

The School District of Hernando County, Florida

Office of the School Board and General Counsel

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**HERNANDO
SCHOOL DISTRICT**

Learn it. Love it. Live it.

Superintendent: John Stratton
Board Chairperson: Gus Guadagnino
Vice Chairperson: Susan Duval
Board Members:
Kay Hatch
Jimmy Lodato
Linda Prescott

August 16, 2022

Hon. Steve Champion, Chair
Hernando County Board of Commissioners
15470 Flight Path Drive
Brooksville, Florida 34604-6823

*Via: Certified Mail Return Receipt Requested,
Hand Delivery, by Process Server; and
E-Mail (schampion@hernandocounty.us)*

Hon. Jeffrey Rogers, P.E., County Administrator
Hernando County, Florida
15470 Flight Path Drive
Brooksville, Florida 34604-6823

*Via: Certified Mail Return Receipt Requested,
Hand Delivery, by Process Server; and
E-Mail (administration@hernandocounty.us)*

Re: *Hernando County School Board, et al., v. Hernando County, etc., et al.*
Case N^o H-27-2022-CA-000530
Invitation to Participate in Ch. 164, *Fla. Stat.*, Conflict Resolution Proceedings

Dear Chairman Champion and Administrator Rogers:

Enclosed, for your information, is a copy of Hernando County School Board Resolutions R23-008 and R23-009 (the “**Resolutions**”), adopted on August 16, 2022, pursuant, respectively, to §164.1041(2), *Fla. Stat.*, and §164.1052(1), *Fla. Stat.*, sub-sections of CH. 164, *Fla. Stat.*, the *Florida Governmental Conflict Resolution Act* (the “**Act**”). The Resolutions terminate abatement of the litigation and direct us to initiate the conflict resolution procedures specified by the Act.

Pursuant to the Resolutions, we invite the County, the County Board of Commissioners, and the Members of the County Board to participate, with the Hernando County School District and the Hernando County School Board, in those procedures. We hope that you will accept our invitation.

As you know, the deadline of noon, August 19, 2022, for submission of ballot language to the Supervisor of Elections, in order to print a single consolidated ballot, is nigh upon us. Accordingly, since the conflict resolution procedures cannot be completed before the deadline, the Court has set a one-half (½) day hearing on all pending motions, including, but not limited to, our Motion for Temporary Injunction, to be held via Zoom at 8:30 a.m., on Thursday, August 18, 2022, prior to the deadline.

However, Ch. 164, *Fla. Stat.*, requires that the conflict resolution policies be undertaken concurrently with the unabated litigation process. Therefore, we propose an expedited and compressed schedule of the proceedings specified by the Act. Our proposed schedule is as follows:

1. The Superintendent of Schools and the County Administrator, or their respective designees, will meet on Monday, August 22, 2022, at a time and place to

be agreed upon by them, and without our respective counsel, in satisfaction of the §164.1053(1), *Fla. Stat.*, the *Conflict Assessment Phase*.

2. Tuesday and Wednesday, August 23 and 24, 2022, will be reserved for additional negotiations and meetings agreed upon by the Superintendent and the Administrator, or their respective designees, pursuant to §164.1053(2), *Fla. Stat.*, and between themselves and/or others, if any such additional negotiations or meetings are deemed by them to be necessary and/or appropriate.

3. Pursuant to §164.1055(1), *Fla. Stat.*, if the procedures specified by §164.1053(1) and (2), *Fla. Stat.*, do not result in a resolution of this matter, the School Board and the County Commission will hold a joint public meeting at 9:00 a.m., on Thursday, August 25, 2022, in the Board Room of the Hernando County School District offices, and both you and we timely will give, by and publication and posting all required notices thereof sufficiently in advance to meet statutory notice requirements [if the §164.1055(1), *Fla. Stat.*, proceedings have produced a resolution, the joint meeting can be cancelled].

4. Pursuant to §164.1055(2), *Fla. Stat.*, if no agreement can be reached in the joint public meeting, the parties will mediate this matter on Friday, August 26, 2022, in conference rooms at the School Board Offices, and we suggest that the Hon. Richard J. Tombrink, Jr., a retired Circuit Judge of the Fifth Judicial Circuit, who sat primarily in Hernando County, be selected to serve as the mediator.

5. Pursuant to §164.1056, *Fla. Stat.*, in the event a mediated resolution of this matter cannot be agreed to, we will jointly schedule an all-day final hearing before the Court, for not later than Wednesday, August 31, 2022, in order to have a decision of the Court sufficiently prior to the Supervisor of Elections' September 24, 2022, absentee ballot mailing deadline to permit the inclusion therein of a pre-printed separate ballot for the School Board's referendum, if needed.

