

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 Environment and Natural Resources

BILL: SB 1940

INTRODUCER: Senator Brodeur

SUBJECT: Statewide Flooding and Sea Level Rise Resilience

DATE: January 28, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Collazo	Rogers	EN	Pre-meeting
2.			AEG	
3.			AP	

I. Summary:

SB 1940 creates s. 14.2031, F.S., which establishes the Statewide Office of Resiliency within the Executive Office of the Governor. The bill provides that the office must be headed by a Chief Resilience Officer, who is appointed by and serves at the pleasure of the Governor.

II. Present Situation:

Chief Resilience Officer

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.¹ This office oversees a broad range of state programs.²

In August of 2019, the Governor appointed Florida’s first Chief Resilience Officer (CRO), Dr. Julia Nesheiwat. The CRO reports directly to the Executive Office of the Governor and is tasked with preparing Florida for the environmental, physical, and economic impacts of sea level rise.³ In February of 2020, Dr. Nesheiwat stepped down as CRO. Former Secretary of the Department of Environmental Protection (DEP), Noah Valenstein, served as the interim CRO until he

¹ 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 Jan. 26, 2022).

² Dep’t of Environmental Protection (DEP), *Office of Resilience and Coastal Protection*, <https://floridadep.gov/rcp> (last visited Jan. 26, 2022).

³ See 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 Jan. 26, 2022).

resigned in May 2021. The current Secretary of DEP, Shawn Hamilton, served as CRO until Governor DeSantis appointed Wesley Brooks, the current CRO, in November 2021.⁴

Statewide Resilience Programs

In 2021, the Legislature, recognizing that Florida is vulnerable to flooding from increasing rainfall, storm surge, and sea level rise, established several statewide resilience programs.⁵ Those programs include the following:

- DEP’s Resilient Florida Grant Program provides grants to counties or municipalities for community resilience planning, such as vulnerability assessments, plan development, and projects to adapt critical assets.⁶ The findings of the assessments must be reported to DEP.
- The Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment, which must be updated at least every five years.⁷ DEP must:
 - By July 1, 2022, develop a statewide data set, including statewide sea level rise projections, containing information necessary to determine the risks of flooding and sea level rise to inland and coastal communities.
 - By July 1, 2023, develop a statewide assessment, using the statewide data set, identifying vulnerable infrastructure, geographic areas, and communities. The statewide assessment must include an inventory of critical assets.⁸
- The Statewide Flooding and Sea Level Rise Resilience Plan.⁹ By each December 1, DEP must develop the plan on a three-year planning horizon and submit it to the Governor and Legislature for funding of ranked projects.¹⁰

DEP’s Coastal Construction Control Line (CCCL) program regulates coastal construction and related activities to prevent imprudent construction that can cause beach erosion, destabilize dunes, damage upland properties, or interfere with public access, and the program also protects sea turtles and dune plants.¹¹ A 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 predictable weather conditions.¹² DEP has established CCCLs in 25 of Florida’s coastal counties.¹³ Generally, a permit is required for construction and excavation activities seaward of

⁴ Governor Ron DeSantis, New Releases, *Governor DeSantis Announces Four Key Appointments to His Administration* (Nov. 19, 2021), <https://www.flgov.com/2021/11/19/governor-desantis-announces-four-key-appointments-to-his-administration/> (last visited Jan. 26, 2022); Renzo Downey, “After 20 months of uncertainty, Gov. DeSantis names Wesley Brooks as Chief Resilience Officer,” *FLORIDA POLITICS*, available at <https://floridapolitics.com/archives/474849-after-20-months-of-uncertainty-gov-desantis-names-wesley-brooks-as-chief-resilience-officer/> (last visited Jan. 26, 2022).

⁵ See ch. 2021-28, Laws of Fla., codified in ss. 380.093, 380.0933, 403.928(4), F.S.

⁶ Section 380.093(2)(a), F.S. “Critical asset” is defined to include broad lists of assets relating to transportation, critical infrastructure, emergency facilities, natural resources, and historical and cultural resources.

⁷ Section 380.093(4), F.S.

⁸ *Id.*

⁹ Section 380.093(5), F.S.

¹⁰ Section 380.093, F.S.

¹¹ DEP, *Coastal Construction Control Line Program*, <https://floridadep.gov/rcp/coastal-construction-control-line> (last visited Jan. 26, 2022); s. 161.053, F.S.; Fla. Admin. Code Chapters 62B-33, 62B-34, and 62B-56.

¹² Section 161.053, F.S.; see DEP, *Frequently Asked Questions About the Coastal Construction Control Line* (2020), available at <https://floridadep.gov/sites/default/files/CCCL-FrequentlyAskedQuestions-2020.pdf> (last visited Jan. 26, 2022). Historical weather data are evaluated to establish a control line.

