

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

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BILL: SB 1580

INTRODUCER: Senator Rodriguez

SUBJECT: Resilience Planning

DATE: March 24, 2025

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Barriero</u>	<u>Rogers</u>	<u>EN</u>	<u><b>Pre-meeting</b></u>
2. _____	_____	<u>AEG</u>	_____
3. _____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 1580 creates the Florida Master P3 Infrastructure Authority within the Department of Environmental Protection (DEP) to oversee the planning, contracting, and execution of projects that address risks of flooding and sea level rise to coastal and inland communities pursuant to the Statewide Flooding and Sea Level Rise Resilience Plan. The bill requires the Florida Master P3 Infrastructure Authority to:

- Acquire at-risk coastal and flood-prone properties for projects that address risks of flooding and sea level rise to coastal and inland communities.
- Induce investments from the private sector for such projects by offering incentives.
- Engage local governments, community leaders and incorporate their feedback in the project.
- Partner with in-state vocational schools and apprenticeship programs to train workers in specialized resiliency construction.
- Publish biannual progress reports and create an online dashboard for updates on project execution.
- Employ an independent certified accounting firm to audit funds, accounts, and financial records for the projects.
- Implement penalties for noncompliance or mismanagement of resources.

The bill provides that, notwithstanding an extension from DEP, all projects that address risks of flooding and sea level rise to coastal and inland communities pursuant to the Statewide Flooding and Sea Level Rise Resilience Plan must have a 5-year implementation timeline.

## II. Present Situation:

### Statewide Resilience Programs

The Legislature has established several statewide resilience programs, including:

- The Resilient Florida Grant Program, which provides grants to local governments and water management districts for community resilience planning, including feasibility studies, vulnerability assessments, and adaptation planning.<sup>1</sup>
- The Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment, which provides an inventory of critical assets and information necessary to determine the risks to inland and coastal communities such as elevation, tidal levels, and precipitation.<sup>2</sup>
- The Statewide Flooding and Sea Level Rise Resilience Plan, which consists of ranked projects that address risks of flooding and sea level rise to coastal and inland communities.<sup>3</sup>

### *Statewide Flooding and Sea Level Rise Resilience Plan*

By December 1 of each year, the Department of Environmental Protection (DEP) must develop a Statewide Flooding and Sea Level Rise Resilience Plan with a three-year planning horizon and submit it to the Governor and Legislature.<sup>4</sup> The plan must consist of ranked projects that address flooding and sea level rise risks for coastal and inland communities.<sup>5</sup> All eligible projects submitted must be ranked and included in the plan.<sup>6</sup> DEP ranks the projects using a four-tiered scoring system.<sup>7</sup> Examples of projects include construction of living shorelines, seawalls, and pump stations, elevation projects, and infrastructure hardening.<sup>8</sup>

Each plan must include, among other things, a detailed description of the methodology used by DEP to rank projects, details on the submitted project applications, and total funding requested, including for ineligible projects.<sup>9</sup> In addition, each plan must include the following information for each recommended project:

- A description of the project;
- The location of the project;
- An estimate of how long the project will take to complete;
- An estimate of the cost of the project;
- The cost-share percentage available for the project;
- A summary of the priority score assigned to the project; and
- The project sponsor.<sup>10</sup>

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<sup>1</sup> Section 380.093(3), F.S.

<sup>2</sup> Section 380.093(4), F.S.

<sup>3</sup> Section 380.093(5), F.S.

<sup>4</sup> Section 380.093(5)(a), F.S.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Section 380.093(5)(g), F.S.

<sup>8</sup> See DEP, *Statewide Resilience Plan: Fiscal Year 2024-25*, 8-12 (2023), available at [https://floridadep.gov/sites/default/files/2024-2025%20Statewide%20Resilience%20Plan-FINAL\\_0.pdf](https://floridadep.gov/sites/default/files/2024-2025%20Statewide%20Resilience%20Plan-FINAL_0.pdf).

<sup>9</sup> Section 380.093(5)(g), F.S.

<sup>10</sup> Section 380.093(5)(c), F.S.

Counties, municipalities, special districts, and regional resilience entities may submit a list of proposed projects that address risks identified in statewide or local vulnerability assessments.<sup>11</sup> Water management districts, drainage districts, erosion control districts, flood control districts, and regional water supply authorities may also submit projects that mitigate flooding and sea level rise impacts on water supplies or water resources.<sup>12</sup>

Each project must have a 50 percent cost share unless the project assists or is within a community eligible for a reduced cost share.<sup>13</sup> The annual funding for the plan must be at least \$100 million.<sup>14</sup> Multiyear projects must continue receiving funding until completion if contractual obligations are met and funds remain available.<sup>15</sup>

