

By Senator Calatayud

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1 A bill to be entitled
2 An act relating to flooding and sea level rise
3 vulnerability studies; amending s. 380.093, F.S.;
4 revising the purposes for which the Department of
5 Environmental Protection may provide grants under the
6 Resilient Florida Grant Program to counties or
7 municipalities; authorizing the department to provide
8 such grants to water management districts for a
9 specified purpose; providing for the prioritization of
10 such grants; transferring, renumbering, and amending
11 s. 161.551, F.S.; defining and redefining terms;
12 requiring state-financed constructors to take
13 specified actions before commencing construction of
14 potentially at-risk structures or infrastructure
15 beginning on a specified date; revising requirements
16 for the sea level impact projection study standard the
17 department is required to develop by rule; conforming
18 provisions to changes made by the act; providing an
19 effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Paragraph (b) of subsection (3) of section
24 380.093, Florida Statutes, is amended to read:

25 380.093 Resilient Florida Grant Program; comprehensive
26 statewide flood vulnerability and sea level rise data set and
27 assessment; Statewide Flooding and Sea Level Rise Resilience
28 Plan; regional resilience entities.—

29 (3) RESILIENT FLORIDA GRANT PROGRAM.—

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30 (b) Subject to appropriation, the department may provide
31 grants to all of the following entities:

32 1. A county or municipality to fund:

33 ~~a.1.~~ The costs of community resilience planning and
34 necessary data collection for such planning, including
35 comprehensive plan amendments and necessary corresponding
36 analyses that address the requirements of s. 163.3178(2)(f).

37 ~~b.2.~~ Vulnerability assessments that identify or address
38 risks of inland or coastal flooding and sea level rise.

39 ~~c.3.~~ The development of projects, plans, and policies that
40 allow communities to prepare for threats from flooding and sea
41 level rise.

42 ~~d.4.~~ Preconstruction activities for projects to be
43 submitted for inclusion in the Statewide Flooding and Sea Level
44 Rise Resilience Plan that are located in a municipality that has
45 a population of 10,000 or fewer or a county that has a
46 population of 50,000 or fewer, according to the most recent
47 April 1 population estimates posted on the Office of Economic
48 and Demographic Research's website.

49 e. Feasibility studies and the cost of permitting for
50 innovative measures that reduce the impact of flooding and sea
51 level rise and focus on nature-based solutions.

52 2. In support of local government adaptation planning, a
53 water management district as identified in s. 373.069, either
54 directly or through contracted services. Such grants must be
55 used for the express purpose of supporting the Florida Flood Hub
56 for Applied Research and Innovation and the department in
57 implementing this section through data creation and collection,
58 modeling, and the implementation of statewide standards.

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59 Priority must be given to filling critical data gaps identified
 60 by the Florida Flood Hub for Applied Research and Innovation
 61 under s. 380.0933(2) (a).

62 Section 2. Section 161.551, Florida Statutes, is
 63 transferred, renumbered as section 380.0937, Florida Statutes,
 64 and amended to read:

65 380.0937 ~~161.551~~ Public financing of construction projects
 66 within areas at risk due to sea level rise ~~the coastal building~~
 67 ~~zone.~~

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

69 (a) "Area at risk due to sea level rise" means any location
 70 projected to be below the threshold for tidal flooding within
 71 the next 50 years by adding sea level rise using the highest of
 72 the sea level rise projections required by s. 380.093(3) (d) 3.b.
 73 For purposes of this paragraph, the threshold for tidal flooding
 74 is 2 feet above mean higher high water.

75 (b) "Department" means the Department of Environmental
 76 Protection.

77 (c) ~~(a)~~ "Potentially at-risk Coastal structure or
 78 infrastructure" means any of the following when within an area
 79 at risk due to sea level rise:

80 1. A critical asset as defined in s. 380.093(2) (a) 1., 2.,
 81 or 3.

82 2. A historical or cultural asset ~~a major structure or~~
 83 ~~nonhabitable major structure within the coastal building zone.~~

84 (d) ~~(b)~~ "Public entity" means the state or any of its
 85 political subdivisions, or any municipality, county, agency,
 86 special district, authority, or other public body corporate of
 87 the state which is demonstrated to perform a public function or

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88 to serve a governmental purpose that could properly be performed
89 or served by an appropriate governmental unit.

90 (f)~~(e)~~ "SLIP study" means a sea level impact projection
91 study as established by the department pursuant to subsection
92 (3).

93 (g)~~(d)~~ "State-financed constructor" means a public entity
94 that commissions or manages a construction project using funds
95 appropriated from the state.

