

IN THE CIRCUIT COURT OF  
THE FIFTH JUDICIAL CIRCUIT, IN  
AND FOR HERNANDO COUNTY, FLORIDA

**HERNANDO COUNTY SCHOOL DISTRICT,**  
and the **HERNANDO COUNTY SCHOOL**  
**BOARD,**

Plaintiffs,

v.

Case N<sup>o</sup> \_\_\_\_\_

**HERNANDO COUNTY, FLORIDA,** the  
**HERNANDO COUNTY BOARD OF COUNTY**  
**COMMISSIONERS,** and the from time-to-time  
incumbent members thereof, currently **JOHN**  
**ALLOCCO, STEVE CHAMPION, WAYNE**  
**DUKES, JEFF HOLCOMB,** and **ELIZABETH**  
**NARVERUD,** in their official capacities,

Defendants.

**EMERGENCY VERIFIED  
COMPLAINT FOR PEREMPTORY  
WRIT OF MANDAMUS, AND OTHER APPROPRIATE RELIEF**

The Plaintiffs, **HERNANDO COUNTY SCHOOL DISTRICT,** and the **HERNANDO COUNTY SCHOOL BOARD,** file this *Emergency Verified Complaint for Peremptory Writ of Mandamus, and Other Appropriate Relief* (the **COMPLAINT**), and sue the Defendants: **HERNANDO COUNTY, FLORIDA;** the **HERNANDO COUNTY BOARD OF COUNTY COMMISSIONERS;** and the from time-to-time incumbent members thereof, currently **JOHN ALLOCCO, STEVE CHAMPION, WAYNE DUKES, JEFF HOLCOMB,** and **ELIZABETH NARVERUD,** in their official capacities, saying as follows:

**PARTIES**

1. The Plaintiff, the Hernando County School District (the **SCHOOL DISTRICT**), is, pursuant to ART. IX, Sec. 4., *Fla. Const.*, the established school district for Hernando County, Florida.
2. The Plaintiff, the Hernando County School Board, is, pursuant to ART. IX, Sec. 4.(b), *Fla. Const.*, the governing body of the **SCHOOL DISTRICT** (collectively, the **SCHOOL BOARD**), and has the duty and lawful authority to “operate, control and supervise all free public schools within the school district and determine the rate of school district taxes within the limits prescribed herein.”

3. The Defendants are: Hernando County, Florida, pursuant to ART. VIII, Sec. 1.(a), *Fla. Const.*, a political subdivision of the State of Florida (the **COUNTY**); the COUNTY'S Board of County Commissioners, pursuant to ART. VIII, Sec. 1.(e), *Fla. Const.*, its governing body and through which it acts (the **COUNTY BOARD**); and the from time-to-time incumbent members of the COUNTY BOARD (the **MEMBERS**), currently John Allocco, Steve Champion, Wayne Dukes, Jeff Holcomb, and Elizabeth Narverud, in their official capacities (collectively, the **DEFENDANTS** and/or the **COUNTY COMMISSION**).

#### JURISDICTION

4. Pursuant to ART. V, Sec. 5.(b), this Court has both subject matter jurisdiction of this action, and authority to issue all writs and judgments necessary or proper for the complete exercise of its jurisdiction (the **EXTRAORDINARY WRITS**), including, but not limited to, writs of mandamus.

5. Pursuant thereto, §26.012, *Fla. Stat.*, and RULE 1.630, *Fla. R. Civ. P.*, this Court's subject matter jurisdiction, and its authority to issue EXTRAORDINARY WRITS, including, but not limited to, writs of mandamus, as conferred by the *Florida Constitution*, are implemented.

#### FACTS UPON WHICH PLAINTIFF RELIES

6. Pursuant to §1001.32(2), *Fla. Stat.*, the SCHOOL BOARD shall "operate, control, and supervise all free public schools in their respective districts and may exercise any power except as expressly prohibited by the State Constitution or general law."