### **Organizational Structure of the Executive Branch**

Chapter 20, F.S., governs the organizational structure of the state's executive branch. It creates the executive departments and agencies and establishes their roles and responsibilities. This chapter provides definitions for terms such as "agency," "council," "commission," and "committee" to maintain uniformity throughout the executive branch.<sup>16</sup> It also outlines the powers and responsibilities of department heads,<sup>17</sup> the process for structural reorganization,<sup>18</sup> and the role of advisory bodies, commissions, and boards.<sup>19</sup> Pursuant to s. 20.052, F.S., these advisory bodies must, among other things, hold open meetings, provide annual reports, and be repealed after three years unless saved from repeal through reenactment by the Legislature.<sup>20</sup>

### **Public-private Partnerships**

Public-private partnerships (P3s) are contractual arrangements between public entities and private sector entities<sup>21</sup> that facilitate increased private sector involvement in the funding and execution of public building and infrastructure projects. These agreements enable the collaboration of skills and assets from both public and private sectors to provide services or facilities for the benefit of the general public. Several statutes promote and offer direction for P3

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<sup>11</sup> Section 380.093(5)(d)1., F.S.

<sup>12</sup> Section 380.093(5)(d)2., F.S.

<sup>13</sup> Section 380.093(5)(e), F.S. "Community eligible for reduced cost share" means (1) a municipality that has a population of 10,000 or fewer and a per capita annual income that is less than the state's per capita annual income; (2) a county that has a population of 50,000 or fewer and a per capita annual income that is less than the state's per capita annual; or (3) a municipality or county that has a per capita annual income that is equal to or less than 75 percent of the state's per capita annual income. Populations are determined by the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website. The state's per capita income is based on the most recent release from the Bureau of the Census of the U.S. Department of Commerce. *Id.*

<sup>14</sup> Section 380.093(5)(h), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> Section 20.03, F.S.

<sup>17</sup> Section 20.05, F.S.

<sup>18</sup> Section 20.06, F.S.

<sup>19</sup> Section 20.052, F.S.

<sup>20</sup> *Id.*

<sup>21</sup> "Private entity" means any natural person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity, or other private business entity. Section 255.065(1)(g), F.S.

projects, including those for services and facilities related to transportation,<sup>22</sup> housing,<sup>23</sup> and education.<sup>24</sup>

Current law allows responsible public entities (RPEs)<sup>25</sup> to engage in P3 projects aimed at developing an extensive array of public-use facilities or projects that fulfill a public purpose. Examples of qualifying projects include those for mass transit, vehicle parking, airports or seaports, educational facilities, and public sector buildings or complexes such as courthouses or city halls.<sup>26</sup> Current law outlines specific requirements to which RPEs must adhere, including protocols for reviewing and approving proposals.<sup>27</sup>

### ***Procurement Procedures***

Current law allows an RPE to receive unsolicited proposals or may solicit proposals for a qualifying P3 project and thereafter enter into a comprehensive agreement for the building, upgrading, operating, ownership, or financing of facilities.<sup>28</sup> An unsolicited proposal from a private entity for approval of a qualifying project must be accompanied by the following materials and information, unless waived by the RPE:

- A description of the project and the method proposed by the private entity to secure the necessary property interests required for the project.
- A description of the private entity's general plans for financing the project.
- The name and address of a designated contact person who can provide additional information about the proposal.
- The proposed user fees,<sup>29</sup> lease payments,<sup>30</sup> or other service payments throughout the term of the comprehensive agreement, along with the methodology for and circumstances allowing adjustments to these payments over time.

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<sup>22</sup> See section 334.30, F.S., relating to public-private transportation facilities.

<sup>23</sup> See section 420.0003(2)(b), F.S., relating to state housing strategy.

<sup>24</sup> See section 1013.35, F.S., relating to school district educational facilities plans.

<sup>25</sup> "Responsible public entity" means a county, municipality, school district, special district, or any other political subdivision of the state; a public body corporate and politic; or a regional entity that serves a public purpose and is authorized to develop or operate a qualifying project. Section 255.065(1)(j), F.S. "Develop" means to plan, design, finance, lease, acquire, install, construct, or expand. Section 255.065(1)(b), F.S. "Operate" means to finance, maintain, improve, equip, modify, or repair. Section 255.065(1)(f), F.S.

<sup>26</sup> "Qualifying project" means a facility or project that serves a public purpose, including, but not limited to, any ferry or mass transit facility, vehicle parking facility, airport or seaport facility, rail facility or project, fuel supply facility, oil or gas pipeline, medical or nursing care facility, recreational facility, sporting or cultural facility, or educational facility or other building or facility that is used or will be used by a public educational institution, or any other public facility or infrastructure that is used or will be used by the public at large or in support of an accepted public purpose or activity; an improvement, including equipment, of a building that will be principally used by a public entity or the public at large or that supports a service delivery system in the public sector; a water, wastewater, or surface water management facility or other related infrastructure; or notwithstanding any provision of this section, for projects that involve a facility owned or operated by the governing board of a county, district, or municipal hospital or health care system, or projects that involve a facility owned or operated by a municipal electric utility, only those projects that the governing board designates as qualifying projects pursuant to this section. Section 255.065(1)(i), F.S.

