IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

THE SCHOOL BOARD OF ALACHUA COUNTY, FLORIDA; THE SCHOOL BOARD OF BAY COUNTY, FLORIDA; THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA; THE SCHOOL BOARD OF CLAY COUNTY, FLORIDA; THE SCHOOL BOARD OF DUVAL COUNTY, FLORIDA; THE SCHOOL BOARD OF HAMILTON COUNTY, FLORIDA; THE SCHOOL BOARD OF LEE COUNTY, FLORIDA; THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA; THE SCHOOL BOARD OF PINELLAS COUNTY, FLORIDA; THE SCHOOL BOARD OF POLK COUNTY, FLORIDA; THE SCHOOL BOARD OF ST. LUCIE COUNTY, FLORIDA; THE SCHOOL BOARD OF VOLUSIA COUNTY, FLORIDA; and THE SCHOOL BOARD OF WAKULLA COUNTY, FLORIDA.

Plaintiffs,

v.

FLORIDA DEPARTMENT OF EDUCATION;
STATE BOARD OF EDUCATION;
PAM STEWART, in her official capacity as Florida Commissioner of Education; and
MARVA JOHNSON, in her official capacity as Chair of the State Board of Education.

Defendants.

Case No. _____________________

COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. This is a lawsuit for declaratory and injunctive relief in which thirteen (13) locally elected district school boards from throughout the State raise a facial challenge to the constitutionality of portions of Chapter 2017-116, Laws of Florida, also known as House Bill 7069 ("HB 7069") because those provisions undermine local control of public education. Under this far-reaching law, the State has encroached on the authority vested by the Florida Constitution in locally elected district school boards to operate, control, and supervise the local public schools located in their respective jurisdictions. The statute on its face violates this authority in several ways: HB 7069 unconstitutionally (i) mandates that local district school boards share a portion of their discretionary capital outlay millage revenues with charter schools; (ii) allows for the creation of charter schools called "Schools of Hope" that would be allowed to operate outside of any meaningful control or supervision by local school boards and create dual or even multiple systems of public education; (iii) allows "Schools of Hope" and authorized charter school systems to serve as local education agencies, creating multiple competing systems of public education; (iv) strips district school boards of their ability to supervise and control charter schools in their jurisdiction by requiring them to enter into a "standard charter contract" with charter school operators; (v) restricts the authority of district school boards to effectively use federal Title I funds to operate, supervise, and control the public schools in their district; and (vi) eliminates local district school boards' authority to use school district resources to address the needs of students at certain schools with relatively low ratings on the State accountability system.

2. HB 7069 was effective as of July 1, 2017, is codified as Chapter 2017-116, Laws of Florida, and changed nearly 70 provisions in Florida's Education Code.

3. Multiple provisions of HB 7069 on their face violate Article VII, § 1, 9; Article IX, §§ 1, and 4 of the Florida Constitution.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this lawsuit pursuant to Article V, § 20(c)(3), of the Florida Constitution, § 86.011, Fla. Stat. (2017), and § 26.012(2)(c), (3), Fla. Stat. (2017).

5. Venue lies in this Court because the Defendants maintain their principal places of business in Leon County, Florida.

PARTIES

6. Plaintiff The School Board of Alachua County, Florida is the political subdivision possessing authority under Article IX, Section 4(b), Fla. Const., to operate, control, and supervise all free public schools located in Alachua County, Florida and with the home rule authority to exercise any power except as expressly prohibited by the State Constitution and general law. Its principal place of business is at 620 East University Avenue, Gainesville, Florida 32601.

7. Plaintiff The School Board of Bay County, Florida is the political subdivision possessing authority under Article IX, Section 4(b), Fla. Const., to operate, control, and supervise all free public schools located in Bay County, Florida and with the home rule authority to exercise any power except as expressly prohibited by the State Constitution and general law. Its principal place of business is at 1311 Balboa Avenue, Panama City, Florida 32401.

8. Plaintiff The School Board of Broward County, Florida is the political subdivision possessing authority under Article IX, Section 4(b), Fla. Const., to operate, control, and supervise all free public schools located in Broward County, Florida and with the home rule authority to exercise any power except as expressly prohibited by the State Constitution and general law. Its principal place of business is at 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301.

