

By the Committee on Community Affairs and Representatives  
Constantine and Sanderson

1                                   A bill to be entitled  
2           An act relating to governmental conflict  
3           resolution; amending s. 164.101, F.S.; renaming  
4           the "Florida Governmental Cooperation Act" as  
5           the "Florida Governmental Conflict Resolution  
6           Act"; amending s. 164.102, F.S.; providing  
7           purpose and intent; creating s. 164.1031, F.S.;  
8           providing definitions; creating s. 164.1041,  
9           F.S.; providing that, when a local or regional  
10          governmental entity files suit against another  
11          such governmental entity, court proceedings  
12          shall be abated by order of the court until the  
13          procedural options of the act have been  
14          exhausted, except in specified circumstances;  
15          providing for review by the court of the  
16          justification for failure to comply with the  
17          act; creating s. 164.1051, F.S.; specifying the  
18          governmental conflicts to which the act  
19          applies; creating s. 164.1052, F.S.; providing  
20          procedures and requirements for initiation of  
21          conflict resolution procedures and  
22          determination of participants; creating s.  
23          164.1053, F.S.; providing for a conflict  
24          assessment meeting and providing requirements  
25          with respect thereto; creating s. 164.1055,  
26          F.S.; providing for a joint public meeting  
27          between conflicting entities; providing for  
28          mediation when no agreement is reached;  
29          creating s. 164.1056, F.S.; providing for final  
30          resolution of a conflict when there is a  
31          failure to resolve the conflict under the act;

1           creating s. 164.1057, F.S.; specifying the  
2           manner of execution of the resolution of a  
3           conflict; renumbering and amending s. 164.104,  
4           F.S.; providing that a governmental entity that  
5           fails to participate in conflict resolution  
6           procedures shall be required to pay attorney's  
7           fees and costs under certain conditions;  
8           creating s. 164.1061, F.S.; providing for  
9           extension of the time requirements of the act;  
10          repealing ss. 164.103, 164.105, and 164.106,  
11          F.S., which provide procedures and requirements  
12          for resolution of governmental disputes and for  
13          tolling of statutes of limitations; providing  
14          effect on existing contracts and agreements;  
15          providing an effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19           Section 1. Section 164.101, Florida Statutes, is  
20 amended to read:

21           164.101 Short title.--Sections 164.101-164.1061 ~~This~~  
22 ~~act~~ may be cited as the "Florida Governmental Conflict  
23 Resolution Cooperation Act."

24           Section 2. Section 164.102, Florida Statutes, is  
25 amended to read:

26           164.102 Purpose and intent.--The purpose and intent of  
27 this act is to promote, protect, and improve the public  
28 health, safety, and welfare and to enhance intergovernmental  
29 coordination efforts by the creation of a governmental  
30 conflict dispute resolution procedure ~~process~~ that can provide  
31 an equitable, expeditious, effective, and inexpensive method

1 for resolution of ~~conflicts disputes~~ between and among local  
2 and regional governmental entities ~~counties and~~  
3 ~~municipalities~~. It is the intent of the Legislature that  
4 conflicts between governmental entities be resolved to the  
5 greatest extent possible without litigation.

6 Section 3. Section 164.1031, Florida Statutes, is  
7 created to read:

8 164.1031 Definitions.--For purposes of this act:

9 (1) "Local governmental entities" includes  
10 municipalities, counties, school boards, special districts,  
11 and other local entities within the jurisdiction of one county  
12 created by general or special law or local ordinance.

13 (2) "Regional governmental entities" includes regional  
14 planning councils, metropolitan planning organizations, water  
15 supply authorities that include more than one county, local  
16 health councils, water management districts, and other  
17 regional entities that are authorized and created by general  
18 or special law that have duties or responsibilities extending  
19 beyond the jurisdiction of a single county.

20 (3) "Governmental entity" includes local and regional  
21 governmental entities.