<sup>27</sup> "Proposal" means a plan for a qualifying project with detail beyond a conceptual level for which terms such as fixing costs, payment schedules, financing, deliverables, and project schedule are defined. Section 255.065(1)(h), F.S.

<sup>28</sup> Section 255.065(3), F.S.

<sup>29</sup> "Fees" means charges imposed by the private entity of a qualifying project for use of all or a portion of such qualifying project pursuant to a comprehensive agreement. Section 255.065(1)(c), F.S.

<sup>30</sup> "Lease payment" means any form of payment, including a land lease, by a public entity to the private entity of a qualifying project for the use of the project. Section 255.065(1)(d), F.S.

- Any additional material or information requested by the RPE.<sup>31</sup>

If the RPE intends to execute a comprehensive agreement for a project arising from an unsolicited proposal, the RPE must publish notice in the Florida Administrative Register and a newspaper of general circulation and mail a copy of the notice to each local government in the affected area.<sup>32</sup> The notice must be published at least once a week for two weeks stating the RPE has received a proposal and will accept other proposals for the same project.<sup>33</sup>

The RPE may proceed with an unsolicited proposal for a qualifying project without engaging in a public bidding process if the RPE holds a duly noticed public meeting at which the proposal is presented and affected public entities and members of the public are able to provide comment and at a second duly noticed public meeting determines that the proposal is in the public's interest.<sup>34</sup> If the RPE decides to proceed with an unsolicited proposal without engaging in a public bidding process, the RPE must publish in the Florida Administrative Register for at least seven days a report that includes:

- The public interest determination;
- The factors considered in making such public interest determination; and
- The RPE's findings based on each considered factor.<sup>35</sup>

### ***Project Qualification and Approval***

After the public notification period has expired for an unsolicited proposal that is submitted and noticed for public hearing, the RPE ranks the proposals received in order of preference.<sup>36</sup> The RPE may then begin negotiations for a comprehensive agreement with the highest-ranked firm.<sup>37</sup>

Before approving a comprehensive agreement, the RPE must determine the proposed project:

- Is in the public's best interest.
- Is for a facility owned by the RPE or for which ownership will be conveyed to the RPE.
- Has adequate safeguards to prevent additional costs or service disruptions for the public in case of material default<sup>38</sup> or cancellation of the comprehensive agreement by the RPE.
- Includes measures to allow the RPE or the private entity to add capacity to the proposed project or other facilities serving similar predominantly public purposes.
- Will be owned by the RPE upon completion, expiration, or termination of the comprehensive agreement and upon payment of the financed amounts.<sup>39</sup>

<sup>31</sup> Section 255.065(4), F.S. Any pricing or financial terms included in an unsolicited proposal must be specific as to when the pricing or terms expire.

<sup>32</sup> Section 255.065(3)(b), F.S. "Affected local jurisdiction" means a county, municipality, or special district in which all or a portion of a qualifying project is located. Section 255.065(1)(a), F.S.

<sup>33</sup> Section 255.065(3)(b)1., F.S.

<sup>34</sup> Section 255.065(3)(c), F.S.

<sup>35</sup> Section 255.065(3)(d), F.S.

<sup>36</sup> Section 255.065(5)(c), F.S.

<sup>37</sup> *Id.*

<sup>38</sup> "Material default" means a nonperformance of its duties by the private entity of a qualifying project which jeopardizes adequate service to the public from the project. Section 255.065(1)(e), F.S.

<sup>39</sup> Section 255.065(3)(f), F.S.

### ***Comprehensive Agreement***

The RPE and the private entity must enter into a comprehensive agreement before developing or operating a qualifying project.<sup>40</sup> The comprehensive agreement must provide for:

- Delivery of performance and payment bonds, letters of credit, or other security related to the project's development or operation.
- Review of the project design by the RPE. This does not require the private entity to complete the project's design before executing the comprehensive agreement.
- Inspection of the project by the RPE.
- Maintenance of a public liability insurance policy, a copy of which together with proofs of coverage are filed with the RPE, or satisfactory proof of self-insurance.
- Monitoring the maintenance practices of the private entity by the RPE to ensure proper upkeep of the project.
- Periodic filing of financial statements pertaining to the project by the private entity.
- Procedures governing the rights and responsibilities of both parties in the event of a termination of the comprehensive agreement or a material default by the private entity.
- User fees, lease payments, or service payments that do not discourage use of the project, as may be established in the agreement.
- Duties of the private entity, including the terms and conditions that the RPE determines serve the public purpose of the project.<sup>41</sup>