7. Pursuant to §1013.35(2), *Fla. Stat.*, the SCHOOL DISTRICT, acting through the SCHOOL BOARD, is required to establish a plan, both for the maintenance of existing educational facilities, and for the establishment of future educational facilities, as the need for each arises (the **DISTRICT EDUCATIONAL FACILITIES PLAN**), and pursuant to Subsection (2)(a) thereof:

(a) Annually, prior to the adoption of the district school budget, each district school board shall prepare a tentative district educational facilities plan that includes long-range planning for facilities needs over 5-year, 10-year, and 20-year periods. The plan must be developed in coordination with the general-purpose local governments and be consistent with the local government comprehensive plans. The school board's plan for provision of new schools must meet the needs of all growing communities in the district, ranging from small rural communities to large urban cities.

8. Pursuant to §1013.35(2)(b), *Fla. Stat.*, and as an integral part of the DISTRICT EDUCATIONAL FACILITIES PLAN, the SCHOOL DISTRICT must establish a district facilities work

program, which must include, but is not limited to, “a financially feasible district facilities work program for a five year period” (the **WORK PROGRAM**).

9. In order to establish a financially feasible five (5) year WORK PROGRAM, the SCHOOL BOARD must be able to predict with fair accuracy the funding that will be available to it during the WORK PROGRAM’S rolling five (5) year planning horizon.

10. Pursuant to §212.055(6), *Fla. Stat.*, and upon approval by majority vote of the COUNTY’S electors in a referendum, the SCHOOL BOARD may levy a discretionary School Capital Outlay Surtax of up to one-half percent (0.5%) on sales of non-exempt goods and services within the geographic boundaries of the COUNTY (a **SCHOOL CAPITAL OUTLAY SURTAX**).

11. In 2015, the SCHOOL BOARD, pursuant to a resolution adopted by it (the **2015 RESOLUTION**), presented a Referendum to the COUNTY’S electors (the **2015 REFERENDUM**) to levy a one-half percent (0.5%) SCHOOL CAPITAL OUTLAY SURTAX for a ten (10) year period, which 2015 REFERENDUM was approved (the **2015 SCHOOL CAPITAL OUTLAY SURTAX**).

12. The 2015 SCHOOL CAPITAL OUTLAY SURTAX has been collected beginning as of January 1, 2016, and will expire on December 31, 2025, the end of its approved duration.

13. Planning for new schools to meet increasing population demands requires a minimum of five (5) years for property acquisition, land use approval by the COUNTY COMMISSION, securing of financing, facility design, and construction.

14. Before planning for construction of new school facilities can begin, the SCHOOL DISTRICT must be assured of a continuing flow of predictable revenues, including, but not limited to, taxes, to support any bonding that may be necessary to finance such facilities.

15. The COUNTY’S population, and, hence, that of the SCHOOL DISTRICT, is growing exponentially, with approximately fifteen thousand (15,000) new home sites either already approved by the COUNTY COMMISSION, or in the existing “pipeline” for their approval.

16. That growth, and the projections for it to continue unabated, has put enormous and unrelenting pressure on the SCHOOL BOARD in discharging its statutory duty to develop and implement a financially feasible WORK PROGRAM for its rolling five (5) year planning horizon.

17. Accordingly, the SCHOOL DISTRICT, on April 12, 2022, unanimously adopted its Resolution R22-005 (the **2022 RESOLUTION**), a copy of which is attached as **Exhibit-A** hereto, to place a referendum on the November 08, 2022, General Election Ballot (the **2022 BALLOT**) seeking renewal of the half-percent (0.5%) 2015 SCHOOL CAPITAL OUTLAY SURTAX for ten (10) years, from January 1, 2026, to December 31, 2035, without overlap of collection (the **2022 REFERENDUM**), and published a *2025 Half Cent Referendum Projects List*, detailing the planned use of the proceeds of a renewed Surtax (the **CRITICAL PROJECTS**), and a copy thereof is attached as **Exhibit-B** hereto.

