

By the Committee on Environment and Natural Resources; and
Senator Rodriguez

592-02257-22

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

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

13
14 Section 1. Section 161.551, Florida Statutes, is amended to
15 read:

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

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

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

26 (b) "Potentially at-risk Coastal structure or
27 infrastructure" means any of the following when within an area
28 at risk due to sea-level rise:

29 1. A major structure, regardless of whether it has the

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30 potential for substantially impacting coastal zones.

31 2. A ~~or~~ nonhabitable major structure.

32 3. Any other construction critical to public health, life,
33 or safety ~~within the coastal building zone.~~

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

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

43 (f) ~~(d)~~ "State-financed constructor" means a public entity
44 that commissions or manages a construction project using funds
45 appropriated from the state.

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

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

53 2. A defined threshold established by the department in
54 coordination with the Department of Transportation and water
55 management districts. The threshold must be established by July
56 1, 2023.

57 (2) Beginning 1 year after the date the rule developed by
58 the department pursuant to subsection (3) is finalized and is

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59 otherwise in effect, a state-financed constructor may not
60 commence construction of a potentially at-risk ~~coastal~~ structure
61 or infrastructure without:

62 (a) Conducting a SLIP study that meets the requirements
63 established by the department;

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

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

71 (3) The department shall develop by rule a standard by
72 which a state-financed constructor must conduct a SLIP study and
73 may require that a professional engineer sign off on the study.
74 The rule must be effective 1 year after the date it is finalized
75 and applies only to projects not yet commenced as of the date
76 the rule is finalized. The rule may not apply retroactively to
77 projects that commenced before the date the rule is finalized.
78 At a minimum, the standard must require that a state-financed
79 constructor do all of the following:

80 (a) Use a systematic, interdisciplinary, and scientifically
81 accepted approach in the natural sciences and construction
82 design in conducting the study.

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

87 1. The assessment must take into account potential relative

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88 local sea-level rise and increased storm risk during the
89 expected life of the potentially at-risk ~~coastal~~ structure or
90 infrastructure or 50 years, whichever is less, and, to the
91 extent possible, account for the contribution of sea-level rise
92 versus land subsidence to the relative local sea-level rise.

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

97 3. The assessment must use and consider available
98 scientific research and generally accepted industry practices.

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

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

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

116 (d) Provide a list of flood mitigation strategies evaluated

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117 as part of the design of the potentially at-risk structure or
118 infrastructure, and identify the flood mitigation strategies
119 that have been implemented or are being considered as part of
120 the potentially at-risk structure or infrastructure design.

121
122 If multiple potentially at-risk ~~coastal~~ structures or
123 infrastructure are to be built concurrently within one project,
124 a state-financed constructor may conduct and submit one SLIP
125 study for the entire project for publication by the department.

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

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

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

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

144 (6) The department:

145 (a) Shall publish and maintain a copy of each SLIP study

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146 ~~all SLIP studies~~ submitted pursuant to this section on its
147 website for at least 10 years after the date the department
148 receives the study receipt. However, any portion of a study
149 containing information that is exempt from s. 119.07(1) and s.
150 24(a), Art. I of the State Constitution must be redacted by the
151 department before publication.

152 (b) Shall adopt rules as necessary to administer this
153 section.

154 (7) The department may enforce the requirements of this
155 section.

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