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

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

27 (6) "Designee" means a representative with full  
28 authority to negotiate on behalf of a governmental entity and  
29 to recommend settlement to the appropriate decisionmaking body  
30 or authority of the governmental entity.

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1       (7) "Noticed public meeting" means a public meeting in  
2 which notice is given at least 10 days prior to the meeting by  
3 publication in the newspaper of widest circulation in the  
4 jurisdictions of the primary conflicting governmental  
5 entities. Each primary conflicting governmental entity shall  
6 provide notice within its jurisdiction.

7       (8) "Primary conflicting governmental entities" means  
8 the governmental entity initiating the conflict resolution  
9 process provided for in this act, together with the  
10 governmental entity or entities with whom the initiating  
11 governmental entity has a conflict. The term does not include  
12 other governmental entities which may have a role in approving  
13 or implementing a particular element or aspect of any  
14 settlement of the conflict, or which may receive notice or  
15 intervene in the conflict resolution process provided for in  
16 this act.

17       (9) "Mediation" means a process whereby a neutral  
18 third person called a mediator acts to encourage and  
19 facilitate the resolution of a conflict between two or more  
20 parties. The role of the mediator includes, but is not  
21 limited to, assisting the parties in identifying issues and  
22 exploring settlement alternatives.

23       Section 4. Section 164.1041, Florida Statutes, is  
24 created to read:

25       164.1041 Duty to negotiate.--

26       (1) If a governmental entity files suit against  
27 another governmental entity, court proceedings on the suit  
28 shall be abated, by order of the court, until the procedural  
29 options of this act have been exhausted. The governing body of  
30 a governmental entity initiating conflict resolution  
31 procedures pursuant to this act shall, by motion, request the

1 court to issue an order abating the case pursuant to this  
2 section. All governmental entities are encouraged to use the  
3 procedures in this act to resolve conflicts that may occur at  
4 any time between governmental entities, but shall use these  
5 procedures before court proceedings, consistent with the  
6 provisions of this section. The provisions of this act do not  
7 apply to administrative proceedings pursuant to chapter 120 or  
8 any appeal from any administrative or trial court judgment or  
9 decision. Nothing in this act shall limit a governmental  
10 entity from initiating and prosecuting eminent domain,  
11 foreclosure, or other court proceedings where, as a function  
12 of the nature of the suit, other governmental entities are  
13 necessary parties, if there are no materially disputed issues  
14 with regard to such joinder. Nothing in this act shall limit a  
15 governmental entity from filing any counterclaim or  
16 cross-claim in any litigation in which it is a defendant.  
17 Nothing in this act is intended to abrogate other provisions  
18 of law which provide procedures for challenges to specific  
19 governmental actions, including, but not limited to,  
20 comprehensive plan amendments and tax assessment challenges.  
21 The provisions of this act shall not apply to conflicts  
22 between governmental entities if an alternative dispute  
23 resolution process, such as mediation or arbitration, is  
24 specifically required by general law or agreed to by contract,  
25 interlocal agreement, or other written instrument, or if the  
26 governmental entities have reached an impasse during an  
27 alternative dispute resolution process engaged in prior to the  
28 initiation of court action. Further, nothing in this act  
29 shall preclude a governmental entity from filing a suit  
30 without resort to the provisions of this act against any  
31 federal or other governmental entity not governed by state

1 law. Nothing in this section shall be deemed to toll or waive  
2 jurisdictional time limits on specific pleadings or motions  
3 set forth in statute or court rules unless modified pursuant  
4 to s. 164.1061.