9. Plaintiff The School Board of Clay County, Florida is the political subdivision possessing authority under Article IX, Section 4(b), Fla. Const., to operate, control, and supervise all free public schools located in Clay County, Florida and with the home rule authority to exercise

any power except as expressly prohibited by the State Constitution and general law. Its principal place of business is at 900 Walnut Street, Green Cove Springs, Florida 32043.

10. Plaintiff The School Board of Duval County, Florida is the political subdivision possessing authority under Article IX, Section 4(b), Fla. Const., to operate, control, and supervise all free public schools located in Duval County, Florida and with the home rule authority to exercise any power except as expressly prohibited by the State Constitution and general law. Its principal place of business is at 1701 Prudential Drive, Jacksonville, Florida 32207.

11. Plaintiff The School Board of Hamilton County, Florida is the political subdivision possessing authority under Article IX, Section 4(b), Fla. Const., to operate, control, and supervise all free public schools located in Hamilton County, Florida and with the home rule authority to exercise any power except as expressly prohibited by the State Constitution and general law. Its principal place of business is at 5683 SW U.S. Highway 41, Jasper, Florida 32052.

12. Plaintiff The School Board of Lee County, Florida is the political subdivision possessing authority under Article IX, Section 4(b), Fla. Const., to operate, control, and supervise all free public schools located in Lee County, Florida and with the home rule authority to exercise any power except as expressly prohibited by the State Constitution and general law. Its principal place of business is at 2855 Colonial Boulevard, Fort Myers, Florida 33966.

13. Plaintiff The School Board of Orange County, Florida is the political subdivision possessing authority under Article IX, Section 4(b), Fla. Const., to operate, control, and supervise all free public schools located in Orange County, Florida and with the home rule authority to exercise any power except as expressly prohibited by the State Constitution and general law. Its principal place of business is at 445 West Amelia Street, Orlando, Florida 32801.

14. Plaintiff The School Board of Pinellas County, Florida is the political subdivision possessing authority under Article IX, Section 4(b), Fla. Const., to operate, control, and supervise all free public schools located in Pinellas County, Florida and with the home rule authority to exercise any power except as expressly prohibited by the State Constitution and general law. Its principal place of business is at 301 4th Street SW, Largo, Florida 33770.

15. Plaintiff The School Board of Polk County, Florida is the political subdivision possessing authority under Article IX, Section 4(b), Fla. Const., to operate, control, and supervise all free public schools located in Polk County, Florida and with the home rule authority to exercise any power except as expressly prohibited by the State Constitution and general law. Its principal place of business is at 1915 South Floral Avenue, Bartow, Florida 33830.

16. Plaintiff The School Board of St. Lucie County, Florida is the political subdivision possessing authority under Article IX, Section 4(b), Fla. Const., to operate, control, and supervise all free public schools located in St. Lucie County, Florida and with the home rule authority to exercise any power except as expressly prohibited by the State Constitution and general law. Its principal place of business is at 7000 NW Selvitz Road, Port St. Lucie, Florida 34983.

17. Plaintiff The School Board of Volusia County, Florida is the political subdivision possessing authority under Article IX, Section 4(b), Fla. Const., to operate, control, and supervise all free public schools located in Volusia County, Florida and with the home rule authority to exercise any power except as expressly prohibited by the State Constitution and general law. Its principal place of business is at 200 N. Clara Avenue, DeLand, Florida 32720.

18. Plaintiff The School Board of Wakulla County, Florida is the political subdivision possessing authority under Article IX, Section 4(b), Fla. Const., to operate, control, and supervise all free public schools located in Wakulla County, Florida and with the home rule authority to

exercise any power except as expressly prohibited by the State Constitution and general law. Its principal place of business is at 69 Arran Road, Crawfordville, Florida 32327.

19. Defendant Florida Department of Education ("Department") is the administrative agency that is responsible for implementing Florida's education policies and programs, including HB 7069.

20. Defendant State Board of Education ("Board") is directed to adopt rules implementing HB 7069 and is responsible for overseeing the Department.

