

By the Committee on Community Affairs; and Senator Burgess

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1 A bill to be entitled
2 An act relating to matters of great governmental
3 concern; creating s. 16.65, F.S.; providing
4 legislative findings; defining terms; authorizing the
5 Legislature to declare, by concurrent resolution, that
6 a circumstance or conduct that has caused substantial
7 economic loss or other similar harm to governmental
8 entities in at least a specified number of counties is
9 a matter of great governmental concern; providing that
10 the Attorney General has the sole authority to file
11 certain civil proceedings; authorizing the Attorney
12 General to investigate certain matters; authorizing
13 the Attorney General to institute or intervene in
14 certain civil proceedings; authorizing the Attorney
15 General to take certain actions in certain civil
16 proceedings; providing that any award, excluding
17 attorney fees, are subject to full appropriation by
18 the Legislature; prohibiting such award to be
19 appropriated, expended, or encumbered by the Attorney
20 General or any settlement agreement; providing that a
21 declaration by the Legislature that a matter is a
22 matter of great governmental concern abates or stays
23 certain civil proceedings; providing for the tolling
24 of certain statutes of limitations; requiring certain
25 entities to provide notice to the Attorney General;
26 providing that certain settlements and resolutions are
27 void; providing that the Department of Legal Affairs
28 is exempt from certain requirements related to
29 protests to contract solicitation or award;

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30 authorizing a governmental entity or its attorneys to
31 apply to a court for recovery of attorney fees and
32 costs; requiring a court to consider certain factors
33 in calculating the amount of attorney fees; providing
34 an effective date.

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

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38 Section 1. Section 16.65, Florida Statutes, is created to
39 read:

40 16.65 Matters of great governmental concern.—

41 (1) LEGISLATIVE FINDINGS.—The Legislature finds that:

42 (a) Several events have led to extensive litigation by
43 multiple governmental entities in this state arising from the
44 same facts, circumstances, or conduct or similar causes of
45 action. This litigation has been difficult to resolve in a
46 timely and expeditious manner because of the number and
47 different types of governmental entities involved.

48 (b) It is in the interest of this state that a single
49 official represent governmental entities in civil proceedings in
50 matters of great governmental concern to maximize recoveries and
51 minimize costs.

52 (c) The Attorney General is the state's chief legal officer
53 and is the official who should be responsible for the
54 prosecution, management, and coordination of any civil
55 proceedings brought by governmental entities in matters of great
56 governmental concern.

57 (d) The failure to have a single official responsible in
58 matters of great governmental concern undermines fairness and

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59 efficiency and risks inconsistent or incongruent results, which
60 will delay recovery and undermine governmental entities' ability
61 to respond to such matters of great governmental concern.

62 (2) DEFINITIONS.—As used in this section, unless the
63 context otherwise requires, the term:

64 (a) "Governmental entity" means the state and any
65 department, agency, political subdivision, unit of government,
66 or school district thereof.

67 (b) "Matter of great governmental concern" means any fact,
68 circumstance, or conduct that has caused substantial economic
69 loss or other harm of a similar nature to governmental entities
70 in 15 or more counties in this state.

71 (3) AUTHORITY.—

72 (a) The Legislature by concurrent resolution may declare a
73 matter to be a matter of great governmental concern. Upon such
74 declaration, the Attorney General has the sole authority to file
75 a civil proceeding on behalf of the affected governmental
76 entities in this state until the Legislature by concurrent
77 resolution invalidates, rescinds, or amends that declaration.

78 (b) The Attorney General may investigate a matter before
79 and after the Legislature declares that the matter is a matter
80 of great governmental concern. In any investigation and civil
81 proceeding commenced pursuant to this section, it is the duty of
82 all public officers and their deputies, assistants, clerks,
83 subordinates, and employees to render and furnish to the
84 Attorney General, when so requested, assistance and all
85 information available in their official capacity.

86 (c) The Attorney General may institute or intervene in any
87 civil proceeding in state or federal court, including any

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88 pending appeal, on behalf of a governmental entity to seek any
89 relief afforded at law or in equity, under state or federal law,
90 pertaining to a matter of great governmental concern.

91 (d) The Attorney General may consolidate, dismiss, release,
92 settle, or take action that he or she believes to be in the
93 public interest in any civil proceeding in state or federal
94 court pertaining to a matter of great governmental concern,
95 provided that such action is not inconsistent with the terms or
96 provisions of the Legislature's resolution declaring the matter
97 to be a matter of great governmental concern.

98 (e) Any award for damages or monetary payment arising from
99 a civil proceeding, compromise, or settlement of any claim or
100 litigation pertaining to a matter of great governmental concern,
101 excluding attorney fees described in subsection (4), is subject
102 to full appropriation by the Legislature and may not be
103 appropriated, expended, or encumbered by the Attorney General or
104 the terms or provisions of any settlement agreement.

105 (f) A declaration by the Legislature that a matter is a
106 matter of great governmental concern operates to abate or stay
107 any civil proceeding in state or federal court pertaining to the
108 matter of great governmental concern filed by a governmental
109 entity until the Attorney General takes an action in such
110 proceeding.

111 (g) Any statute of limitations under the laws of this state
112 affecting a claim by a governmental entity is tolled for the
113 pendency of a declaration that a matter is a matter of great
114 governmental concern or for 1 year, whichever is earlier.

115 (h) Upon learning of a declaration that a matter is a
116 matter of great governmental concern, all governmental entities

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117 then a party to any affected civil proceeding shall provide
118 notice to the Attorney General of the existence of any such
119 civil proceeding, including the style of the action, the case
120 number, and the court where such proceeding is pending. Any
121 settlement or resolution of the civil proceeding by a
122 governmental entity taken after a declaration without the
123 consent of the Attorney General is void.

124 (i) For purposes of this subsection, the Department of
125 Legal Affairs is exempt from s. 120.57(3).

126 (4) ATTORNEY FEES.—

127 (a) If a governmental entity retains attorneys to represent
128 it before a matter is declared to be a matter of great
129 governmental concern, the governmental entity or its attorneys
130 may apply to the court where the civil proceeding is being
131 prosecuted by the Attorney General or, if no such proceeding
132 exists, in the circuit court in and for Leon County to receive
133 from any recovery its reasonable attorney fees and costs
134 incurred in connection with such representation.

135 (b) In calculating the amount of any reasonable attorney
136 fees, the court shall consider all of the following factors:

137 1. The time and labor required, the novelty and difficulty
138 of the question involved, and the skill requisite to perform the
139 legal service properly.

140 2. The likelihood, if apparent, that the acceptance of the
141 particular employment will preclude other employment by the
142 attorney.

143 3. The fee customarily charged in the locality for similar
144 legal services.

145 4. The amount involved and the results obtained.

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146 5. The time limitation imposed by the governmental entity
147 or the circumstances.

148 6. The nature and length of the professional relationship
149 with the governmental entity.

150 7. The experience, reputation, and ability of the attorney
151 performing the legal services.

152 8. Whether the fee is fixed or contingent.

153 Section 2. This act shall take effect upon becoming a law.