18. Upon adoption of the 2022 RESOLUTION, the SCHOOL BOARD presented the 2022 RESOLUTION, and a statement, contained within the body of the 2022 RESOLUTION, conforming to the requirements of §101.161, *Fla. Stat.*, to the COUNTY COMMISSION, pursuant to §212.055(6)(b), *Fla. Stat.*, which, in pertinent part, directs that the 2022 REFERENDUM “**shall** be placed on **the** ballot by the governing body of the county” (emphasis added), as specified by the SCHOOL BOARD.

19. Pursuant to §212.055(6)(b), *Fla. Stat.*, the COUNTY COMMISSION, when directed by the SCHOOL BOARD, had imposed upon it a statutorily mandated non-discretionary clear ministerial duty to place the 2022 REFERENDUM on the 2022 BALLOT, as specified by the SCHOOL BOARD.

20. The COUNTY COMMISSION, at their April 26, 2022, meeting, considered their duty under the 2022 REFERENDUM, and, in their discussion thereof, among other things, the MEMBERS:<sup>1</sup>

a. Questioned the need for placing the 2022 REFERENDUM on the ballot three (3) years ahead of the expiration of the 2015 SCHOOL CAPITAL OUTLAY SURTAX;

b. Accused the SCHOOL BOARD, its Superintendent, and its Attorney, of failing to do appropriate due diligence;

c. Expressed displeasure at the SCHOOL BOARD’s electoral and/or school assignment districts; and

d. Requested an opinion from the County Attorney regarding whether it could delay the 2022 REFERENDUM to the 2024 General Election, and deferred their decision until their May 10, 2022, meeting.

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<sup>1</sup> For an audio/video record of the discussion by the County Commission at their April 26, 2022, meeting, see <http://hernandocountyfl.gov/Citizens/SplitView.aspx?Mode=Video&MeetingID=1902&Format=Agenda>, the link to that meeting, beginning at approximately 1:37 minutes through approximately 1:46 minutes into the recording. Alternatively, search a browser for “Hernando County Agendas;” allow a change of site to “Meeting Calender;” under Past Meetings select “See More;” for April 26, 2022, Board of County Commissioners - Regular Meeting, select “Video;” and use the “slider” to set the recording at the beginning point.

21. The COUNTY COMMISSION, at their May 10, 2022, meeting, by a 4-1 vote, ignored their ministerial duty regarding the 2022 RESOLUTION, and refused to place it on the 2022 BALLOT for the 2022 General Election, instead, over the objection of the SCHOOL BOARD, and without legal authority, placing it on another ballot to be presented to the electorate in the 2024 General Election.

22. In discussing whether to insert themselves into the decision making, planning, and policy prerogatives of the SCHOOL BOARD, and substitute their judgment for that of the SCHOOL BOARD, the several County Commissioners, in their individual comments, among other things:<sup>2</sup>

a. Expressed general dissatisfaction with the SCHOOL BOARD, and the establishment and implementation of certain of its policies and procedures;

b. Acknowledged a divisiveness in their relationship with the SCHOOL BOARD, causing many of them to have no desire to coordinate with the SCHOOL BOARD;

c. Acknowledged the rapid growth of the COUNTY and the need to have long-term SCHOOL DISTRICT planning to accommodate that growth;

d. Acknowledged the need to be able to finance, through bonding, facilities to accommodate growth;

e. Acknowledged the need to have a predictable long-term revenue flow to bond the construction of new school facilities to meet growth needs;

f. Expressed concern that a period of increasing inflation was an inappropriate time to adopt new taxes;

g. Speculated that, over the next two (2) years, the legislature could change the SCHOOL CAPITAL OUTLAY SURTAX authorizing statutes;

h. Speculated that the SCHOOL BOARD may, in 2024, seek to review its existing one percent (1.0%) sales tax surcharge, which also expires on December 31, 2025, openly implying that, as a matter of policy, the COUNTY COMMISSION should require the SCHOOL BOARD to have both sales tax surcharges on the same ballot;

i. Speculated that, with three (3) SCHOOL BOARD seats up for re-election on the 2022 General Election Ballot, there may be a change of SCHOOL BOARD membership that would avoid seeking renewed and extended taxes;

j. Encouraged the public to vote in the SCHOOL BOARD races to defeat the current SCHOOL BOARD MEMBERS standing for re-election; and

