By Senator Rodriguez

39-01542-21 20211550__

A bill to be entitled

An act relating to public financing of potentially at-risk structures; amending s. 161.551, F.S.; providing and revising definitions; providing that coastal building zones are areas at risk due to sea level rise and coastal structures within those areas are potentially at-risk structures; requiring state-financed constructors to include certain flood mitigation strategies in sea level impact projection studies; providing an effective date.

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

Section 1. Section 161.551, Florida Statutes, as created by chapter 2020-119, Laws of Florida, is amended to read:

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

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

(a) "Area at risk due to sea level rise" means an inland or coastal area where sea level rise can substantially increase flood risk, including tidal, storm surge, and groundwater inundation.

(b) ~~(a)~~ "Potentially at-risk ~~Coastal~~ structure" means a major structure or nonhabitable major structure within an area at risk due to sea level rise ~~the coastal building zone~~.

(c) ~~(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.

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

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

(f) ~~(e)~~ "Substantial flood damage" means flood, inundation, or wave action, if applicable, 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 potentially at-risk ~~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 potentially at-risk ~~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, if applicable, damage risks relating to the potentially at-risk ~~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 potentially at-risk ~~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 potentially at-risk ~~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 potentially at-risk ~~coastal~~ structure 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 ~~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 potentially at-risk ~~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 potentially at-risk ~~coastal~~ structure.

(d) Provide a list of flood mitigation strategies evaluated as part of the design of the potentially at-risk structures, and identify the flood mitigation strategies that have been implemented or are being considered as part of the potentially at-risk structure design.

If multiple potentially at-risk ~~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 potentially at-risk ~~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 potentially at-risk ~~coastal~~ structure or enforce compliance with this section or with rules adopted by the department

pursuant to this section.

(b) If the potentially at-risk ~~coastal~~ structure has been completed or has been substantially completed, seek recovery of all or a portion of state funds expended on the potentially at-risk ~~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. This act shall take effect July 1, 2021.