In the event that, by not later than Friday, August 19, 2022, we do not receive your agreement jointly to set such a hearing, subject to cancellation if the conflict is resolved, we will proceed unilaterally to do so, pursuant to the authority either of §164.1052(2), *Fla. Stat.*, which contemplates that, after the abatement was terminated by our Resolution R23-008, the court proceedings and the conflict resolution proceedings may be pursued concurrently, or of §164.1056, *Fla. Stat.*, which provides for the court proceedings to be pursued if the conflict resolution proceedings have been completed, but impasse. We will, in any event, immediately request time on the judge's calendar for the hearing.

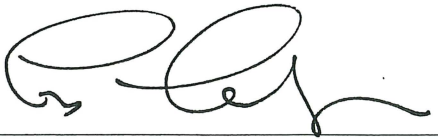
We sincerely hope that the good faith participation, both of the County and of the School District, in the compressed and expedited conflict resolution proceedings outlined above, will result in a successful process for the benefit not only of the School Board and the County, but also of the citizens and, particularly, of the children and students, of Hernando County. However, if, by noon

Hon. Steve Champion, Chair
Hon. Jeffrey Rogers, P.E., County Administrator

August 16, 2022
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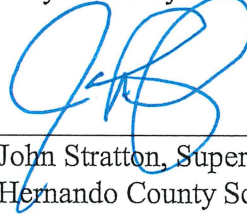
on Friday, August 19, 2022, we have not received agreement from the County to participate in the above-proposed compressed and expedited conflict resolution process, we will proceed vigorously to prosecute this matter while the required conflict resolution process takes place upon an agreeable, but non-expedited, schedule.

Please let us have your prompt response at your very earliest convenience. In the meantime, if you have any questions regarding this matter, or if you need any further information regarding the same, please let us know.



Gus Guadagnino, Chair
Hernando County School Board

Very Sincerely Yours,



John Stratton, Superintendent
Hernando County School District



Hernando School District

Certified Copy

General Counsel: 23-0858

File Number: 23-0858

Approval To Adopt Resolution No. R23-008 - Resolution Of The Hernando County School Board, Pursuant To §164.1041(2) Of The *Florida Governmental Conflict Resolution Act*, Finding And Declaring Both That: Both Immediate Danger To The Public's Health, Safety, And Welfare, And Compromise To Its Substantial Rights, Will Result From The Abatement Of The Litigation Filed By It Against Hernando County, The Hernando County Board Of Commissioners, And The Members Thereof; And That Court Proceedings Are Required Before Completion Of Compliance With The Act To Avoid Such Danger And Compromise.

Executive Summary

Approval To Adopt Resolution No. R23-008 - Resolution Of The Hernando County School Board, Pursuant To §164.1041(2) Of The *Florida Governmental Conflict Resolution Act*, Finding And Declaring Both That: Both Immediate Danger To The Public's Health, Safety, And Welfare, And Compromise To Its Substantial Rights, Will Result From The Abatement Of The Litigation Filed By It Against Hernando County, The Hernando County Board Of Commissioners, And The Members Thereof; And That Court Proceedings Are Required Before Completion Of Compliance With The Act To Avoid Such Danger And Compromise.

My Contact

Joe Mason, Special General Counsel
Dennis Alfonso, General Counsel
John Stratton, Superintendent of Schools
Gus Guadagnino, Board Chair

2018-23 Strategic Focus Area

Other

Financial Impact

The cost for this agenda item is \$ 0, see attached budget sheet. The cost for the previous fiscal year was \$ 0.

If expenditure is not currently budgeted, this will serve as the budget amendment when Board approved. If the agenda item includes the purchase of goods or services, the funds requested are an anticipated amount and may fluctuate depending on such factors as current market conditions, product availability, additional funding sources, and the needs of the District. Should the actual cost exceed the anticipated amount, the Board approves the additional cost, after review by the superintendent, but not in excess of the funds available in the site's approved annual budget.

I, Kelly Pogue, certify that this is a true copy of General Counsel No. 23-0858, passed at the School Board Regular Meeting on 8/16/2022.

