~~coastal~~ structure or  
 142 infrastructure.

143 (5) This section does not ~~may not be construed to~~ create a  
 144 cause of action for damages or otherwise authorize the  
 145 imposition of penalties by a public entity for failure to  
 146 implement what is contained in the SLIP study.

147 (6) The department:

148 (a) Shall publish and maintain a copy of each SLIP study  
 149 ~~all SLIP studies~~ submitted pursuant to this section on its  
 150 website for at least 10 years after the date the department

CS/HB 1077

2022

151 | receives the study ~~receipt~~. However, any portion of a study  
152 | containing information that is exempt from s. 119.07(1) and s.  
153 | 24(a), Art. I of the State Constitution must be redacted by the  
154 | department before publication.

155 | (b) Shall adopt rules as necessary to administer this  
156 | section.

157 | (7) The department may enforce the requirements of this  
158 | section.

159 | Section 2. This act shall take effect July 1, 2022.