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<sup>2</sup> For an audio/video record of the discussion by the County Commission at their May 10, 2022, meeting, see <http://hernandocountyfl.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=1902&Format=Agenda>, the link to that meeting, beginning at approximately 2:00 minutes through approximately 2:10 minutes into the recording. Alternatively, search a browser for "Hernando County Agendas;" allow a change of site to "Meeting Calendar;" under Past Meetings select "See More;" for May 10, 2022, Board of County Commissioners - Regular Meeting, select "Video;" and use the "slider" to set the recording at the beginning point.

k. Acknowledged the pendency of the COUNTY COMMISSION'S own §212.055(2), *Fla. Stat.*, half-percent (0.5%) Local Government Infrastructure Surtax being on the November 08, 2022 General Election Ballot.

23. Under §212.055(6), *Fla. Stat.* (2015), a referendum for a School Capital Outlay Surtax could be placed on the ballot of either a special election called by a County Commission, a primary election, or the general election, during the election cycle, with the county commission of the subject county having the discretion to select upon which election of the specific cycle the referendum was to be presented to the electorate (see *Op. Atty. Gen.*, 98-29, in which that precise issue, between the Hernando County School Board and the Hernando County Board of County Commissioners, was addressed by the Florida Attorney General), but without discretion to select the election cycle of a year different from that specified by the school board.

24. The issues discussed by the COUNTY COMMISSION, both at their April 26, 2022, and at their May 10, 2022, meetings, are issues relevant and material, and properly considered, if at all, only by the SCHOOL BOARD, in establishing its discretionary policy prerogatives and executing its discretionary planning function, not in the COUNTY COMMISSION'S execution of their ministerial duty to place the REFERENDUM on the 2022 BALLOT, as selected and specified by the SCHOOL BOARD.

25. In 2019, pursuant to CH. 2019-64, Sec. 1., L.O.F., the Florida Legislature amended §212.055, *Fla. Stat.*, both by amending Subsection (1)(c) thereof to eliminate a county commission's discretion to select the date the election, and by adding a new Subsection (10) thereto, requiring that, thereafter, all referenda for sales tax surcharges thereunder "must be held at a general election," which, by standard rules of statutory construction, means the general election of the election cycle specified by the sponsoring agency, thus eliminating any discretion which a county commission may theretofore have had to select a date for presentation of a §212.055, *Fla. Stat.*, referendum to the electorate.

26. By acting to place the 2022 REFERENDUM on a ballot in an election cycle other than that selected by the SCHOOL BOARD, the COUNTY COMMISSION sought to intrude upon the policy and planning prerogatives vested by statute solely in the SCHOOL BOARD, and to substitute their judgment for that of the SCHOOL BOARD.

27. The incumbent COUNTY COMMISSIONERS' insertion of their judgment into, and interference with, the financial and construction timing required to be established by the SCHOOL

BOARD, in both its DISTRICT EDUCATIONAL FACILITIES PLAN, and its WORK PROGRAM, will prevent the normal continuance of the SCHOOL BOARD'S coordination with the COUNTY COMMISSION, including, but not limited to, by execution of the CRITICAL PROJECTS to meet the needs of the COUNTY'S growing population in a manner consistent with the COUNTY'S Comprehensive Plan.

28. The COUNTY'S Supervisor of Elections must have the ballot statement by August 1, 2022, in order to include the 2022 REFERENDUM on the 2022 BALLOT.

**COUNT I**  
**WRIT OF MANDAMUS TO COUNTY COMMISSION**

29. This is an action seeking issuance, by this Court, of a *Preemptive Writ of Mandamus*, pursuant to RULE 1.630, *Fla. R. Civ. P.*, to the COUNTY, to the COUNTY BOARD, to the COUNTY COMMISSION, and to its current, and from time-to-time incumbent, MEMBERS, directing them, and each of them, to place the 2022 REFERENDUM on the 2022 General Election Ballot.

30. Paragraphs 1.-28., above, are realleged and incorporated herein by reference, as fully as if set forth in full and complete text.

