

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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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
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
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,
93 release, settle, or take action that he or she believes to be in
94 the 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
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
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.