Attest:



Kelly Pogue

August 16, 2022

Date Certified

RESOLUTION N^o R23-008

RESOLUTION OF THE HERNANDO COUNTY SCHOOL BOARD, PURSUANT TO §164.1041(2) OF THE *FLORIDA GOVERNMENTAL CONFLICT RESOLUTION ACT*, FINDING AND DECLARING BOTH THAT: BOTH IMMEDIATE DANGER TO THE PUBLIC'S HEALTH, SAFETY, AND WELFARE, AND COMPROMISE TO THE SCHOOL BOARD'S SUBSTANTIAL RIGHTS, WILL RESULT FROM THE ABATEMENT OF THE LITIGATION FILED BY IT AGAINST HERNANDO COUNTY, THE HERNANDO COUNTY BOARD OF COMMISSIONERS, AND THE MEMBERS THEREOF; AND THAT COURT PROCEEDINGS ARE REQUIRED BEFORE COMPLETION OF COMPLIANCE WITH THE ACT TO AVOID SUCH DANGER AND COMPROMISE.

WHEREAS, the Hernando County School Board (the "**School Board**") adopted its Resolution N^o R22-005, to place a Referendum on the November 08, 2022, General Election Ballot requesting the voters approve a renewal of the existing one-half percent (0.5%) School Capital Outlay Surtax currently scheduled to expire on December 31, 2025 (the "**Referendum**");

WHEREAS, the School Board is required to maintain a District Educational Facilities Plan (the "**Facilities Plan**"), which must include, but is not limited to, "a financially feasible district facilities work program for a five year period" on an annually renewing, or "rolling," basis (the "**Work Program**");

WHEREAS, the Hernando County School District (the "**School District**") is experiencing substantial population growth, putting it under enormous pressure to plan and establish educational facilities and student stations to accommodate that growth;

WHEREAS, the School District has an urgent need to identify reliable and predictable sources of funds to plan for and establish those educational facilities and student stations;

WHEREAS, Resolution N^o R22-005, specified the November 08, 2022, General Election, the next available general election, for submittal of the Referendum to the voters;

WHEREAS, the School Board forwarded the Resolution to the Hernando County Board of County Commissioners (the "**County Board**"), which refused to exercise its ministerial duty to place the Referendum on the November 08, 2022, General Election Ballot, but, instead, sought to delay consideration of the Referendum by the voters until the November 05, 2024 General Election;

WHEREAS, a delay of two (2) years in seeking approval of the voters for renewal of the one-half percent (0.5%) School Capital Outlay Surtax will inordinately delay and disrupt the School Board's ability to plan and finance both its Facilities Plan and its Work Program;

WHEREAS, the deadline for submittal of the ballot statement to the Supervisor of Elections for placement on a single consolidated ballot for the November 08, 2022, general election, is noon, on August 19, 2022, in order to meet the deadline for the printing of that ballot; and

WHEREAS, the School District and the School Board have filed litigation seeking to compel Hernando County (the "**County**") and the County Board to fulfill their ministerial duty to place the Referendum on the November 08, 2022, General Election Ballot, which litigation is pending as Case N^o H-27-2022-CA-000530, in the Circuit Court of the Fifth Judicial Circuit, in and for Hernando County, Florida, as *Hernando County School District, et al., v. Hernando County, etc., et al.* (the "**Litigation**").

NOW THEREFORE, upon due consideration of the above, the Hernando County School Board **FINDS** as follows:

1. A delay of two (2) years in the placement of the Referendum on the ballot will prevent the School Board from efficiently, accurately, and adequately planning for, and financing the needed facilities, to accommodate the anticipated growth of the student population of the School District.
2. The inability to adequately plan for accommodation of the future student needs of the School District will adversely impact the welfare of the public, including, but not limited to, the children and students which the School District is required, by law, to serve and educate.

3. The School District has a significant and statutorily granted legal right for the Referendum to be placed, by the County Board, upon the next available ballot following the adoption of Resolution N° R22-005, which right will be substantially and irreparably compromised by the action of the County Board seeking to delay for two (2) years the submission of the Referendum to the voters.

4. The School District offered, but the County and the County Board refused, to meet informally, prior to the filing of the Litigation, to discuss an amicable resolution to the ballot timing issue.

5. Instead, the County and the County Board have invoked the provisions of §§164.101~.1065, *Fla. Stat.*, the *Florida Governmental Conflict Resolution Act* (the "Act"), to abate the Litigation for up to the maximum of sixty (60) to ninety (90) days required to exhaust the procedures required thereby, pursuant to which the court has abated the Litigation.

6. If the Litigation remains abated until exhaustion of the procedural options of the Act, it will be impossible for the court to render its judgment in the Litigation in sufficient time to meet the printing deadline for submittal of the ballot statement to the Supervisor of Elections for the printing of a single consolidated ballot.

7. The significant rights of the School District and the School Board, and the substantial welfare of the public and the children and students served and educated by the School District, are in danger, and will be compromised, if the abatement of the Litigation continues and the court proceeding not allowed to take place before the full exhaustion and compliance with the procedural options of the Act, thereby requiring that immediate action be undertaken to complete and resolve the Litigation.