21. Defendant Pam Stewart is Florida Commissioner of Education and, pursuant to §§ 1001.10(1) and (6)(b), Fla. Stat. (2017), is the chief education officer of the State of Florida and is responsible for providing advice and counsel to the Board on all matters pertaining to education; to recommend to the Board actions and policies as, in the commissioner's opinion, should be acted upon or adopted; and to execute or provide for the execution of all acts and policies as are approved. Stewart is sued in her official capacity.

22. Defendant Marva Johnson is the Chair of the State Board of Education, which is responsible under Article IX, Section 2, Fla. Const., for the supervision of Florida's system of free public education. Johnson is being sued in her official capacity.

FACTS

23. HB 7069 became law on July 1, 2017. HB 7069 is appended hereto as Attachment A, and incorporated herein by reference.

24. The Plaintiffs are thirteen (13) locally elected district school boards established by Art. IX, Sec. 4(a), Fla. Const., and are located throughout the State of Florida.

25. The populations of the counties served by Plaintiffs range from under 15,000 to over 1.8 million. According to the 2010 Census, Plaintiffs collectively represent almost 8 million Floridians.

26. The Plaintiffs' respective school districts serve student populations ranging from less than 2,000 to more than 272,000 students. Overall, they serve about 800,000 students, which is approximately 40% of the K-12 public education students in Florida.

27. The Plaintiffs' school districts operate anywhere from fewer than five (5) public schools to more than 200.

28. Plaintiffs employ within their school districts anywhere from a few hundred to tens of thousands of employees.

29. Plaintiffs employ within their school districts anywhere from approximately one-hundred to over fifteen-thousand teachers.

30. The State of Florida assigns public schools a letter grade of A-F as part of its accountability system. There are schools in some of the Plaintiffs' school districts that have three consecutive grades below a "C," according to the State's assessment. Such a school is deemed to be a "public school in need of intervention and support to improve school performance." § 1008.33(3)(b), Fla. Stat. (2017).

31. Plaintiffs collectively sponsor hundreds of charter schools.

32. Charter schools in Florida, including those located in Plaintiffs' respective school districts, are required by § 1002.33(12)(i), Fla. Stat. (2017), to organize as, or be operated by, nonprofit organizations. Many charter schools nominally organized as nonprofit organizations are operated by and under contracts with for-profit management companies or education service providers.

33. Thousands of students in the Plaintiffs' school districts attend charter schools that they sponsor.

34. The Plaintiffs each currently use somewhat distinct processes in evaluating charter school applications. These differences in local district school boards' evaluation processes reflect both the distinctions in the programs proposed by the various charter school applicants and special circumstances that may exist in the sponsoring school district. For example, some district school boards remain subject to federal desegregation orders with which charter schools in their jurisdiction must comply.

35. The Plaintiffs also each currently have different requirements for the charter schools located in their school districts, again to address the needs of their respective student populations.

36. Prior to the adoption of HB 7069, each school district was required to begin all charter negotiations using the Model Contract, pursuant to §1002.33(7), (21)(a), Fl. Stat. (2016) and Fla. Admin. Code r. 6A-6.0786(3), but each district entered into negotiations with its approved charter operators for the purpose of creating a charter school contract specific to the needs and requirements of that district and the charter school. As such, charter school contracts are currently different in each school district and also vary within a given school district from charter school to charter school. These differences in the charter school contracts negotiated by various district school boards reflect both the distinctions in the programs to be implemented by the various charter school operators and any special circumstances that may exist in the sponsoring district or a particular community that it serves.

37. Some of the Plaintiffs currently provide capital funding for charter schools. In some cases, the annual amount of this funding is over $600,000.

38. While one Plaintiff school district does not currently sponsor charter schools, the charter schools in the other twelve (12) school districts currently receive State and local education funding ranging from $6.9 million to more than $105 million.

39. Plaintiffs' receive federal Title I funding in amounts ranging from under $1 million to over $55 million.

40. During the current school year, Plaintiffs' districts have allocated a significant portion of this Title I funding for district-wide programs.

41. In all of the Plaintiffs' school districts, school board members are elected by local voters.

42. These locally elected school board members constitute district school boards with memberships ranging from five (5) to nine (9) members.

43. The school district superintendents who administer the Plaintiffs' districts are chosen in different ways. In some school districts, the superintendent is elected. In most of the Plaintiffs' school districts, the superintendent is appointed by the locally elected district school board.