5 (2) If a governmental entity, by a three-fourths vote  
6 of its governing body, finds that an immediate danger to the  
7 health, safety, or welfare of the public requires immediate  
8 action, or that significant legal rights will be compromised  
9 if a court proceeding does not take place before the  
10 provisions of this act are complied with, no notice or public  
11 meeting or other proceeding as provided by this act shall be  
12 required before such a court proceeding. If a water  
13 management district, by three-fourths vote of its governing  
14 body, finds that an immediate danger to the natural resources,  
15 water resources, and wildlife requires immediate declaratory  
16 relief, or that significant legal rights will be compromised  
17 if a court proceeding does not take place before the  
18 provisions of this act are complied with, no notice or public  
19 meeting or other proceeding as provided by this act shall be  
20 required before such a court proceeding. However, the court,  
21 upon motion, may review the justification for failure to  
22 comply with the provisions of this act and make a  
23 determination as to whether the provisions of this act should  
24 be complied with prior to action by the court. If the court  
25 determines that the provisions of this act should be complied  
26 with prior to court action and that following the provisions  
27 of this act will not result in the compromise of significant  
28 legal rights, the court shall abate the suit until the  
29 provisions of this act are complied with.

30 Section 5. Section 164.1051, Florida Statutes, is  
31 created to read:

1           164.1051 Scope.--It is not the intent of this act to  
2 limit the conflicts that may be considered under this act,  
3 except that any administrative proceeding pursuant to chapter  
4 120 shall not be subject to this act. Pursuant to s. 164.1041,  
5 this act shall apply, at a minimum, to governmental conflicts  
6 arising from any of the following issues or processes,  
7 including, but not limited to:

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

12           (2) Municipal annexation.

13           (3) Service provision areas.

14           (4) Allocation of resources, including water, land, or  
15 other natural resources.

16           (5) Siting of hazardous waste facilities, land fills,  
17 garbage collection facilities, silt disposal sites, or any  
18 other locally unwanted land uses.

19           (6) Governmental entity permitting processes.

20           (7) Siting of elementary and secondary schools.

21           Section 6. Section 164.1052, Florida Statutes, is  
22 created to read:

23           164.1052 Initiation of conflict resolution procedure;  
24 duty to give notice.--

25           (1) The governing body of a governmental entity shall  
26 initiate the conflict resolution procedures provided by this  
27 act through passage of a resolution by its members. The  
28 resolution shall state that it is the intention of the  
29 governing body to initiate the conflict resolution procedures  
30 provided by this act prior to initiating court proceedings or  
31 prosecuting action on a previously filed court proceeding to

1 resolve the conflict and shall specify the issues of conflict  
2 and the governmental entity or entities with which the  
3 governing body has a conflict. Within 5 days after the passage  
4 of the resolution, a letter and a certified copy of the  
5 resolution shall be provided to the chief administrator of the  
6 governmental entity or entities with which the governing body  
7 has a conflict by certified mail, return receipt requested.  
8 The letter shall state, at a minimum, the conflict, other  
9 governmental entities in conflict with the initiating  
10 governmental entity, the justification for initiating the  
11 conflict resolution process, the proposed date and location  
12 for the conflict assessment meeting to be held pursuant to s.  
13 164.1053, and suggestions regarding the officials who should  
14 be present at the conflict assessment meeting. The initiating  
15 governmental entity also shall mail a copy of the letter and  
16 resolution to any state, regional, or local governmental  
17 entities which, in the determination of the initiating  
18 governmental entity, may have a role in approving or  
19 implementing a particular element or aspect of any settlement  
20 of the conflict or whose substantial interests may be affected  
21 by the resolution of the conflict, and any other governmental  
22 entity deemed appropriate by the initiating governmental  
23 entity.

