

By Senator Meadows

26-1435-98

See HB

1 A bill to be entitled
2 An act relating to governmental controversies;
3 amending s. 164.101, F.S.; renaming the
4 "Florida Governmental Cooperation Act" as the
5 "Florida Governmental Conflict Resolution Act";
6 amending s. 164.102, F.S.; providing purpose
7 and intent; creating s. 164.1031, F.S.;
8 providing definitions; creating s. 164.1041,
9 F.S.; requiring local and regional governmental
10 entities to exhaust the procedural options of
11 the act before initiating litigation, except in
12 emergency circumstances; creating s. 164.1051,
13 F.S.; specifying the governmental conflicts to
14 which the act applies; creating s. 164.1052,
15 F.S.; providing procedures and requirements for
16 initiation of conflict resolution procedures;
17 creating s. 164.1053, F.S.; providing for a
18 conflict assessment meeting and providing
19 requirements with respect thereto; creating s.
20 164.1055, F.S.; providing for a joint public
21 meeting between disputing entities; providing
22 for nonbinding arbitration; creating s.
23 164.1056, F.S.; providing for final resolution
24 of conflicts; creating s. 164.1057, F.S.;
25 specifying the manner of execution of the
26 resolution of a conflict; renumbering and
27 amending s. 164.104, F.S.; providing that a
28 governmental entity that fails to participate
29 in conflict resolution procedures shall be
30 required to pay attorney's fees and costs;
31 renumbering and amending s. 164.105, F.S.;

1 providing the period of tolling of any
2 applicable statute of limitations; repealing
3 ss. 164.103 and 164.106, F.S., which provide
4 procedures and requirements for resolution of
5 governmental disputes; providing an effective
6 date.

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

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10 Section 1. Section 164.101, Florida Statutes, is
11 amended to read:

12 164.101 Short title.--This act may be cited as the
13 "Florida Governmental Conflict Resolution ~~Cooperation~~ Act."

14 Section 2. Section 164.102, Florida Statutes, is
15 amended to read:

16 164.102 Purpose and intent.--The purpose and intent of
17 this act is to promote, protect, and improve the public
18 health, safety, and welfare by the creation of a governmental
19 conflict ~~dispute~~ resolution procedure ~~process~~ that can provide
20 an equitable, expeditious, effective, and inexpensive method
21 for resolution of conflicts ~~disputes~~ between and among local
22 and regional governmental entities ~~counties and~~
23 ~~municipalities~~. It is the intent of the Legislature to avoid
24 litigation, to the greatest extent possible.

25 Section 3. Section 164.1031, Florida Statutes, is
26 created to read:

27 164.1031 Definitions.--For purposes of this act:

28 (1) "Local governmental entities" includes
29 municipalities, counties, school boards, independent special
30 districts, and other local entities within the jurisdiction of
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1 one county created by general or special law or local
2 ordinance.

3 (2) "Regional governmental entities" includes regional
4 planning councils, metropolitan planning organizations, water
5 supply authorities that include more than one county, local
6 health councils, water management districts, and other
7 regional entities that are authorized and created by general
8 or special law that are in the jurisdiction of more than one
9 county.

10 (3) "Governmental entity" includes local and regional
11 governmental entities.

12 (4) "Local government resolution" has the same meaning
13 as provided in s. 166.041.

14 (5) "Governing body" means the council, commission, or
15 other board or body in which the general legislative powers of
16 a local or regional governmental entity are vested.

17 (6) "Designee" means a representative with full
18 authority to negotiate on behalf of a governmental entity and
19 to recommend settlement to the appropriate decisionmaking body
20 or authority of the governmental entity.

21 (7) "Noticed public meeting" means a public meeting in
22 which notice is given 10 days prior to the meeting by
23 publication in the newspaper of widest circulation in the
24 jurisdictions of the disputing governmental entities.

25 Section 4. Section 164.1041, Florida Statutes, is
26 created to read:

27 164.1041 Duty to negotiate.--

28 (1) The governing body of a governmental entity shall
29 not file suit against another governmental entity unless the
30 procedural options of this act have been exhausted. All
31 governmental entities are encouraged to use the procedures in

1 this act to resolve conflicts that may occur at any time
2 between governmental entities, but shall use these procedures
3 before litigation, consistent with the provisions of this
4 section.

5 (2) If a governmental entity, by a majority plus one
6 vote of its governing body, finds that an immediate danger to
7 the health, safety, or welfare of the public requires
8 immediate action, no notice or public meeting or other
9 proceeding as provided in this act shall be required before
10 litigation.

