

CHAPTER 2020-119

Committee Substitute for Committee Substitute for Senate Bill No. 178

An act relating to public financing of construction projects; creating s. 161.551, F.S.; defining terms; prohibiting state-financed constructors from commencing construction of certain structures in coastal areas after a specified date without first taking certain steps regarding a sea level impact projection study; requiring the Department of Environmental Protection to develop by rule a standard for such studies; providing that such rule operates prospectively on projects that have not yet commenced as of the finalization of the rule; requiring the department to publish such studies on its website, subject to certain conditions; requiring the department to adopt rules; providing for enforcement; providing effective dates.

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

Section 1. Effective July 1, 2021, section 161.551, Florida Statutes, is created to read:

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

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

(a) “Coastal structure” means a major structure or nonhabitable major structure within the coastal building zone.

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

(c) “SLIP study” means a sea level impact projection study as established by the department pursuant to subsection (3).

(d) “State-financed constructor” means a public entity that commissions or manages a construction project using funds appropriated from the state.

(e) “Substantial flood damage” means flood, inundation, or wave action damage resulting from a single event, such as a flood or tropical weather system, where such damage exceeds 25 percent of the market value of the coastal structure at the time of the event.

(2) Beginning 1 year after the date the rule developed by the department pursuant to subsection (3) is finalized and is otherwise in effect, a state-

financed constructor may not commence construction of a coastal structure without:

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

(b) Submitting the study to the department; and

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

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

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

(b) Assess the flooding, inundation, and wave action damage risks relating to the coastal structure over its expected life or 50 years, whichever is less.

1. The assessment must take into account potential relative local sea-level rise and increased storm risk during the expected life of the coastal structure or 50 years, whichever is less, and, to the extent possible, account for the contribution of sea-level rise versus land subsidence to the relative local sea-level rise.

2. The assessment must provide scientific and engineering evidence of the risk to the coastal structure and methods used to mitigate, adapt to, or reduce this risk.

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

4. The assessment must provide the mean average annual chance of substantial flood damage over the expected life of the coastal structure or 50 years, whichever is less.

5. The assessment must analyze potential public safety and environmental impacts resulting from damage to the coastal structure, including,

but not limited to, leakage of pollutants, electrocution and explosion hazards, and hazards resulting from floating or flying structural debris.

(c) Provide alternatives for the coastal structure’s design and siting, and how such alternatives would impact the risks specified in subparagraph (b)5. as well as the risk and cost associated with maintaining, repairing, and constructing the coastal structure.

If multiple coastal structures are to be built concurrently within one project, a state-financed constructor may conduct and submit one SLIP study for the entire project for publication by the department.

(4) If a state-financed constructor commences construction of a coastal structure but has not complied with the SLIP study requirement under subsection (2), the department may institute a civil action in a court of competent jurisdiction to:

(a) Seek injunctive relief to cease further construction of the coastal structure or enforce compliance with this section or with rules adopted by the department pursuant to this section.

(b) If the coastal structure has been completed or has been substantially completed, seek recovery of all or a portion of state funds expended on the coastal structure.

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

(6) The department:

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

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

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

Section 2. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2020.

Approved by the Governor June 29, 2020.

Filed in Office Secretary of State June 29, 2020.