44. There is a bona fide dispute between the parties and need for a declaration as to the constitutionality of portions of HB 7069, as to which the parties have actual, present, adverse, and antagonistic interests. The facts relevant to this dispute are well-known and readily ascertainable. Plaintiffs are not merely seeking legal advice from the court. Plaintiffs present actual disputes and have ascertainable powers, rights, and authority under the Florida Constitution.

FIRST CAUSE OF ACTION: CAPITAL MILLAGE
(Violations of Article VII, §§ 1, 9 and Article IX, § 4 of the Florida Constitution)

45. The allegations in Paragraphs 1-44 are incorporated herein by reference.

46. HB 7069 amends §§ 1011.71(2) and 1013.62, Fla. Stat. (2016) to mandate that a school district share a portion of its discretionary capital outlay millage revenues with individual charter schools located within its jurisdiction, regardless of whether the receiving charter schools need any capital improvements.

47. Pursuant to § 1013.35, Fla. Stat. (2017), local district school boards have long been required to "prepare a tentative district educational facilities plan that includes long-range planning for facilities needs over 5-year, 10-year, and 20-year periods." These facilities plans describe how capital funds, including capital millage outlay revenues, would be used. In such plans, school districts are required to allocate funds according to the greatest need in the district.

48. Article IX, § 4(b) of the Florida Constitution provides in pertinent part as follows: "The school board shall 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."

49. Article VII, § 9 of the Florida Constitution authorizes elected district school boards "to levy ad valorem taxes" to be used "for all school purposes." Pursuant to this authority, the Florida Statutes authorize district school boards to levy an ad valorem tax of no more than 1.5 mills for capital expenses (*e.g.*, new construction, remodeling, renovation, purchase of school buses). § 1011.71(2)(a)-(k), Fla. Stat. (2017). This is known as the "capital outlay millage."

50. Each year, elected district school boards must decide whether and at what level to levy a capital outlay millage within their respective school districts. Before the Florida Legislature adopted HB 7069, district school boards also had full discretion as to whether to use any portion of their capital outlay millage for charter schools within their jurisdictions. HB 7069 now mandates that the capital outlay millage be used "for school purposes for charter schools," in addition to being used for district public schools and regardless of whether the charter schools need such funds.

51. HB 7069 goes even further in mandating that funds from the capital outlay millage be directed to charter schools; it prescribes a specific formula for the Florida Department of Education to use and directs that each district distribute funds to charter schools according to that formula and without regard to the capital needs of the receiving charter schools or the needs of the schools operated by the school district. § 1013.62(3), Fla. Stat. (2017).

52. Locally elected district school boards, including Plaintiffs, thus are stripped of all authority, judgment, and discretion about the best use of these funds, which they are constitutionally authorized to levy.

53. Worse yet, district school boards are bound by the Department's determination, and the statute provides no means or procedure for district school boards to challenge the Department's application of the formula in any given instance.

54. Beginning on February 1, 2018 (for the 2017-2018 fiscal year), district school boards are required to begin distributing these locally levied ad valorem taxes to eligible charter schools within their respective jurisdictions, irrespective of either those charter schools' actual need for funds or the school districts' actual needs for which the revenues were levied and without regard to whether some of those funds have already been committed to other projects.

55. The charter schools' eligibility requirements for distribution of these levied ad valorem taxes are detailed in § 1013.62(1)(a), Fla. Stat. (2017). Since some of the requirements are tied to the charter schools' duration of operations, the number of charter schools eligible for distribution of these school district ad valorem taxes will likely grow over time.

56. Even at present, this mandatory, unplanned diversion of local school district ad valorem tax revenues presents an immediate crisis for the Plaintiff school districts.

57. For example, in Broward County alone, there are eighty-four (84) charter schools that will be "eligible" to receive capital outlay millage funds. The School Board of Broward County, Florida projects that, under the statutory formula, it will be required to divert between $17 million and $25 million to charter schools *in the first year alone* and up to $123 million to eligible charter schools during the next five years.

58. The School Board of Clay County, Florida, by contrast, has only three charter schools. Nevertheless, it projects that it will be required to divert approximately $300,000 to eligible charter schools *in the first year alone* and approximately $3.9 million to eligible charter schools during the next five years.