31. The Fifth District Court of Appeal, in *Poole v. City of Port Orange*, 33 So.3d 739, 741 (Fla. 5<sup>th</sup> DCA 2010) explained the nature of mandamus as an extraordinary remedy, saying as follows:

Mandamus is a common law remedy used to enforce an established legal right by compelling a person in an official capacity to perform an indisputable ministerial duty required by law. *Puckett v. Gentry*, 577 So.2d 965, 967 (Fla. 5th DCA 1991). To state a cause of action for mandamus, a party must allege a clear legal right to performance of the act requested, an indisputable legal duty, and the lack of an adequate remedy at law. *Radford v. Brock*, 914 So.2d 1066, 1067 (Fla. 2d DCA 2005). Mandamus is an appropriate remedy to compel a city's timely production of public records. *Town of Manalapan v. Rechler*, 674 So.2d 789, 790 (Fla. 4th DCA 1996).

32. The Florida Supreme Court, in *First National Bank of Key West v. Filer*, 107 Fla. 526, 534, 145 So. 204, 207 (1933), defined a "ministerial duty" of a public officer or agency as follows:

[A] duty is to be regarded as ministerial when it is a duty that has been positively imposed by law, and its performance required at a time and in a manner, or upon conditions which are specifically designated; the duty to perform under the conditions specified not being dependent upon the officer's judgment or discretion.

33. A duty imposed, by statute, upon a local government or official, to do an act, without conditions or discretion regarding the execution of that duty, constitutes a ministerial duty of that

government or official to perform the required act. *Poole*, at 741, citing *Town of Manalapan*, at 790 (production of public records is ministerial duty imposed by Ch. 119, *Fla. Stat.*).

34. The Legislature, in §212.055(6)(b), *Fla. Stat.*: imposed upon the COUNTY COMMISSION the ministerial duty to place the 2022 REFERENDUM on the BALLOT; did not prescribe any conditions regarding the COUNTY COMMISSION’S obligation to obey the legislative mandate; and did not confer upon the COUNTY COMMISSION, or the current or from time-to-time incumbent MEMBERS thereof, any discretion to act thereon other than in a purely ministerial fashion.

35. Whether the SCHOOL BOARD has a clear legal right to have the REFERENDUM placed, and the COUNTY COMMISSION has a clear legal duty to place the REFERENDUM, on the 2022 General Election Ballot, is a question of the interpretation and construction of the §212.055(6)(b), *Fla. Stat.*, which, in pertinent part, mandatorily directs that a referendum required thereunder “shall be placed on the ballot by the governing body of the county” (emphasis added).

36. The Florida Supreme Court, in *Jenny v. State*, 447 So.2d 1351, 1353 (Fla. 1984), said, regarding the statute under consideration therein, that (bracketed material added):

By its very plain meaning, the statute is self-executing. . . . We will not rewrite the statute. Where a statute is unambiguous and clear upon its face, courts must accord the statute its plain meaning and are not free to construe it otherwise. *Carson v. Miller*, 370 So.2d 10 [11] (Fla. 1979) [(“We have consistently held that unambiguous statutory language must be accorded its plain meaning.”)]; *Heredia v. Allstate Insurance Co.*, 358 So.2d 1353 [1355] (Fla. 1978) [(if legislature does not artfully harmonize a provision of law with other provisions of the same law, an adjustment is appropriately to be made only by the legislature, not by judicial redrafting)].

37. The use of the word “shall” in §212.055(6)(b), *Fla. Stat.*, makes it mandatory that the COUNTY COMMISSION schedule the REFERENDUM for a vote by the electors of the COUNTY. See *Concerned Citizens of Putnam County for Responsive Government, Inc., v. St. Johns River Water Management District*, 622 So.2d 520, 523 (Fla. 5<sup>th</sup> DCA 1993) (if “a matter of ‘substance’ rather than a ‘matter of convenience’ is involved, the word ‘shall’ will be strictly construed”), citing *Neal v. Bryant*, 149 So.2d 529, 533 (Fla. 1962); see, also, *White v. Means*, 280 So.2d 20, 21 (Fla. 1<sup>st</sup> DCA 1973) (use of the word “shall” in a statute, according to its normal usage, has a mandatory connotation), also citing *Neal v. Bryant*, at 533.