### **III. Effect of Proposed Changes:**

**Section 1** creates s. 380.0934, F.S., which establishes the Florida Master P3 Infrastructure Authority. The bill creates within the Department of Environmental Protection (DEP) the Florida Master P3 Infrastructure Authority to oversee the planning, contracting, and execution of projects that address flooding and sea level rise to coastal and inland communities in this state pursuant to the Statewide Flooding and Sea Level Rise Resilience Plan. The goals of the Florida Master P3 Infrastructure Authority are to:

- Manage all such projects eligible for inclusion in the planning and coordination between state agencies, local governments, and private sector partners seeking to invest in such projects.
- Create a unified statewide approach for funding, developing, and maintaining such projects, in collaboration with private sector partners.

The bill provides that the Florida Master P3 Infrastructure Authority members must initially be appointed for a term of four years. Thereafter, each member must be appointed for a term of four years from the date of appointment, except that a vacancy must be filled by appointment for the remainder of the term. The members of the authority must serve without compensation but must be reimbursed for all necessary expenses in the performance of their duties, including travel expenses. The authority must appoint an executive director, establish rules of procedure for conducting its meetings, meet at least semiannually, and elect a chair, a vice chair, and a secretary for one-year terms.

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<sup>40</sup> Section 255.065(7)(a), F.S.

<sup>41</sup> *Id.*

The bill requires the authority to be composed of the following six members:

- One representative from the Department of Transportation, appointed by the Secretary of Transportation.
- One representative from DEP, appointed by the Secretary of Environmental Protection.
- One representative from the Division of Emergency Management, appointed by the director of the Division of Emergency Management.
- The Chief Resilience Officer.
- The Chief Scientist.
- One industry expert in banking and investment for large scale infrastructure projects, appointed by the secretary of DEP.

The bill requires the Florida Master P3 Infrastructure Authority to:

- Acquire at-risk coastal and flood-prone properties for projects that address flooding and sea level rise to coastal and inland communities in this state pursuant to the statewide flooding and sea level rise resilience plan using measures including, but not limited to, property buyout programs for voluntary relocation in high-risk zones.
- Induce investments from the private sector for such projects by offering incentives, including, but not limited to:
  - Long-term revenue-sharing agreements, such as toll collection, lease arrangements, or energy savings.
  - Tax credits.
  - Expedited permitting for construction necessary for such projects.
- Engage local governments, community leaders, and residents during the project planning and execution phases and incorporate their feedback in the project.
- Partner with in-state vocational schools and apprenticeship programs to train workers in specialized resiliency construction.
- Publish biannual progress reports, including project milestones, expenditures, and public benefits on the department's website. The authority must also create an online dashboard for real-time updates on project execution.
- Employ an independent certified accounting firm to audit funds, accounts, and financial records for the projects.
- Implement penalties for noncompliance or mismanagement of resources.

The bill allows DEP to provide administrative and staff support services relating to the meetings of the authority.

The bill provides that, notwithstanding an extension from DEP, all projects that address flooding and sea level rise to coastal and inland communities in this state pursuant to the statewide flooding and sea level rise resiliency plan must have a 5-year implementation timeline to ensure timely completion.

**Section 2** provides that the bill takes effect upon becoming a law.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Department of Environmental Protection may incur costs related to implementing the Florida Master P3 Infrastructure Authority and providing administrative and staff support services for the authority's meetings.

**VI. Technical Deficiencies:**

To enhance clarity, the phrase "projects that address flooding and sea level rise to coastal and communities" on lines 26-27, 63-64, and 91-92 may be revised to "projects that address *risks of* flooding and sea level rise to coastal and inland communities" to reflect the focus on risk mitigation.

**VII. Related Issues:**

Chapter 20, F.S., lays out the organizational structure for executive branch entities. The P3 Infrastructure Authority does not fall within the current framework laid out under chapter 20, F.S. The Authority is created within the Department of Environmental Protection but appears to



be given authority to function in a way that may not be subject to the Secretary's oversight. The bill would direct the Authority to offer inducements for projects such as offering tax credits, but it would take additional statutory authority to lay out what tax credits the Authority could offer and how it would do this.

Although the bill creates the Florida Master P3 Infrastructure Authority, and P3 generally refers to public-private partnerships as described in s. 255.065, F.S., the Authority is not directed to focus on these types of public-private partnerships. Instead, the overarching directive is to oversee all planning, contracting, and execution of projects in the Statewide Flooding and Sea Level Rise Resilience Plan. Clarification would be beneficial if the intent is that the Authority only oversee public-private partnerships.

#### **VIII. Statutes Affected:**

This bill creates section 380.0934 of the Florida Statutes.

#### **IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.