24 (2) Within 10 days after receiving a copy of a  
25 certified letter noticing the initiation of the conflict  
26 resolution procedure, other governmental entities receiving  
27 the notice may elect to participate in the conflict resolution  
28 process, but are not entitled by virtue of that participation  
29 to control the timing or progress of the conflict resolution  
30 process, which at all times shall remain in the discretion of  
31 the primary conflicting governmental entities. However, a



1 governmental entity which receives notice of a conflict may,  
2 by passage of its own resolution and by otherwise following  
3 the procedures set forth in subsection (1), join the conflict  
4 resolution process as a primary conflicting governmental  
5 entity. The intent of a governmental entity to join in the  
6 conflict resolution process shall be communicated to the  
7 initiating governmental entity by certified mail. The joining  
8 governmental entity also shall mail a copy of the letter to  
9 any state, regional, or local governmental entities which, in  
10 the determination of the joining governmental entity, may have  
11 a role in approving or implementing a particular element or  
12 aspect of any settlement of the conflict or whose substantial  
13 interests may be affected by the resolution of the conflict,  
14 and any other governmental entity deemed appropriate by the  
15 joining governmental entity.

16 (3) For purposes of this act, the date of initiation  
17 of the conflict resolution procedure shall be the date of the  
18 passage of a resolution by a governmental entity.

19 Section 7. Section 164.1053, Florida Statutes, is  
20 created to read:

21 164.1053 Conflict assessment phase.--

22 (1) After the initiation of the conflict resolution  
23 procedure, and after proper notice by certified letter has  
24 been given, a conflict assessment meeting shall occur. The  
25 meeting shall be scheduled to occur within 30 days of the  
26 receipt of the letter initiating the conflict resolution  
27 procedure. Public notice shall be given for this meeting in  
28 accordance with s. 164.1031(7). The conflict assessment  
29 meeting shall be scheduled to allow the attendance by the  
30 appropriate personnel from each primary conflicting  
31 governmental entity. The chief administrator, or his or her

1 designee, for each governmental entity that is a primary  
2 conflicting governmental entity in the conflict resolution  
3 procedure shall be present at this meeting. If the entities in  
4 conflict agree, the assistance of a facilitator may be  
5 enlisted for the conflict assessment meeting. During the  
6 conflict assessment meeting, the governmental entities shall  
7 discuss the issues pertaining to the conflict and an  
8 assessment of the conflict from the perspective of each  
9 governmental entity involved.

10 (2) If a tentative resolution to the conflict can be  
11 agreed upon by the representatives of the primary conflicting  
12 governmental entities at the conflict assessment meeting, the  
13 primary conflicting governmental entities may proceed with  
14 whatever steps they deem appropriate to fully resolve the  
15 conflict, including, but not limited to, the scheduling of  
16 additional meetings for informal negotiations or proposing a  
17 resolution to the governing bodies of the primary conflicting  
18 governmental entities.

19 (3) In the event that no tentative resolution can be  
20 agreed upon, the primary conflicting governmental entities  
21 shall schedule a joint public meeting as described in s.  
22 164.1055, which meeting shall occur within 50 days of the  
23 receipt of the first letter initiating the conflict resolution  
24 process from the initiating governmental entity.

25 (4) After the conclusion of the conflict assessment  
26 meeting, any primary conflicting governmental entity may  
27 request mediation as provided in s. 164.1055(2).

28 Section 8. Section 164.1055, Florida Statutes, is  
29 created to read:

30 164.1055 Joint public meeting.--  
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1       (1) Failure to resolve a conflict after following  
2 authorized procedures as specified in s. 164.1053 shall  
3 require the scheduling of a joint public meeting between the  
4 primary conflicting governmental entities. The governmental  
5 entity first initiating the conflict resolution process shall  
6 have the responsibility to schedule the joint public meeting  
7 and arrange a location. If the entities in conflict agree, the  
8 assistance of a facilitator may be enlisted to assist them in  
9 conducting the meeting. In this meeting, the governing bodies  
10 of the primary conflicting governmental entities shall:  
11       (a) Consider the statement of issues prepared in the  
12 conflict assessment phase.  
13       (b) Seek an agreement.  
14       (c) Schedule additional meetings of the entities in  
15 conflict, or of their designees, to continue to seek  
16 resolution of the conflict.  
17       (2) If no agreement is reached, the primary  
18 conflicting governmental entities shall participate in  
19 mediation, the costs of which shall be equally divided between  
20 the primary conflicting governmental entities. The primary  
21 conflicting governmental entities shall endeavor in good faith  
22 to select a mutually acceptable mediator. If the primary  
23 conflicting governmental entities are unable to mutually agree  
24 on a mediator within 14 days after the joint public meeting,  
25 the primary conflicting governmental entities shall arrange  
26 for a mediator to be selected or recommended by an independent  
27 conflict resolution organization, such as the Florida Conflict  
28 Resolution Consortium, and shall agree to accept the  
29 recommendation of that independent organization, or shall  
30 agree upon an alternate method for selection of a mediator,  
31 within 7 business days after the close of that 14-day period.