38. The parts of speech known grammatically as “Articles” define whether textual references are made to a specific thing, or to a group or class of similar things.<sup>3</sup>

39. The use of the definite Article “the”<sup>4</sup> in the relevant phrase of §212.055(6)(b), *Fla. Stat.*, makes reference to, and thereby limits the COUNTY COMMISSION’S choice to, a specific ballot, rather than conferring discretion upon them to choose any ballot, among multiple possible ballots.

40. If the Legislature had intended to confer such discretion upon the COUNTY COMMISSION, it would have used the indefinite Article “a”<sup>5</sup> which would have allowed them to chose one (1) among multiple election cycles for submittal of the 2022 REFERENDUM to the electorate.

41. The apodictic logic of limiting the selection of the election cycle, in which to present the 2022 REFERENDUM to the electorate, to that specified by its sponsor, the SCHOOL BOARD, is that, otherwise, the COUNTY COMMISSION could frustrate the DISTRICT EDUCATIONAL FACILITIES PLAN and the WORK PROGRAM by selecting an election cycle beyond the expiration of the 2015 SCHOOL CAPITAL OUTLAY SURTAX, or even outside of the SCHOOL BOARD’S reasonable planning horizon.

42. The 2022 RESOLUTION by the SCHOOL BOARD “specified” the ballot for the 2022 General Election to be the ballot on which the REFERENDUM is to be placed.

43. The requirement of §212.055(10), *Fla. Stat.*, that all referenda for sales tax surcharges be presented for consideration by the electorate in general elections, requires that the vote thereon be taken in the “specific” general election to which the SCHOOL BOARD made reference.

44. The plain meaning of the clear and unambiguous language of the subject phrase of §212.055(6)(b), *Fla. Stat.*, imposes a mandatory non-discretionary clear ministerial duty upon the COUNTY COMMISSION, and directs them to place the 2022 REFERENDUM on the 2022 BALLOT.

45. The SCHOOL BOARD has a clear legal right to have the 2022 REFERENDUM placed upon the 2022 General Election Ballot, during the election cycle of the SCHOOL BOARD’S choice.

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<sup>3</sup> Articles are words that define a noun as specific or unspecific. <http://grammarly.com/blog/articles/>

<sup>4</sup> The definite Article is the word “the” which limits the meaning of a noun to one particular idea or thing, to the exclusion of all other similar ideas or things. <http://grammarly.com/blog/articles/>

<sup>5</sup> The indefinite Articles are the words “a” and “an” and indicate that a noun refers to a general idea or class of things, rather than to a particular idea or thing. <http://grammarly.com/blog/articles/>

46. Pursuant to §212.055(6)(b), *Fla. Stat.*, the COUNTY COMMISSION, and, acting collectively, each of the MEMBERS thereof, in their official capacities, have a statutorily directed mandatory non-discretionary clear ministerial duty to place the 2022 REFERENDUM on the General Election Ballot of the 2022 election cycle, as specified by the SCHOOL BOARD.

47. The refusal by the COUNTY COMMISSION, and, acting collectively, by each of the current MEMBERS thereof in their official capacities, to place the 2022 REFERENDUM on the 2022 General Election Ballot, and, instead, to attempt to place it on the 2024 General Election Ballot, will interrupt and delay the facilities planning statutorily required to be undertaken by the SCHOOL BOARD, and, therefore, will disserve the public interest, including, but not limited to, the educational interest and well-being of the children and students that it is required by law to serve and educate.

48. Only the COUNTY COMMISSION, and, acting collectively, each of the from time-to-time incumbent MEMBERS thereof in their official capacities, are authorized, indeed, pursuant to §212.055(6)(b), *Fla. Stat.*, directed, to act ministerially to place the 2022 REFERENDUM, on the 2022 General Election Ballot for consideration by the electorate.