¹³ Section 161.053, F.S.; DEP, *LOCATE the Coastal Construction Control Line (CCCL)*, <https://floridadep.gov/rcp/coastal-construction-control-line/content/locate-coastal-construction-control-line-cccl> (last visited Jan. 26, 2022).

the CCCL, and criteria for such permitting may be more stringent than in other areas due to the special hazards and potential for environmental impacts in those areas.¹⁴ DEP makes 30-year erosion projections of the location of the seasonal high-water line on a site-specific basis.¹⁵ With certain exceptions, DEP or local governments may not issue CCCL permits for major structures that are seaward of the 30-year erosion projection.¹⁶

The following list includes examples of resilience efforts by government entities in Florida:

- Florida’s coastal local governments must have a coastal management element in their comprehensive plans,¹⁷ and this element may include an “adaptation action area” designation¹⁸ and must contain a redevelopment component in compliance with the 2015 “Peril of Flood” law.¹⁹
- The Department of Transportation plans for resilience to prepare Florida’s transportation system for potential hazards.²⁰ Florida’s Metropolitan Planning Organizations consider resilience as a planning factor in the Long Range Transportation Plans.²¹
- The Department of Economic Opportunity assists communities with adaptation planning, and its Office of Long-Term Resiliency supports communities following disasters which includes administering federal funds that support resiliency efforts.²²
- The Fish and Wildlife Conservation Commission is Florida’s lead agency on addressing the impacts of climate change on fish and wildlife.²³ In 2016, the Commission published a guide of adaptation strategies for the predicted impacts of climate changes.²⁴
- The Department of Agriculture and Consumer Services’ Office of Energy develops Florida’s energy policy and works on climate change issues.²⁵
- The Division of Emergency Management in the Executive Office of the Governor maintains a statewide 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.²⁶

¹⁴ See s. 161.053, F.S. and Fla. Admin. Code R. 62B-33.004. Several exemptions exist.

¹⁵ Fla. Admin. Code R. 62B-33.024. The projections are based on historical measurements. See s. 161.053(5)(a)2., F.S.

¹⁶ Section 161.053(5), F.S.

¹⁷ Sections 380.24, 163.3177(6)(g), and 163.3178(2), F.S.

¹⁸ Chapter 2011-139, Laws of Fla.; ss. 163.3164(1) and 163.3177(6)(g)10., F.S.

¹⁹ Chapter 2015-69, Laws of Fla.; s. 163.3178(2)(f), F.S.

²⁰ Dep’t of Transportation (DOT), *Florida Transportation Plan (FTP): Resilience*, <http://www.floridatransportationplan.com/resilience.htm> (last visited Jan. 26, 2022).

²¹ DOT, *Resilience Quick Guide: Incorporating Resilience in the MPO Long Range Transportation Plan*, 2 (2020), available at http://www.floridatransportationplan.com/pdf/2020-01-29_FDOT%20Resilience%20Quick%20Start%20Guide_FINAL.pdf (last visited Jan. 26, 2022).

²² Dep’t of Economic Opportunity (DEO), *Adaptation Planning*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/adaptation-planning> (last visited Jan. 26, 2022); DEO, *Office of Long-Term Resiliency*, <http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative> (last visited Jan. 26, 2022).

²³ Florida Fish and Wildlife Conservation Commission (FWC), *What FWC is Doing*, <https://myfwc.com/conservation/special-initiatives/climate-change/fwc/> (last visited Jan. 26, 2022).

²⁴ FWC, *A Guide to Climate Change Adaptation for Conservation*, 1-1 (2016), available at <https://myfwc.com/media/5864/adaptation-guide.pdf> (last visited Feb. 3, 2021).

²⁵ Dep’t of Agriculture and Consumer Services (DACS), *Office of Energy*, <https://www.fdacs.gov/Divisions-Offices/Energy> (last visited Jan. 26, 2022).

²⁶ Division of Emergency Management (DEM), *Mitigation*, <https://www.floridadisaster.org/dem/mitigation/> (last visited Jan. 26, 2022); DEM, *State Floodplain Management Program*, <https://www.floridadisaster.org/dem/mitigation/floodplain/> (last visited Jan. 26, 2022).

- The Department of Business and Professional Regulation’s Florida Building Commission adopts floodplain management and resilience standards into the Florida Building Code.²⁷
- The water management districts implement a range of resilience and flood control programs.²⁸
- Florida is divided into ten Regional Planning Councils, and some do resilience planning.²⁹
 - The Northeast Florida Regional Council’s efforts include grant funding, technical support, and resources including an online mapping tool for determining risk.³⁰
 - The East Central Florida Regional Planning Council has formed the East Central Florida Regional Resilience Collaborative, which includes 25 member counties and cities and six member organizations and agencies.³¹
 - The Tampa Bay Regional Planning Council is active on resiliency planning.³²
- The U.S. Army Corps of Engineers (USACE) is planning and implementing many projects in Florida related to resilience.
 - The Miami-Dade Back Bay Coastal Storm Risk Management Feasibility Study is a three-year study, ending in September of 2021, that has tentatively recommended a plan that may include storm surge barriers, floodproofing of critical infrastructure countywide, and nonstructural measures (including home elevations or floodproofing) in seven refined focus areas determined to be the most socially vulnerable economic damage centers in Miami-Dade County.³³
 - The Central and Southern Florida Flood Resiliency Study was proposed by USACE, with the support of the South Florida Water Management District, to reevaluate the Central and Southern Florida Project to address climate change, sea level rise, and more.³⁴
- The Federal Emergency Management Agency (FEMA) administers hazard mitigation programs that increase resilience and facilitate hazard mitigation planning and grant