11 Section 5. Section 164.1051, Florida Statutes, is
12 created to read:

13 164.1051 Scope.--Pursuant to s. 164.1041, this act
14 shall apply, at a minimum, to governmental conflicts arising
15 from any of the following issues or processes:

16 (1) Any issue relating to local comprehensive plans or
17 plan amendments prepared pursuant to part II of chapter 163,
18 including, but not limited to, conflicts involving levels of
19 service for public facilities and natural resource protection.

20 (2) Municipal annexation.

21 (3) Service provision areas.

22 (4) Allocation of resources, including water, land, or
23 other natural resources.

24 (5) Siting of hazardous waste facilities, land fills,
25 garbage collection facilities, silt disposal sites, or any
26 other locally unwanted land uses.

27 (6) Governmental entity permitting processes.

28 (7) Siting of elementary and secondary schools,
29 community colleges, and state universities.

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1 (8) Any other issue or process deemed appropriate by a
2 governmental entity. It is not the intent of this act to
3 limit the conflicts that may be considered under this act.

4 Section 6. Section 164.1052, Florida Statutes, is
5 created to read:

6 164.1052 Initiation of conflict resolution procedure;
7 duty to give notice.--

8 (1) The governing body of a governmental entity shall
9 initiate the conflict resolution procedures provided by this
10 act through passage of a resolution by a majority plus one of
11 its members. The resolution shall state that it is the
12 intention of the governing body to initiate the conflict
13 resolution procedures provided by this act and shall specify
14 the issues of conflict and the governmental entity or entities
15 with which the governing body has a conflict. Notice of
16 passage of the resolution shall be provided to the
17 governmental entity with which the governing body has a
18 conflict by certified letter delivered to the chief
19 administrator of the governmental entity within 5 days after
20 the passage of the resolution. The certified letter shall
21 state, at a minimum, the conflict, other governmental entities
22 in conflict with the initiating governmental entity,
23 justification for initiating the conflict resolution process,
24 the proposed date and location for the conflict assessment
25 meeting to be held pursuant to s. 164.1053, and suggestions
26 regarding the officials who should be present at the conflict
27 assessment meeting. All state or regional governmental
28 entities with responsibilities affecting the implementation of
29 a resolution to the conflict and, at a minimum, all adjacent
30 local governments, and any other governmental entity deemed

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1 appropriate by the initiating governmental entity, shall
2 receive a copy of the certified letter.

3 (2) Within 10 days after receiving a copy of a
4 certified letter noticing the initiation of the conflict
5 resolution procedure, other governmental entities may join
6 with the initiating governmental entity as party to the
7 conflict. The intent of a governmental entity to join with
8 the initiating governmental entity shall be communicated to
9 the initiating governmental entity by certified letter after
10 passage of the resolution. All state or regional governmental
11 entities with responsibilities affecting the implementation of
12 a resolution to the conflict and, at a minimum, all adjacent
13 local governments, and any other governmental entity deemed
14 appropriate by the joining governmental entity, shall receive
15 a copy of the certified letter. Any governmental entity that
16 fails to join a conflict resolution proceeding may not
17 initiate the conflict resolution procedure on the same issue
18 within 6 months.

19 (3) For purposes of this act, the date of initiation
20 of the conflict resolution procedure shall be the date of the
21 passage of a resolution by a governmental entity.

22 Section 7. Section 164.1053, Florida Statutes, is
23 created to read:

24 164.1053 Conflict assessment phase.--After the
25 initiation of the conflict resolution procedure, and after
26 proper notice by certified letter has been given, a conflict
27 assessment meeting shall occur. Public notice shall be given
28 for this meeting in accordance with s. 164.1031(7). The chief
29 administrator for each local government, and the chief
30 executive officer of a regional governmental entity or his or
31 her designee, that are parties to the conflict resolution

1 procedure shall be present at this meeting. If the entities
2 in conflict agree, the assistance of a professional
3 facilitator may be enlisted for the conflict assessment
4 meeting. During the conflict assessment meeting, the
5 following shall be discussed or accomplished:

6 (1) Issues pertaining to the conflict and an
7 assessment of the conflict.

8 (2) The perspective of each governmental entity.

9 (3) Resolution of the conflict or arrangement of one
10 of the following:

11 (a) The scheduling of additional meetings for informal
12 negotiations.

13 (b) The scheduling of a joint public meeting pursuant
14 to s. 164.1055.