59. This distribution of funds thus will severely impact the Plaintiffs' ability to build new and necessary schools and to adequately maintain the facilities they currently operate. This will cause the Plaintiffs to lack sufficient capital outlay funds to address student enrollment growth in their schools and their districts while still complying with mandated class-size limitations contained in Art. IX, §1 of the Florida Constitution.

60. Contrary to the Plaintiffs' use of capital outlay millage funds—which is governed by extensive public accountability measures, including a public budget process, a required plant survey, and mandated public hearings—the unelected governing boards of charter schools are given nearly unfettered discretion over the use of any capital outlay funds they are slated to receive pursuant to HB 7069.

61. District school boards, including the Plaintiffs, are stripped of their authority to ensure that such capital outlay funds are spent wisely or on necessary projects within their jurisdiction. The district school boards can only require that funds be used by charter schools for

one of the general purposes identified in § 1013.62(4), Fla. Stat. (2017) (which includes incredibly broad categories, such as "[p]urchase of real property" and "[c]onstruction of school facilities").

62. District school boards, such as Plaintiffs, are required to build all educational and ancillary facilities in compliance with the State Requirements for Educational Facilities 2014 ("SREF"). Fla. Admin. Code Ann. r. 6A-2.0010.

63. Charter schools, with the exception of conversion charter schools located on campuses built and maintained by district school boards, are exempt from SREF and cannot be held to the more stringent standards required of district school boards. § 1002.33(18)(a), Fla. Stat. (2017).

64. Pursuant to the Florida Building Code, educational use and occupancy of facilities owned by district school boards is limited to facilities built to noncombustible Type I, II, or IV construction standards or better. Fla. Bldg. Code §§ 305.1, 453.8.3, 602.2, 602.4 (Bldg. 2014). Charter schools, even though built with capital outlay dollars, are not required to be built to these standards. §§1002.33(18)(a), 1002.33(19), 1011.71(2), 1013.62, Fla. Stat. (2017).

65. Accordingly, when a charter school closes, even though a charter school's property and improvements purchased with public funds revert to ownership by the district school board, subject to complete satisfaction of any lawful liens or encumbrances, § 1002.33(8)(e), Fla. Stat. (2017), the district school board that would obtain ownership of the property would not be able to continue to operate a school in any facility built by a charter that was not built to the higher SREF and Florida Building Code standards required of district school boards.

66. HB 7069 on its face violates Article IX, § 4(b) of the Florida Constitution by requiring district school boards to pay a portion of their locally levied capital outlay millage directly to charter schools (and mandating the formula for calculating that payment), thereby stripping the

district school boards of their authority to control and supervise the use of funds within their jurisdictions and redirecting that authority to the unelected governing boards of charter schools.

67. Article VII, § 1(a) of the Florida Constitution provides as follows: "No tax shall be levied except in pursuance of law. No state ad valorem taxes shall be levied upon real estate or tangible personal property. All other forms of taxation shall be preempted to the state except as provided by general law."

68. HB 7069 by its terms violates Article VII, § 1(a) of the Florida Constitution, because the provisions amending district school boards' capital outlay millage procedures constitute a State mandate, and are in effect an ad valorem tax levied by the State of Florida for the benefit of charter schools and their unelected operators, regardless of the choices made by local voters in each county or the judgment of those voters' elected district school board members.

69. Article VII, § 9(a) of the Florida Constitution provides as follows: "Counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes and may be authorized by general law to levy other taxes, for their respective purposes, except ad valorem taxes on intangible personal property and taxes prohibited by this constitution." Because charter schools are not authorized under the Florida Constitution to act as taxing authorities, HB 7069 unconstitutionally directs that funds legally levied and collected by school boards be reallocated to charter schools without any control by, or even input from, the locally elected school boards.

70. HB 7069 on its face violates Article VII, § 9(a) of the Florida Constitution by requiring district school boards to divert a portion of their locally levied and raised ad valorem tax revenues to a state purpose mandated by the Legislature, thereby violating each locally elected

district school board's right to levy ad valorem taxes to address the needs the district school board has identified in its jurisdiction.