NOW THEREFORE, BE IT, AND IT HEREBY IS, RESOLVED BY THE HERNANDO COUNTY SCHOOL BOARD, as follows:

A. The School Board hereby finds and declares that abatement of the Litigation both creates immediate danger to the health, safety, and welfare of the public, including, but not limited to, the children and students served and educated by the School District, and results in the compromise and loss, by the School Board, of its substantial rights for early determination of the Referendum, and, in order to avoid such danger and compromise, immediate court action is required on the merits of the Litigation.

B. This Resolution shall be filed in the Litigation, pursuant to §164.1041(2), *Fla. Stat.*, to terminate the abatement thereof during the pendency of the dispute resolution process provided by the Act.


C. Expedited and compressed conflict resolution procedures of the Act shall be followed concurrently with expedited and compressed prosecution of the Litigation.

ADOPTED unanimously (4-0, one member absent due to illness) on August 16, 2022, by the Hernando County School Board, in open session at its regularly scheduled meeting of that date.

ATTEST:

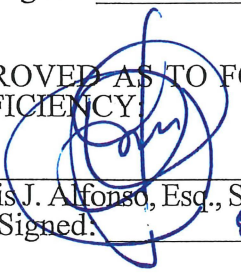


Hon. John Stratton, Superintendent
Hernando County School District
Date Signed: 8-16-22



Hon. Gus Guadagnino, Chair
Hernando County School Board
Date Signed: 8/16/2022

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:



Dennis J. Alfonso, Esq., School Board Attorney
Date Signed: 8-16-2022



Hernando School District

Certified Copy

General Counsel: 23-0856

File Number: 23-0856

Approval To Adopt Resolution No. R23-009 - Resolution Of The Hernando County School Board, Initiating The Conflict Resolution Process Provided By Ch.164, *Fla. Stat.*, The *Florida Governmental Conflict Resolution Act*, Regarding Litigation Filed By It Against Hernando County, The Hernando County Board Of Commissioners, And The Members Thereof.

Executive Summary

Approval To Adopt Resolution No. R23-009 - Resolution Of The Hernando County School Board, Initiating The Conflict Resolution Process Provided By Ch.164, *Fla. Stat.*, The *Florida Governmental Conflict Resolution Act*, Regarding Litigation Filed By It Against Hernando County, The Hernando County Board Of Commissioners, And The Members Thereof.

My Contact

Joe Mason, Special General Counsel
Dennis Alfonso, General Counsel
John Stratton, Superintendent of Schools
Gus Guadagnino, Board Chair

2018-23 Strategic Focus Area

Other

Financial Impact

The cost for this agenda item is \$ 0, see attached budget sheet. The cost for the previous fiscal year was \$ 0.

If expenditure is not currently budgeted, this will serve as the budget amendment when Board approved. If the agenda item includes the purchase of goods or services, the funds requested are an anticipated amount and may fluctuate depending on such factors as current market conditions, product availability, additional funding sources, and the needs of the District. Should the actual cost exceed the anticipated amount, the Board approves the additional cost, after review by the superintendent, but not in excess of the funds available in the site's approved annual budget.

I, Kelly Pogue, certify that this is a true copy of General Counsel No. 23-0856, passed at the School Board Regular Meeting on 8/16/2022.

Attest:

Kelly Pogue

August 16, 2022

Date Certified

RESOLUTION N° R23-009

RESOLUTION OF THE HERNANDO COUNTY SCHOOL BOARD, INITIATING THE CONFLICT RESOLUTION PROCESS PROVIDED BY CH. 164, *FLA. STAT.*, THE *FLORIDA GOVERNMENTAL CONFLICT RESOLUTION ACT*, REGARDING LITIGATION FILED BY IT AGAINST HERNANDO COUNTY, THE HERNANDO COUNTY BOARD OF COMMISSIONERS, AND THE MEMBERS THEREOF.