96 (e) "Significant Substantial flood damage" means flood,
97 erosion, inundation, or wave action damage resulting from a
98 discrete or compound natural hazard single event, such as a
99 flood or tropical weather system, where such damage exceeds:

100 1. Twenty-five 25 percent of the replacement cost market
101 value of the potentially at-risk coastal structure or
102 infrastructure at the time of the event; or

103 2. A defined threshold established by the department by
104 rule, in coordination with the Department of Transportation and
105 water management districts, for a potentially at-risk structure
106 or infrastructure for which replacement cost is not an
107 appropriate metric, such as roadways. The threshold must be
108 established by July 1, 2024.

109 (2) Beginning July 1, 2024 ~~1-year after the date the rule~~
110 ~~developed by the department pursuant to subsection (3) is~~
111 ~~finalized and is otherwise in effect~~, a state-financed
112 constructor may not commence construction of a potentially at-
113 risk coastal structure or infrastructure without:

114 (a) Conducting a SLIP study that meets the requirements
115 established by the department;

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

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117 (c) Receiving notification from the department that the
118 study was received and that it has been published on the
119 department's website pursuant to paragraph (6)(a) for at least
120 30 days. The state-financed constructor is solely responsible
121 for ensuring that the study submitted to the department for
122 publication meets the requirements under subsection (3).

123 (3) The department shall develop by rule a standard by
124 which a state-financed constructor must conduct a SLIP study and
125 may require that a professional engineer sign off on the study.
126 The rule ~~must be effective 1 year after the date it is finalized~~
127 ~~and~~ applies only to projects not yet commenced as of the date
128 the rule is finalized. The rule may not apply retroactively to
129 projects that commenced before the date the rule is finalized.
130 At a minimum, the standard must require that a state-financed
131 constructor do all of the following:

132 (a) Use a systematic, interdisciplinary, and scientifically
133 accepted approach in the natural sciences and construction
134 design in conducting the study.

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

139 1. The assessment must take into account potential relative
140 local sea level ~~sea-level~~ rise and increased storm risk during
141 the expected life of the potentially at-risk ~~coastal~~ structure
142 or infrastructure or 50 years, whichever is less, and, to the
143 extent possible, account for the contribution of sea level ~~sea-~~
144 ~~level~~ rise versus land subsidence to the relative local sea
145 level ~~sea-level~~ rise.

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146 2. The assessment must provide scientific and engineering
147 evidence of the risk to the potentially at-risk ~~coastal~~
148 structure or infrastructure and methods used to mitigate, adapt
149 to, or reduce this risk.

150 3. The assessment must use and consider available
151 scientific research and generally accepted industry practices.

152 4. The assessment must provide an estimated probability of
153 significant ~~the mean average annual chance of substantial flood~~
154 damage to the potentially at-risk structure or infrastructure
155 over the expected life of the ~~coastal~~ structure or
156 infrastructure or 50 years, whichever is less.

157 5. The assessment must analyze potential public safety and
158 environmental impacts resulting from damage to the potentially
159 at-risk ~~coastal~~ structure or infrastructure, including, but not
160 limited to, leakage of pollutants, electrocution and explosion
161 hazards, and hazards resulting from floating or flying
162 structural debris.

163 (c) Provide alternatives for the ~~coastal structure's~~ design
164 and siting of the potentially at-risk structure or
165 infrastructure, and analyze how such alternatives would impact
166 the risks specified in subparagraph (b)5. as well as the risk
167 and cost associated with maintaining, repairing, and
168 constructing the potentially at-risk ~~coastal~~ structure or
169 infrastructure.

170 (d) Provide a list of flood mitigation strategies evaluated
171 as part of the design of the potentially at-risk structure or
172 infrastructure and identify appropriate flood mitigation
173 strategies for consideration as part of the potentially at-risk
174 structure or infrastructure design.

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

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

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

189 (b) If the potentially at-risk ~~coastal~~ structure or
190 infrastructure has been completed or has been substantially
191 completed, seek recovery of all or a portion of state funds
192 expended on the potentially at-risk ~~coastal~~ structure or
193 infrastructure.

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

198 (6) The department:

199 (a) Shall publish and maintain a copy of each SLIP study
200 ~~all SLIP studies~~ submitted pursuant to this section on its
201 website for at least 10 years after the date the department
202 receives the study receipt. However, any portion of a study
203 containing information that is exempt from s. 119.07(1) and s.

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204 24(a), Art. I of the State Constitution must be redacted by the
205 department before publication.

206 (b) Shall adopt rules as necessary to administer this
207 section.

208 (7) The department may enforce the requirements of this
209 section.

210 Section 3. This act shall take effect July 1, 2023.