

By the Committee on Fiscal Policy; and Senators Calatayud and Garcia

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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; requiring that such grants be  
10      prioritized; creating s. 380.0937, F.S.; defining  
11      terms; requiring state-financed constructors to take  
12      specified actions before commencing construction of  
13      potentially at-risk structures or infrastructure  
14      beginning on a specified date; requiring the  
15      department to develop by rule a specified sea level  
16      impact projection study standard; specifying  
17      requirements for the standard; authorizing the  
18      department to bring civil actions, seek injunctive  
19      relief, recover certain funds, and enforce specified  
20      requirements; providing construction; requiring the  
21      department to publish sea level impact projection  
22      studies on its website, subject to certain conditions,  
23      and adopt rules; amending s. 161.551, F.S.; providing  
24      for future repeal of requirements for the construction  
25      of certain structures in the coastal building zone;  
26      providing an effective date.

27  
28   Be It Enacted by the Legislature of the State of Florida:  
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30 Section 1. Paragraph (b) of subsection (3) of section  
31 380.093, Florida Statutes, is amended to read:

32 380.093 Resilient Florida Grant Program; comprehensive  
33 statewide flood vulnerability and sea level rise data set and  
34 assessment; Statewide Flooding and Sea Level Rise Resilience  
35 Plan; regional resilience entities.—

36 (3) RESILIENT FLORIDA GRANT PROGRAM.—

37 (b) Subject to appropriation, the department may provide  
38 grants to each of the following entities:

39 1. A county or municipality to fund:

40 a.1. The costs of community resilience planning and  
41 necessary data collection for such planning, including  
42 comprehensive plan amendments and necessary corresponding  
43 analyses that address the requirements of s. 163.3178(2)(f).

44 b.2. Vulnerability assessments that identify or address  
45 risks of inland or coastal flooding and sea level rise.

46 c.3. The development of projects, plans, and policies that  
47 allow communities to prepare for threats from flooding and sea  
48 level rise.

49 d.4. Preconstruction activities for projects to be  
50 submitted for inclusion in the Statewide Flooding and Sea Level  
51 Rise Resilience Plan that are located in a municipality that has  
52 a population of 10,000 or fewer or a county that has a  
53 population of 50,000 or fewer, according to the most recent  
54 April 1 population estimates posted on the Office of Economic  
55 and Demographic Research's website.

56 e. Feasibility studies and the cost of permitting for  
57 nature-based solutions that reduce the impact of flooding and  
58 sea level rise.

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59       2. A water management district identified in s. 373.069 to  
60 support local government adaptation planning, which may be  
61 conducted by the water management district or by a third party  
62 on behalf of the water management district. Such grants must be  
63 used for the express purpose of supporting the Florida Flood Hub  
64 for Applied Research and Innovation and the department in  
65 implementing this section through data creation and collection,  
66 modeling, and the implementation of statewide standards.  
67 Priority must be given to filling critical data gaps identified  
68 by the Florida Flood Hub for Applied Research and Innovation  
69 under s. 380.0933(2)(a).

70       Section 2. Section 380.0937, Florida Statutes, is created  
71 to read:

72       380.0937 Public financing of construction projects within  
73 areas at risk due to sea level rise.-

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

75       (a) "Area at risk due to sea level rise" means any location  
76 that is projected to be below the threshold for tidal flooding  
77 within the next 50 years by adding sea level rise using the  
78 highest of the sea level rise projections required by s.  
79 380.093(3)(d)3.b. For purposes of this paragraph, the threshold  
80 for tidal flooding is 2 feet above mean higher high water.

81       (b) "Department" means the Department of Environmental  
82 Protection.

83       (c) "Potentially at-risk structure or infrastructure" means  
84 any of the following when within an area at risk due to sea  
85 level rise:

86       1. A critical asset as defined in s. 380.093(2)(a)1., 2.,  
87 and 3.

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88 2. A historical or cultural asset.

89 (d) "Public entity" means the state or any of its political  
90 subdivisions, or any municipality, county, agency, special  
91 district, authority, or other public body corporate of the state  
92 which is demonstrated to perform a public function or to serve a  
93 governmental purpose that could properly be performed or served  
94 by an appropriate governmental unit.

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

99 1. Twenty-five percent of the replacement cost of the  
100 potentially at-risk structure or infrastructure at the time of  
101 the event; or

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

108 (f) "SLIP study" means a sea level impact projection study  
109 as established by the department pursuant to subsection (3).

110 (g) "State-financed constructor" means a public entity that  
111 commissions or manages a construction project using funds  
112 appropriated from the state.

113 (2) Beginning July 1, 2024, a state-financed constructor  
114 may not commence construction of a potentially at-risk structure  
115 or infrastructure without:

116 (a) Conducting a SLIP study that meets the requirements

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117 established by the department;

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

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

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

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

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

140 1. The assessment must take into account potential relative  
141 local sea level rise and increased storm risk during the  
142 expected life of the potentially at-risk structure or  
143 infrastructure or 50 years, whichever is less, and, to the  
144 extent possible, account for the construction of sea level rise  
145 versus land subsidence to the relative local 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 structure or  
148 infrastructure and methods used to mitigate, adapt to, or reduce  
149 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 flood damage to the potentially at-risk structure or  
154 infrastructure over the expected life of the structure or  
155 infrastructure or 50 years, whichever is less.

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

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

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

172  
173 If multiple potentially at-risk structures or infrastructure are  
174 to be built concurrently within one project, a state-financed

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175 constructor may conduct and submit one SLIP study for the entire  
176 project for publication by the department.

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

182 (a) Seek injunctive relief to cease further construction of  
183 the potentially at-risk structure or infrastructure or to  
184 enforce compliance with this section or with rules adopted by  
185 the department pursuant to this section.

186 (b) If the potentially at-risk structure or infrastructure  
187 has been completed or has been substantially completed, seek  
188 recovery of all or a portion of state funds expended on the  
189 potentially at-risk structure or infrastructure.

190 (5) This section does not create a cause of action for  
191 damages or otherwise authorize the imposition of penalties by a  
192 public entity for failure to implement what is contained in the  
193 SLIP study.

194 (6) The department:

195 (a) Shall publish and maintain a copy of each SLIP study  
196 submitted pursuant to this section on its website for at least  
197 10 years after the date the department receives the study.  
198 However, any portion of a study containing information that is  
199 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
200 Constitution must be redacted by the department before  
201 publication.

202 (b) Shall adopt rules as necessary to administer this  
203 section.

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204       (c) May enforce the requirements of this section.

205       Section 3. Subsection (8) is added to section 161.551,

206 Florida Statutes, to read:

207       161.551 Public financing of construction projects within  
208 the coastal building zone.—

209       (8) This section is repealed July 1, 2024.

210       Section 4. This act shall take effect July 1, 2023.