WHEREAS, the Hernando County School Board (the “**School Board**”) adopted its Resolution N° R22-005 (the “**Surtax Resolution**”), to place a Referendum on the November 08, 2022, General Election Ballot requesting the voters approve an extension of the existing one-half percent (0.5%) School Capital Outlay Surtax currently scheduled to expire on December 31, 2025 (the “**Referendum**”);

WHEREAS, the School Board forwarded the Surtax Resolution to the Hernando County Board of Commissioners (the “**County Board**”), which refused to exercise its ministerial duty to place the Referendum on the November 08, 2022, General Election Ballot, but, instead, sought to delay consideration of the Referendum by the voters until the November 05, 2024 General Election;

WHEREAS, the Hernando County School District (the “**School District**”) and the School Board, have filed litigation seeking to compel Hernando County (the “**County**”), the County Board, and the Members thereof, to fulfill their ministerial duty to place the Referendum on the November 08, 2022, General Election Ballot, which litigation is pending as Case N° H-27-2022-CA-000530, in the Circuit Court of the Fifth Judicial Circuit, in and for Hernando County, Florida, as *Hernando County School District, et al., v. Hernando County, etc., et al.* (the “**Litigation**”);

WHEREAS, Ch. 164, *Fla. Stat.*, the *Florida Governmental Conflict Resolution Act* (the “**Act**”), requires that the governmental parties to litigation engage in conflict resolution procedures, as specified therein, which procedures may be initiated by any governmental entity that is a party to any litigation arising from that conflict;

WHEREAS, the Act provides for the abatement of Litigation between governmental entities during the completion of the conflict resolution procedures specified therein, and the court has entered its Order abating the Litigation;

WHEREAS, the Act, at §164.1041(2), *Fla. Stat.*, by self-executing command, terminates the abatement upon the adoption, by a party to the litigation, of a resolution finding that immediate either danger to the health, safety, and welfare of the public, or compromise or loss of that party’s substantial rights, will result if the court proceedings do not take place before compliance with the conflict resolution proceedings provided by the Act;

WHEREAS, the School Board, pursuant to §164.1041(2), *Fla. Stat.*, has adopted its Resolution R22-008, finding and declaring that there is an immediate danger to the health, safety, and welfare of the public and of the loss and compromise of the School Board’s significant legal rights, resulting from the abatement of the Litigation, thereby, pursuant to the Act, terminating the abatement, which Resolution is incorporated herein by reference;

WHEREAS, upon the termination of the abatement, the court proceedings and the conflict resolution proceedings continue concurrently; and

WHEREAS, notwithstanding the termination of the abatement of the Litigation, the School Board, in a spirit of cooperation, and pursuant to §164.1052(1), *Fla. Stat.*, desires to initiate the conflict resolution procedures of the Act, with the hope that an amicable resolution to the Litigation can be reached.

NOW THEREFORE, upon due consideration of the above, the Hernando County School Board **FINDS** as follows:

1. A determination, either by negotiation of the parties or by court order, of the timely ballot placement issues raised by the Litigation must be in place prior to noon August 19, 2022, in order to meet the deadline imposed by the Supervisor of Elections for submittal of ballot language to be printed, on a single consolidated ballot, for the November 08, 2022, general election.

2. In order to meet the deadline, the conflict resolution procedures of the Act cannot be set on a schedule that will both allow completion thereof, and permit post-mediation court action prior to the deadline if a negotiated resolution cannot be reached.

3. Accordingly, if a judicial determination cannot be obtained prior to the noon, August 19, 2022, deadline for a single consolidated ballot, expedited prosecution of the Litigation must be pursued concurrently with expedited pursuit of the conflict resolution procedures of the Act, in order to seek a determination in time for the printing, and inclusion of a separate ballot in the mailing of absentee ballots.

NOW THEREFORE, BE IT, AND IT HEREBY IS, RESOLVED BY THE HERNANDO COUNTY SCHOOL BOARD, as follows:

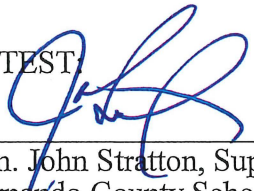
A. The School Board invites the County Board to participate with it in expedited and compressed scheduling and completion of the conflict resolution procedures of the Act, concurrently with the prosecution of the Litigation.

B. As provided by §164.1052(1), *Fla. Stat.*, the School Board hereby authorizes and directs its Chairman and the Superintendent to communicate with the Chairman of the County Board and the County Administrator in order to schedule the accomplishment, on an expedited and compressed basis, the conflict resolution procedures of the Act.


C. Pursuant to §164.1041(1), *Fla. Stat.*, this Resolution shall be filed in the Litigation, in order to initiate the dispute resolution process provided by the Act.

ADOPTED unanimously (4-0, one member absent due to illness) on August 16, 2022, by the Hernando County School Board, in open session at its regularly scheduled meeting of that date.

ATTEST:



Hon. John Stratton, Superintendent
Hernando County School District
Date Signed: 8.16.22



Hon. Gus Guadagnino, Chair
Hernando County School Board
Date Signed: 8/16/2022

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY: 

Dennis J. Alfonso, Esq., School Board Attorney
Date Signed: 8.16.2022