

By Senator Burgess

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1 A bill to be entitled
2 An act relating to civil proceedings in matters
3 certified as matters of great governmental concern by
4 the Governor and Cabinet; creating s. 16.65, F.S.;
5 defining terms; authorizing the Attorney General to
6 request that the Governor and Cabinet certify certain
7 matters as matters of great governmental concern;
8 declaring that the Attorney General has sole authority
9 to file certain civil proceedings upon the Governor
10 and Cabinet making such certification; authorizing the
11 Attorney General to investigate a matter before and
12 after it is certified as a matter of great
13 governmental concern; requiring specified public
14 officers and employees to provide assistance and
15 information regarding the matter upon request of the
16 Attorney General; authorizing the Attorney General to
17 institute or intervene on behalf of governmental
18 entities in legal matters covered by the certification
19 in state or federal courts; authorizing the Attorney
20 General to consolidate, dismiss, release, settle, or
21 take any such action that he or she believes to be in
22 the public interest; providing for the abatement or a
23 stay of proceedings in pending matters affected by the
24 certification; providing for the tolling of any
25 applicable statute of limitations during the
26 certification, up to a specified maximum period of
27 time; requiring governmental entities to inform the
28 Attorney General of any pending proceedings covered by
29 the certification; providing that any settlement or

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30 other resolution of such proceedings made after a
31 certification by the Governor and Cabinet is void if
32 such action is taken without the consent of the
33 Attorney General; providing for the award of
34 reasonable attorney fees to the legal counsel of a
35 governmental entity; providing factors that a court
36 may consider in calculating the amount of attorney
37 fees to be awarded; providing construction and
38 applicability; providing an effective date.

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40 WHEREAS, there have been several events resulting in
41 extensive litigation by multiple governmental entities in this
42 state which arose from the same facts, circumstances, or
43 conduct, or from similar causes of action, and

44 WHEREAS, litigation being pursued simultaneously by
45 multiple governmental entities of varying types is extremely
46 difficult to resolve in a timely and expeditious fashion, and

47 WHEREAS, the Legislature finds that, in the interest of
48 maximizing recoveries and minimizing costs, it is in the best
49 interest of the State of Florida that a single official
50 represent all governmental entities that are party to a civil
51 proceeding involving matters certified to be of great
52 governmental concern, and

53 WHEREAS, the Attorney General is the state's chief legal
54 officer, and, consistent with the common law powers of the
55 office, the Attorney General should be responsible for the
56 prosecution, management, and coordination of any civil
57 proceedings brought by governmental entities in such matters,
58 and

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59 WHEREAS, clarifying and codifying certain common law powers
60 of the Attorney General will help to facilitate the prosecution
61 and resolution of civil proceedings in such matters, and

62 WHEREAS, the failure to have a single official responsible
63 in litigation involving such matters undermines fairness and
64 efficiency in the resolution of legal disputes, risks
65 inconsistent or incongruent results, delays recovery, and
66 undermines the ability of governmental entities to respond to
67 such matters, NOW, THEREFORE,

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

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71 Section 1. Section 16.65, Florida Statutes, is created to
72 read:

73 16.65 Matters certified to be of great governmental
74 concern.—

75 (1) DEFINITIONS.—As used in this section, the term:

76 (a) "Governmental entity" means an agency or authority of
77 any county, municipality, or other political subdivision.

78 (b) "Matter of great governmental concern" means any fact,
79 circumstance, or conduct that has caused substantial economic
80 loss or other similar harm to governmental entities in five or
81 more counties in this state and has been certified as such by a
82 majority vote of the Governor and Cabinet.

83 (2) AUTHORITY.—

84 (a) The Attorney General may request that the Governor and
85 Cabinet certify a matter to be a matter of great governmental
86 concern. Upon such a certification, the Attorney General has the
87 sole authority to file a civil proceeding on behalf of the

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88 affected governmental entities in this state unless the Governor
89 and Cabinet rescind the certification by a majority vote.

90 (b) Before and after the Governor and Cabinet certify any
91 matter to be a matter of great governmental concern, the
92 Attorney General may investigate any such matter. In any
93 investigation and in any civil proceeding commenced pursuant to
94 this section, all public officers and their deputies,
95 assistants, clerks, subordinates, or employees, in their
96 official capacity, shall render and furnish assistance and all
97 information available relating to the matter upon the request of
98 the Attorney General.

99 (c) The Attorney General may institute or intervene in
100 civil proceedings, including any nonfinal appeals, in state or
101 federal courts which involve matters of great governmental
102 concern to seek any relief afforded at law or in equity, under
103 state or federal law, on behalf of the affected governmental
104 entities.

105 (d) For any civil proceeding in state or federal court
106 involving a matter of great governmental concern, the Attorney
107 General may consolidate, dismiss, release, settle, or take any
108 such action that he or she believes to be in the public
109 interest.

110 (e) The certification of a matter as a matter of great
111 governmental concern abates or stays any civil proceeding in
112 state or federal court filed by a governmental entity until the
113 Attorney General takes action in such proceeding.

114 (f) Any statute of limitations imposed under the laws of
115 this state which affects a claim by a governmental entity is
116 tolled for the pendency of a certification, up to a maximum of 1

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117 year.

118 (g) Upon learning of a certification, all governmental
119 entities that are a party to any affected civil proceeding must
120 provide notice to the Attorney General of the existence of any
121 such civil proceeding, including the style of the action, the
122 case number, and the court where such proceeding is pending. Any
123 settlement or other resolution of the civil proceeding by a
124 governmental entity which occurs after an applicable
125 certification is made by the Governor and Cabinet is void if
126 made without the consent of the Attorney General.

127 (3) ATTORNEY FEES.—

128 (a) If a governmental entity retains legal counsel for a
129 civil proceeding before the matter that is a subject of that
130 proceeding is certified as a matter of great governmental
131 concern, the governmental entity or its legal counsel may apply
132 to the court having jurisdiction where the civil proceeding is
133 being prosecuted by the Attorney General to obtain from any
134 recovery secured by the Attorney General reasonable attorney
135 fees and costs incurred in connection with such representation
136 up to the time the certification was made.

137 (b) In calculating the amount of any reasonable attorney
138 fees, the court may consider all of the following factors:

139 1. The time and labor required, the novelty and difficulty
140 of the question involved, and the skill requisite to perform the
141 legal services properly;

142 2. The likelihood that the acceptance of the particular
143 employment will preclude other employment by the attorney;

144 3. The fee customarily charged in the locality for similar
145 legal services;

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- 146 4. The relief sought and the relief obtained;
147 5. The time limitations imposed by the client or by the
148 circumstances;
149 6. The nature and length of the professional relationship
150 with the client;
151 7. The experience, reputation, and ability of the lawyer or
152 lawyers performing the services; and
153 8. Whether the fee is fixed or contingent.
- 154 Section 2. This act is intended to codify and clarify some
155 of the common law authority of the Attorney General and to
156 create a process and procedure for exercising the Attorney
157 General's authority. This act applies to cases pending on or
158 after the effective date of this act.
- 159 Section 3. This act shall take effect upon becoming a law.