1 Upon the selection of a mediator, the conflicting governmental  
2 entities shall schedule mediation to occur within 14 days, and  
3 shall issue a written agreement on the issues in conflict  
4 within 10 days of the conclusion of the mediation proceeding.  
5 The written agreement shall not be admissible in any court  
6 proceeding concerning the conflict, except for proceedings to  
7 award attorney's fees under s. 164.1058, where the agreement  
8 may be used to demonstrate an entity's refusal to participate  
9 in the process in good faith.

10 Section 9. Section 164.1056, Florida Statutes, is  
11 created to read:

12 164.1056 Final resolution.--If there is failure to  
13 resolve a conflict between governmental entities through the  
14 procedures provided by ss. 164.1053 and 164.1055, the entities  
15 participating in the dispute resolution process may avail  
16 themselves of any otherwise available legal rights.

17 Section 10. Section 164.1057, Florida Statutes, is  
18 created to read:

19 164.1057 Execution of resolution of  
20 conflict.--Resolution of a conflict at any phase shall require  
21 passage of an ordinance, resolution, or interlocal agreement  
22 that reflects the terms or conditions of the resolution to the  
23 conflict.

24 Section 11. Section 164.104, Florida Statutes, is  
25 renumbered as section 164.1058, Florida Statutes, and amended  
26 to read:

27 164.1058 ~~164.104~~ Penalty.--If a primary conflicting  
28 governmental entity ~~the governing body of a county or~~  
29 ~~municipality~~ which has received notice of intent to initiate  
30 the conflict resolution procedure pursuant to this act ~~file a~~  
31 suit pursuant to s. ~~164.103(1)~~ fails to participate in good

1 faith in the conflict assessment meeting, mediation, or other  
2 remedies provided for in this act, and the initiating  
3 governmental entity files suit and is the prevailing party in  
4 such suit, the primary disputing governmental entity which  
5 failed to participate in good faith ~~hold a public meeting to~~  
6 ~~discuss the proposed litigation, the governing body~~ shall be  
7 required to pay the attorney's fees and costs in that  
8 proceeding of the governmental entity which initiated the  
9 conflict resolution procedure ~~county or municipality which has~~  
10 ~~filed suit.~~

11 Section 12. Section 164.1061, Florida Statutes, is  
12 created to read:

13 164.1061 Time extensions.--Any of the time  
14 requirements set forth in this act may be extended to a date  
15 certain by mutual agreement, in writing, of the primary  
16 conflicting governmental entities. To the extent such  
17 agreement would cause any jurisdictional time requirements to  
18 run with regard to a particular claim, the agreement shall  
19 have the effect of extending any jurisdictional time  
20 requirements with regard to that claim for the period set  
21 forth in the agreement.

22 Section 13. Sections 164.103, 164.105, and 164.106,  
23 Florida Statutes, are hereby repealed.

24 Section 14. This act shall take effect upon becoming a  
25 law, but shall not be construed to abrogate any otherwise  
26 applicable agreements or requirements of any contracts,  
27 interlocal agreements, or other written instruments which are  
28 in existence as of the effective date of this act. To the  
29 extent that any contractual or other agreement provisions in  
30 existence on the effective date of this act conflict with the  
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1 provisions of this act, the provisions in the written  
2 agreement shall control.  
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