

## CHAPTER 2023-231

### Committee Substitute for House Bill No. 111

An act relating to flooding and sea level rise vulnerability studies; amending s. 380.093, F.S.; revising the purposes for which the Department of Environmental Protection may provide grants under the Resilient Florida Grant Program to counties or municipalities; authorizing the department to provide such grants to water management districts for a specified purpose; requiring such grants to be prioritized; creating s. 380.0937, F.S.; providing definitions; requiring state-financed constructors to take specified actions before commencing construction of potentially at-risk structures or infrastructure beginning on a specified date; requiring the department to develop a specified sea level impact projection study standard by rule; authorizing the department to bring civil actions, seek injunctive relief, recover certain funds, and enforce specified requirements; providing construction; requiring the department to publish sea level impact projection studies on its website, subject to certain conditions, and adopt rules; amending s. 161.551, F.S.; providing for future repeal of requirements for the construction of certain structures in the coastal building zone; providing an effective date.

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

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

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

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

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

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

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

(b) “Department” means the Department of Environmental Protection.

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

1. A critical asset as defined in s. 380.093(2)(a)1.-3.

2. A historical or cultural asset.

(d) “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.

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

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

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

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

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

(2) Beginning July 1, 2024, a state-financed constructor may not commence construction of a potentially at-risk structure or infrastructure 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 of 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 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 potentially at-risk structure or infrastructure 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 potentially at-risk structure or infrastructure or 50 years, whichever is less, and, to the extent possible, account for the construction 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 potentially at-risk structure or infrastructure 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 an estimated probability of significant flood damage to the potentially at-risk structure or infrastructure over the expected life of the structure or infrastructure or 50 years, whichever is less.

5. The assessment must analyze potential public safety and environmental impacts resulting from damage to the potentially at-risk structure or infrastructure, 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 design and siting of the potentially at-risk structure or infrastructure and analyze 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 potentially at-risk structure or infrastructure.

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

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

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

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

(5) This section does not 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 each SLIP study submitted pursuant to this section on its website for at least 10 years after the date the department receives the study. 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.

(c) May enforce the requirements of this section.

Section 3. Subsection (8) is added to section 161.551, Florida Statutes, to read:

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

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

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

Approved by the Governor June 13, 2023.

Filed in Office Secretary of State June 13, 2023.