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CS/HB 111

2023 Legislature

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

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

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

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

(3) RESILIENT FLORIDA GRANT PROGRAM.—

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

1. A county or municipality to fund:

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

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

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

d.4. Preconstruction activities for projects to be submitted for inclusion in the Statewide Flooding and Sea Level Rise Resilience Plan that are located in a municipality that has

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51 a population of 10,000 or fewer or a county that has a  
52 population of 50,000 or fewer, according to the most recent  
53 April 1 population estimates posted on the Office of Economic  
54 and Demographic Research's website.

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

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

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

71 380.0937 Public financing of construction projects within  
72 areas at risk due to sea level rise.—

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

74 (a) "Area at risk due to sea level rise" means any  
75 location that is projected to be below the threshold for tidal

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76 flooding within the next 50 years by adding sea level rise using  
 77 the highest of the sea level rise projections required by s.  
 78 380.093(3)(d)3.b. For purposes of this paragraph, the threshold  
 79 for tidal flooding is 2 feet above mean higher high water.

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

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

- 85 1. A critical asset as defined in s. 380.093(2)(a)1.-3.
- 86 2. A historical or cultural asset.

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

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

- 97 1. Twenty-five percent of the replacement cost of the  
 98 potentially at-risk structure or infrastructure at the time of  
 99 the event; or
- 100 2. A defined threshold established by the department by

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

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

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

111 (2) Beginning July 1, 2024, a state-financed constructor  
 112 may not commence construction of a potentially at-risk structure  
 113 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

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 of 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.

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126 The rule applies only to projects not yet commenced as of the  
127 date the rule is finalized. The rule may not apply retroactively  
128 to projects that commenced before the date the rule is  
129 finalized. At a minimum, the standard must require that a state-  
130 financed constructor do all of the following:

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

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

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

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

148 3. The assessment must use and consider available  
149 scientific research and generally accepted industry practices.

150 4. The assessment must provide an estimated probability of

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151 significant flood damage to the potentially at-risk structure or  
152 infrastructure over the expected life of the structure or  
153 infrastructure or 50 years, whichever is less.

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

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

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

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171 If multiple potentially at-risk structures or infrastructure are  
172 to be built concurrently within one project, a state-financed  
173 constructor may conduct and submit one SLIP study for the entire  
174 project for publication by the department.

175 (4) If a state-financed constructor commences construction

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176 of a potentially at-risk structure or infrastructure but has not  
 177 complied with the SLIP study requirement under subsection (2),  
 178 the department may bring a civil action in a court of competent  
 179 jurisdiction to:

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

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

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

192 (6) The department:

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

200 (b) Shall adopt rules as necessary to administer this

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201 section.

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

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

204 Florida Statutes, to read:

205 161.551 Public financing of construction projects within  
 206 the coastal building zone.—

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

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