²⁷ Chapter 553, pt. IV, F.S.; Fla. Admin. Code R. 61g20-1.001; see Building a Safer Florida, Inc., *Flood Resistant Construction and the 6th Edition Florida Building Code*, 1 (2017), available at https://floridabuilding.org/fbc/thecode/2017-6edition/BASF_2017_flood_061217.pdf (last visited Jan. 26, 2022).

²⁸ St. John’s River Water Management District, *Sea-Level Rise and Resiliency*, <https://www.sjrwmd.com/localgovernments/sea-level-rise/> (last visited Jan. 26, 2022); Akintunde Owosina, Chief, Hydrology and Hydraulics Bureau, South Florida Water Management District, Governing Board Meeting, June 13, 2019, *Impact of Sea Level Rise on the SFWMD Mission, Focus on Flood Protection*, 2, 6-10 (June 13, 2019), available at <https://apps.sfwmd.gov/webapps/publicMeetings/viewFile/21964> (last visited Jan. 26, 2022); Dr. Carolina Maran, District Resiliency Officer, South Florida Water Management District, Governing Board Meeting, March 12, 2020, *Central and Southern Florida Flood Resiliency Study*, 1 (Mar. 12, 2020), available at <https://apps.sfwmd.gov/ci/publicmeetings/viewFile/25445> (last visited Jan. 26, 2022). In 2020, the South Florida Water Management District appointed a District Resiliency Officer.

²⁹ Sections 186.501-186.513, F.S.

³⁰ Northeast Florida Regional Council, *Resiliency Services*, <https://www.nefrc.org/resiliency> (last visited Jan. 26, 2022).

³¹ East Central Florida Regional Planning Council, *East Central Florida Regional Resilience Collaborative*, <https://www.ecfrpc.org/resiliencycollaborative> (last visited Jan. 26, 2022).

³² Tampa Bay Regional Planning Council, *Resiliency Planning*, <https://www.tbrpc.org/resiliency/> (last visited Jan. 26, 2022).

³³ USACE, *Miami-Dade Back Bay Coastal Storm Risk Management Feasibility Study*, <https://www.saj.usace.army.mil/MiamiDadeBackBayCSRMFeasibilityStudy/> (last visited Jan. 26, 2022); U.S. Army Corps of Engineers, *Miami-Dade Back Bay Coastal Storm Risk management Draft Integrated Feasibility Report and Programmatic Environmental Impact Statement*, 177-178, 181, 222-238 (May 2020), available at <https://usace.contentdm.oclc.org/utills/getfile/collection/p16021coll7/id/14453> (last visited Jan. 26, 2022).

³⁴ Dr. Carolina Maran, District Resiliency Officer, South Florida Water Management District, Governing Board Meeting March 12, 2020, *Central and Southern Florida Flood Resiliency Study*, video begins at 4:50:30 (Mar. 12, 2020), available at <http://sfwmd.igq2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=2008&Format=Agenda> (last visited Jan. 26, 2022).

funding.³⁵ FEMA also administers the National Flood Insurance Program (NFIP), which includes insurance, floodplain mapping, and federal, state, and local regulations.³⁶

III. Effect of Proposed Changes:

The bill creates s. 14.2031, F.S., which establishes the Statewide Office of Resiliency within the Executive Office of the Governor. The bill provides that the office must be headed by a Chief Resilience Officer, who is appointed by and serves at the pleasure of the Governor.

The bill takes effect July 1, 2022.

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.

³⁵ Federal Emergency Management Agency (FEMA), *Hazard Mitigation Assistance Guidance - Hazard Mitigation Grant Program, Pre-Disaster Mitigation Program, and Flood Mitigation Assistance Program*, 1–5 (2015), available at https://www.fema.gov/sites/default/files/2020-07/fy15_HMA_Guidance.pdf (last visited Jan. 26, 2022).

³⁶ FEMA, *National Flood Insurance Program (NFIP), Floodplain Management Requirements, FEMA 480, 2-6-2-8* (2005), available at https://www.fema.gov/sites/default/files/documents/fema-480_floodplain-management-study-guide_local-officials.pdf (last visited Jan. 26, 2022); see 44 C.F.R. parts 59 and 60.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 14.2031 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.