SECOND CAUSE OF ACTION: SCHOOLS OF HOPE
(Violation of Article IX, § 1 and § 4 of the Florida Constitution)

71. The allegations in Paragraphs 1-44 are incorporated herein by reference.

72. HB 7069 creates § 1002.333, Fla. Stat. (2017) to authorize the establishment of "Schools of Hope" to be operated by a "hope operator."

73. A "School of Hope" is defined in § 1002.333(1)(c), Fla. Stat. (2017) as follows:

> (1) A charter school operated by a hope operator which serves students from one or more persistently low-performing schools; is located in the attendance zone of a persistently low-performing school or within a 5-mile radius of such school, whichever is greater; and is a Title I eligible school; or (2) A school operated by a hope operator pursuant to [§] 1008.33(4)(b)3[, Fla. Stat. (2017)].

74. Article IX, § 1 (a), of the Florida Constitution states, in part, as follows:

> It is . . . a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education[.]

75. Article IX, § 4 (b) of the Florida Constitution further specifies in pertinent part that: "The school board shall 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."

76. A "School of Hope" only has to submit a "notice of intent" demonstrating the intent to open a "School of Hope" in proximity to a persistently low-performing school. § 1002.333(4)(a), Fla. Stat. (2017).

77. A "School of Hope," unlike other charter schools in Florida, is not required to have its charter school application approved by a local district school board, nor is it required to enter into a charter school contract through which it is sponsored by the locally elected district school board. Indeed, local district school boards are required to enter into a "performance based agreement" with such charter schools within 60 days or be penalized by a limitation on the administrative fees that they receive for sponsoring charter schools. The "performance-based agreement" will not be negotiated by the district school board, but instead drafted by the Florida Department of Education. § 1002.333, Fla. Stat. (2017).

78. If a local district school board does not enter into a "performance based agreement" with a "School of Hope" within the specified timeframe, the State may enter into a charter-school contract in the school board's place. § 1002.333(11)(d), Fla. Stat. (2017).

79. HB 7069 on its face thus divests each district school board of its authority under Article IX, § 4(b) of the Florida Constitution to operate, control and supervise a "School of Hope." The locally elected district school board cannot prevent a "School of Hope" from opening in its school district. Nor can a district school board ensure that a "School of Hope" is part of a uniform, efficient, safe, secure, and high quality system of free public schools. For example, teachers and principals at charter "Schools of Hope" do not need to hold educational certifications. § 1002.333(6)(d), Fla. Stat. (2017). HB 7069 by its terms also divests each district school board of its Constitutional responsibility to ensure that a "School of Hope" operates in accordance with the locally elected district school board's standards for public education within its jurisdiction.

80. HB 7069 also allows charter schools established as "Schools of Hope" to be designated as a local education agency ("LEA"), "if requested." § 1002.333(6)(a), Fla. Stat. (2017).

81. Once designated as an LEA, the unelected governing board of a "charter school system" would be able to apply for and receive State and federal funds independently and in direct competition with school districts operated by locally elected district school boards, including Plaintiffs.

82. By creating independent charter "Schools of Hope" in HB 7069, the State is fostering plural, non-uniform systems of education in direct violation of the mandate for a uniform system of free public schools in violation of Article IX, § 1 (a), of the Florida Constitution.

THIRD CAUSE OF ACTION: LOCAL EDUCATION AGENCY
(Violation of Article IX, § 1 and § 4 of the Florida Constitution)

83. The allegations in Paragraphs 1-44 are incorporated herein by reference.

84. HB 7069 amends § 1002.33(25), Fla. Stat. (2016) to allow a "charter school system" to become a local education agency ("LEA").

85. Section 1002.33(25)(a), Fla. Stat. (2017) provides that the system must "adopt[] and file[] a resolution with its sponsoring district school board and the Department of Education in which the governing board of the charter school system accepts the full responsibility for all local education agency requirements[.]"

86. Section 1002.33(25)(a), Fla. Stat. (2017) also provides that in order to qualify as an LEA, the "system" must have all of its schools in the same county, enrollment greater than that of at least one school district in the State, and the same governing board.

87. Once designated as an LEA, the unelected governing board of a "charter school system" would be able to apply for and receive State and federal funds independently and in direct competition with school districts operated by locally elected district school boards, including Plaintiffs.

88. Article IX, § 1 (a), of the Florida Constitution states, in part, as follows:

> It is . . . a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education[.]