49. If assurance of the ability and opportunity to secure a reliable and predictable income stream to support and fund potential bonding requirements is delayed for two (2) years, by deferring the 2022 REFERENDUM to the 2024 General Election Ballot, the SCHOOL BOARD will suffer irreparable injury, by being unable to establish a financially feasible WORK PROGRAM for the CRITICAL PROJECTS in its rolling five (5) year planning horizon.

50. The SCHOOL BOARD has no other adequate remedy, at law or otherwise, to avoid delays and disruptions in its statutorily mandated planning function, other than issuance of the requested *Peremptory Writ of Mandamus* to the COUNTY, the COUNTY BOARD, and the COUNTY BOARD'S current and from time-to-time incumbent MEMBERS in their official capacities.

WHEREFORE, the PLAINTIFFS, the Hernando County School District, and the Hernando County School Board, request this Court to enter judgment directing the Clerk of this Court to issue a *Peremptory Writ of Mandamus* to the DEFENDANTS, Hernando County, Florida, the Hernando County Board of County Commissioners, and the current MEMBERS thereof, John Allocco, Steve

Champion, Wayne Dukes, Jeff Holcomb, and Elizabeth Narverud, in their official capacities, directing them, and each of them, to execute their ministerial duty to place the 2022 REFERENDUM on the November 08, 2022, General Election Ballot.

**COUNT II**  
**MANDATORY INJUNCTION TO COUNTY COMMISSION**

51. This is an action seeking issuance of a Mandatory Injunction to Hernando County, Florida, the Hernando County Board of County Commissioners, and the current, or from time-to-time incumbent, MEMBERS thereof in their official capacities, requiring them, and each of them, to place the 2022 REFERENDUM on the November 08, 2022, General Election Ballot.

52. Paragraphs 1~28., and 31~35., above, are realleged and incorporated herein by reference, as fully as if set forth in full and complete text.

53. A two (2) year delay in placing the 2022 REFERENDUM upon the General Election Ballot will result in a significant delay and disruption in the facilities planning process of the SCHOOL BOARD, causing the availability of student stations to meet the SCHOOL BOARD'S projections of the necessary number thereof, based upon projections of the COUNTY'S, and, hence, the SCHOOL DISTRICT'S, population growth, to be at least two (2) years out of sync with the need therefor, resulting in overcrowding and other descriptions of the education of students.

54. Such a delay will result in classroom overcrowding, and other irreparable damage, to the SCHOOL BOARD, to the children and students which it serves and educates, and to the public.

55. There is no adequate remedy, at law or otherwise, available to the SCHOOL BOARD for the injury that it will suffer, other than through mandatory injunctive relief.

56. It is solely the policy and planning prerogative of the SCHOOL BOARD to determine when a REFERENDUM for a SCHOOL CAPITAL OUTLAY SURTAX is properly to be submitted to the electorate, the COUNTY COMMISSION, and each of the MEMBERS thereof, having, at most, a persuasive, not a supervisory, opportunity for policy and planning engagement with the SCHOOL BOARD regarding if, and when, to seek a SCHOOL CAPITAL OUTLAY SURTAX.

57. Since, it is the policy and planning prerogative solely of the SCHOOL BOARD to select at which general election the 2022 REFERENDUM is to be presented to the electorate, the COUNTY, the

COUNTY COMMISSION, and each of the current or from time-to-time incumbent MEMBERS thereof, have, at most, a persuasive, not a supervisory, opportunity for policy and planning engagement with the SCHOOL BOARD regarding which election cycle in which to submit a Referendum to the electorate.

58. Neither the COUNTY, nor the COUNTY COMMISSION, nor any of the current, or from time-to-time incumbent, MEMBERS thereof, have any either constitutional or statutory authority to intrude upon the policy and planning prerogatives of the SCHOOL BOARD in determining when to propose a SCHOOL CAPITAL OUTLAY SURTAX, and in which election cycle the 2022 REFERENDUM regarding the proposed SCHOOL CAPITAL OUTLAY SURTAX renewal and extension will be presented to the electorate.

