

By Senator Burgess

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1                                   A bill to be entitled  
2           An act relating to Attorney General designation of  
3           matters of great governmental concern; creating s.  
4           16.65, F.S.; providing legislative findings and  
5           intent; providing definitions; authorizing the  
6           Attorney General to declare that a matter is a matter  
7           of great governmental concern; providing that the  
8           Attorney General has the sole authority to file  
9           certain civil proceedings; authorizing the Attorney  
10          General to investigate certain matters; authorizing  
11          the Attorney General to institute or intervene in  
12          certain civil proceedings; authorizing the Attorney  
13          General to take certain actions in certain civil  
14          proceedings; providing that a declaration by the  
15          Attorney General that a matter is a matter of great  
16          governmental concern abates or stays certain civil  
17          proceedings; providing for the tolling of certain  
18          statutes of limitations; requiring certain entities to  
19          provide notice to the Attorney General; providing  
20          certain settlements and resolutions are void;  
21          providing that certain declarations do not constitute  
22          final agency action subject to review; providing that  
23          the Department of Legal Affairs is exempt from certain  
24          provisions for certain purposes; authorizing a  
25          governmental entity or its attorneys to apply to a  
26          court for recovery of attorney fees and costs;  
27          requiring a court to consider certain factors in  
28          calculating the amount of attorney fees; providing an  
29          effective date.

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30  
31 Be It Enacted by the Legislature of the State of Florida:

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33 Section 1. Section 16.65, Florida Statutes, is created to  
34 read:

35 16.65 Matters of great governmental concern.-

36 (1) LEGISLATIVE FINDINGS AND INTENT.-

37 (a) The Legislature finds that:

38 1. There have been several events that have led to  
39 extensive litigation by multiple governmental entities in the  
40 state arising from the same facts, circumstances, or conduct or  
41 similar causes of action. This litigation has been difficult to  
42 resolve in a timely and expeditious manner because of the number  
43 and different types of governmental entities involved.

44 2. It is in the interest of the state that a single  
45 official represent governmental entities in civil proceedings in  
46 matters of great governmental concern to maximize recoveries and  
47 minimize costs.

48 3. The Attorney General is the state's chief legal officer  
49 and is the official that should be responsible for the  
50 prosecution, management, and coordination of any civil  
51 proceedings brought by governmental entities in matters of great  
52 governmental concern.

53 4. The failure to have a single official responsible in  
54 matters of great governmental concern undermines fairness and  
55 efficiency and risks inconsistent or incongruent results, which  
56 will delay recovery and will undermine governmental entities'  
57 ability to respond to matters of great governmental concern.

58 (b) It is the intent of the Legislature to establish a

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59 procedure for use by the Attorney General in addressing matters  
60 of great governmental concern. This act is not intended to  
61 expand or change existing law with respect to the power and  
62 authority of the Attorney General.

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

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

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

72 (3) AUTHORITY.—

73 (a) The Attorney General may declare a matter to be a  
74 matter of great governmental concern. Upon such declaration, the  
75 Attorney General has the sole authority to file a civil  
76 proceeding on behalf of the affected governmental entities in  
77 the state unless and until the Attorney General rescinds that  
78 declaration.

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

87 (c) The Attorney General may institute or intervene in any

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

92 (d) The Attorney General may consolidate, dismiss, release,  
93 settle, or take action that he or she believes to be in the  
94 public interest in any civil proceeding in state or federal  
95 court pertaining to a matter of great governmental concern.

96 (e) A declaration by the Attorney General that a matter is  
97 a matter of great governmental concern shall operate to abate or  
98 stay any civil proceeding in state or federal court pertaining  
99 to the matter of great governmental concern filed by a  
100 governmental entity unless and until the Attorney General takes  
101 an action in such proceeding.

102 (f) Any statute of limitations under the laws of the state  
103 affecting a claim by a governmental entity shall be tolled for  
104 the pendency of a declaration that a matter is a matter of great  
105 governmental concern or 1 year, whichever is shorter.

106 (g) Upon learning of a declaration that a matter is a  
107 matter of great governmental concern, all governmental entities  
108 then a party to any affected civil proceeding shall provide  
109 notice to the Attorney General of the existence of any such  
110 civil proceeding, including the style of the action, the case  
111 number, and the court where such proceeding is pending. Any  
112 settlement or resolution of the civil proceeding by a  
113 governmental entity taken after a declaration without the  
114 consent of the Attorney General is void.

115 (h) The declaration that a matter is a matter of great  
116 governmental concern does not constitute a final agency action

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117 subject to review pursuant to ss. 120.569 and 120.57. For  
118 purposes of this subsection, the Department of Legal Affairs is  
119 exempt from s. 120.57(3).

120 (4) ATTORNEY FEES.—

121 (a) If, before a declaration that a matter is a matter of  
122 great governmental concern, a governmental entity retains  
123 attorneys to represent it, the governmental entity or its  
124 attorneys may apply to the court where the civil proceeding is  
125 being prosecuted by the Attorney General, or in the circuit  
126 court in and for Leon County, Florida, if no such proceeding  
127 exists, to receive from any recovery its reasonable attorney  
128 fees and costs incurred in connection with such representation  
129 before the declaration.

130 (b) In calculating the amount of any reasonable attorney  
131 fees, a court shall consider the following factors:

132 1. The time and labor required, the novelty and difficulty  
133 of the question involved, and the skill requisite to perform the  
134 legal service properly.

135 2. The likelihood, if apparent, that the acceptance of the  
136 particular employment will preclude other employment by the  
137 attorney.

138 3. The fee customarily charged in the locality for similar  
139 legal services.

140 4. The amount involved and the results obtained.

141 5. The time limitation imposed by the governmental entity  
142 or the circumstances.

143 6. The nature and length of the professional relationship  
144 with the governmental entity.

145 7. The experience, reputation, and ability of the attorney

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146 performing the legal services.

147 8. Whether the fee is fixed or contingent.

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