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16 If the governmental entities in conflict fail to reach
17 agreement on the issues specified in subsections (1)-(3)
18 within 30 days of the initiation of the conflict resolution
19 procedure, the entities shall participate in a joint public
20 meeting as described in s. 164.1055. This meeting shall take
21 place within 50 days of the initiation of the conflict
22 resolution procedure. At any time, either the initiator of the
23 conflict resolution procedure or the governing body of the
24 recipient governmental entity may initiate nonbinding
25 arbitration proceedings as provided in s. 164.1055(3).

26 Section 8. Section 164.1055, Florida Statutes, is
27 created to read:

28 164.1055 Joint public meeting.--Unless a joint public
29 meeting is already scheduled or convened as authorized in s.
30 164.1053(3)(b), failure to resolve a conflict after following
31 authorized procedures as specified in s. 164.1053 shall

1 require the scheduling of a joint public meeting between
2 disputing governmental entities. The governmental entity
3 initiating the conflict resolution process shall have the
4 responsibility to schedule the joint public meeting and
5 arrange a location. The parties may use a mediator or a
6 facilitator to assist them in conducting the meeting. In this
7 meeting, the governing bodies of the governmental entities
8 shall meet in a noticed public meeting and:

9 (1) Consider the statement of issues prepared in the
10 conflict assessment phase.

11 (2) Seek an agreement.

12 (3) If no agreement is reached, the parties shall
13 participate in nonbinding arbitration. If the conflict
14 initiator and the governmental entity against which the
15 conflict has been lodged do not agree on an arbitrator within
16 14 days after the joint public meeting, the arbitrator shall
17 be selected by an independent conflict resolution
18 organization, such as the Florida Conflict Resolution
19 Consortium, within 7 days after the close of that 14-day
20 period. The arbitrator shall issue a ruling on the conflict
21 within 20 days after his or her selection.

22 Section 9. Section 164.1056, Florida Statutes, is
23 created to read:

24 164.1056 Final resolution.--If there is failure to
25 resolve a conflict between governmental entities through the
26 procedures provided by ss. 164.1053 and 164.1055, final
27 resolution shall be determined by direction provided in
28 existing law.

29 Section 10. Section 164.1057, Florida Statutes, is
30 created to read:

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1 164.1057 Execution of resolution of
2 conflict.--Resolution of a conflict at any phase shall require
3 passage of an ordinance, resolution, or interlocal agreement
4 that reflects the terms or conditions of the resolution to the
5 conflict.

6 Section 11. Section 164.104, Florida Statutes, is
7 renumbered as section 164.1058, Florida Statutes, and amended
8 to read:

9 164.1058 ~~164.104~~ Penalty.--If a governmental entity
10 ~~the governing body of a county or municipality~~ which has
11 received notice of intent to initiate the conflict resolution
12 procedure pursuant to this act ~~file a suit pursuant to s.~~
13 ~~164.103(1)~~fails to participate in the conflict assessment
14 meeting, arbitration, or other remedies provided for in this
15 act, that governmental entity ~~hold a public meeting to discuss~~
16 ~~the proposed litigation, the governing body~~ shall be required
17 to pay the attorney's fees and costs in any final suit or ~~that~~
18 proceeding of the governmental entity which has initiated the
19 conflict resolution procedure ~~county or municipality which has~~
20 ~~filed suit.~~

21 Section 12. Section 164.105, Florida Statutes, is
22 renumbered as section 164.1059, Florida Statutes, and amended
23 to read:

24 164.1059 ~~164.105~~ Tolling of statutes of
25 limitation.--Each applicable statute of limitations is tolled
26 for up to 91 ~~45~~ days from the date of receipt by the potential
27 defendant ~~local~~ governmental entity of the notice of intent to
28 initiate the conflict resolution procedure ~~sue.~~

29 Section 13. Sections 164.103 and 164.106, Florida
30 Statutes, are hereby repealed.

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1 Section 14. This act shall take effect upon becoming a
2 law.

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5 HOUSE SUMMARY

6 Renames the "Florida Governmental Cooperation Act" as the
7 "Florida Governmental Conflict Resolution Act." Requires
8 local and regional governmental entities to exhaust the
9 procedural options of the act before initiating
10 litigation, except in emergency circumstances. Specifies
11 the governmental conflicts to which the act applies.
12 Provides procedures and requirements for initiation of
13 conflict resolution procedures. Provides for a conflict
14 assessment meeting and provides requirements with respect
15 thereto. Provides for a joint public meeting between
16 disputing entities. Provides for nonbinding arbitration.
17 Provides for final resolution of conflicts. Specifies
18 the manner of execution of the resolution of a conflict.
19 Provides that a governmental entity that fails to
20 participate in conflict resolution procedures shall be
21 required to pay attorney's fees and costs. Provides the
22 period of tolling of any applicable statute of
23 limitations.
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