

By Representative Constantine

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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