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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.

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

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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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