59. The arguments and body language of the individual County Commissioners, at both their April 26, 2022, meeting, at which they deferred a decision to later, and at their May 10, 2022, meeting, at which they refused to place the REFERENDUM on the 2022 BALLOT specified by the SCHOOL BOARD, including the acknowledgment by them that they had their own sales tax surcharge referendum on the November 08, 2022, ballot, gives rise to the reasonable inference that their motivation in pushing the 2022 REFERENDUM adopted by the SCHOOL BOARD to a later election cycle was to avoid having their half-percent (0.5%) referendum compete, for the support of the electorate, with the SCHOOL BOARD's similar 2022 REFERENDUM for renewal of its half-percent (0.5%) 2015 SCHOOL CAPITAL OUTLAY SURTAX. See Paras. 20.-22., above, and the footnotes thereto.

60. At both of those meetings, the argument, rationale, and excuses, made by the current individual MEMBERS of the COUNTY COMMISSION, were wholly immaterial and irrelevant to the permissible parameters of the ministerial authority vested in them with regard to the placement of the SCHOOL BOARD's urgent 2022 REFERENDUM on the 2022 General Election Ballot, as specifically selected by the SCHOOL BOARD. See Paras. 20.-22., above, and the footnotes thereto.

61. The attempt by the COUNTY COMMISSION, and the individual current MEMBERS thereof, to arrogate to themselves the policy and planning prerogatives vested solely in the SCHOOL BOARD, and to substitute their judgment, regarding the timing of the 2022 REFERENDUM for SCHOOL CAPITAL OUTLAY SURTAX, for the judgment of the SCHOOL BOARD, is unsupported by any law, and

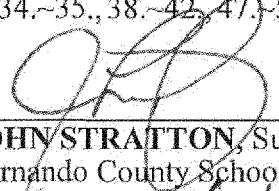
constitutes an illegal, gross, egregious, conflicted interest, self-interested, arbitrary, and capricious abuse of whatever discretion the COUNTY COMMISSION may have in the premises, if any.

62. It is in the best interest of the public, including, most importantly, but not limited to, the children and students which the SCHOOL BOARD serves and educates, for the SCHOOL BOARD to engage in long-term educational facility planning, which it is statutorily required, by §1013.35, *Fla. Stat.*, to do, in a smooth and uninterrupted planning process.

WHEREFORE, the SCHOOL DISTRICT and the SCHOOL BOARD request this Court to issue its *Mandatory Injunction* to Hernando County, Florida, the Hernando County Board of County Commissioners, and the currently incumbent MEMBERS thereof in their official capacities, requiring them, and each of them, to place the SCHOOL BOARD'S 2022 REFERENDUM for a SCHOOL CAPITAL OUTLAY SURTAX on the November 08, 2022, General Election Ballot for consideration by the electorate.

#### VERIFICATION

I DECLARE, pursuant to §92.525(1)(b), *Fla. Stat.*, and under penalties of perjury, that, on JUNE 6, 2022, I have read the above and foregoing *Emergency Verified Complaint for Peremptory Writ of Mandamus, and Other Appropriate Relief*, and verify that the facts stated therein, including, but not limited to, in Paragraphs 1-3, 6-28, 34-35, 38-42, 47-50, 53-62, are true, to the best of my knowledge and belief.

  
JOHN STRATTON, Superintendent of the  
Hernando County School District  
Date Signed: 6-6-22

#### CERTIFICATE OF FILING

I CERTIFY that, on JUNE 6, 2022, a copy of the above and foregoing *Emergency Verified Complaint for Peremptory Writ of Mandamus, and Other Appropriate Relief*, has been filed with the Court via the E-Portal System.

  
JOSEPH M. MASON, JR., Esq.  
The Florida Bar Number: 108545  
McGEE & MASON, P.A.  
101 South Main Street (zip: 34601-3336)  
Post Office Box 1900  
Brooksville, Florida 34605-1900  
Telephone: (352) 796-0795  
Facsimile: (352) 796-0235  
E-mail: CourtDocs@McGeeMasonLaw.com  
JoeMason@McGeeMasonLaw.com  
Attorney for the PLAINTIFFS

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