A bill to be entitled
An act relating to public financing of potentially at-risk structures and infrastructure; amending s. 161.551, F.S.; defining and revising terms; providing that certain areas are at risk due to sea-level rise and structures and infrastructure within those areas are potentially at risk; providing an additional requirement for the standard for conducting a SLIP study; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 161.551, Florida Statutes, 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 area where sea-level rise can substantially increase flood risk, including tidal, storm surge, riverine, runoff, stormwater, groundwater inundation, or coastal erosion. An area at risk is 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 2017 National Oceanic and Atmospheric Administration intermediate-high sea-level rise projection. For purposes of this paragraph, the threshold for tidal flooding is 2 feet above mean higher high water.

(b)(a) “Potentially at-risk Coastal structure or
infrastructure" means any major structure or infrastructure, including all infrastructure critical to public health, life, or safety, within an area at risk due to sea-level rise of nonhabitable major structure within 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.

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

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

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

1. Twenty-five (25) percent of the replacement cost market value of the potentially at-risk coastal structure or infrastructure at the time of the event; or

2. A defined threshold established by the department in coordination with the Department of Transportation and water management districts. The threshold must be established by July 1, 2023.

(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 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 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 potentially at-risk coastal 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 coastal structure or infrastructure 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 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 the mean average annual chance of substantial flood damage to the potentially at-risk structure or infrastructure over the expected life of the coastal 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 coastal 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 coastal structure's design and siting of the potentially at-risk structure or infrastructure, 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 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 the flood mitigation strategies that have been implemented or are being considered as part of the potentially at-risk structure or infrastructure design.

If multiple potentially at-risk coastal 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 coastal structure or infrastructure 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 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 coastal 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 coastal structure or infrastructure.

(5) This section does not 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 each SLIP study
all SLIP studies submitted pursuant to this section on its website for at least 10 years after the date the department receives the study 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, 2022.