89. Article IX, § 4 (b) of the Florida Constitution further specifies in pertinent part that: "The school board shall 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."

90. By expressly permitting "charter school systems" to become LEAs, HB 7069 is fostering plural, nonuniform systems of education in direct violation of the constitutional mandate for a uniform system of free public schools. The Florida Constitution establishes one school district per county to be governed by the locally elected school board and this provision allowing charter schools to become an LEA is in direct violation of Article IX, § 1(a) and § 4(b) of the Florida Constitution.

91. Under the Florida Constitution, democratically elected local district school boards are accountable for public education and responsible for the allocation of State, local and federal revenues for education. By allowing charter schools to be LEAs, HB 7069 removes this constitutional mandate of democratic accountability. It allows charters to operate as public schools over which the local electorate that is funding them has no authority to change leadership or influence policy in violation of Article IX, § 4(b) of the Florida Constitution.

92. HB 7069 also specifically removes charter schools from the constitutionally mandated system of public schools operated by locally elected district school boards by amending § 1011.71(2), Fla. Stat. (2016) as follows:

> In addition to the maximum millage levy as provided in subsection (1), each school board may levy not more than 1.5 mills against the taxable value for school purposes for ~~district schools, including~~

> charter schools pursuant to s. 1013.62(3) and for district schools ~~at the discretion of the school board~~ [. . . .]

93. As the amendment above indicates, the State no longer considers charter schools to be "district schools," but rather their own separate class of schools, again elevating charter schools to be a parallel, competing system in violation of Article IX, § 1(a) of the Florida Constitution.

94. Allowing a charter school system to operate independently from the locally elected district school board violates Article IX, § 1 (a) of the Florida Constitution because the creation of dual public school systems would no longer constitute a uniform system of free public schools.

FOURTH CAUSE OF ACTION: STANDARD CONTRACT
(Violation Article IX, § 4 of the Florida Constitution)

95. The allegations in Paragraphs 1-44 are incorporated herein by reference.

96. Before the adoption of HB 7069, proposed charter schools submitted an application to the district school board, and if the district school board approved an application, the applicants would form a nonprofit organization in accordance with § 1002.33(12)(i), Fla. Stat. (2017). The unelected governing board of the charter applicant would then negotiate terms, conditions, and expectations with the district school board. The applicants and the district school board would then negotiate and agree upon a written contractual agreement or charter school contract.

97. HB 7069 amends § 1002.33(7), Fla. Stat. (2016) to require that district school boards enter into a "standard charter contract" with charter school operators without regard to any special circumstances that may exist within the school district or with regard to the educational program to be operated by the charter school.

98. As a result of HB 7069, § 1002.33(7), Fla. Stat. (2017) now provides that "[a]ny term or condition of a proposed charter contract that differs from the standard charter contract adopted by rule of the State Board of Education shall be presumed a limitation on charter school flexibility."

This new language is coupled with the provision that district school boards "may not impose unreasonable rules or regulations that violate the intent of giving charter schools greater flexibility to meet educational goals." § 1002.33(7), Fla. Stat. (2017) Therefore, any attempt by a district school board to modify the "standard charter contract" is presumed to violate the statutory provision thereby effectively eliminating the district school board's ability to supervise and control charter schools.

99. Article IX, § 4(b) of the Florida Constitution provides in pertinent part that "[t]he school board shall 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."

100. Locally elected district school boards cannot be legislatively divested of their authority under Article IX, § 4(b) of the Florida Constitution, to "operate, control and supervise all free public schools within the school district."

101. Locally elected district school boards must be afforded substantial input, discretion, and authority to control and supervise any charter schools permitted to operate within their school districts.

102. By mandating the use of standard "one size fits all" contracts, the terms of which are forced upon a local district school board by the State and by unelected charter school operators, HB 7069 on its face precludes a development of a charter school contract that is a meeting of the minds between the sponsoring district school board and the charter school operator, and instead divests locally elected district school boards of the authority conferred upon them in violation of Article IX, § 4(b) of the Florida Constitution.

FIFTH CAUSE OF ACTION: TITLE I
(Violation of Article IX, § 4 of the Florida Constitution)

103. The allegations in Paragraphs 1-44 are incorporated herein by reference.

104. HB 7069 amends § 1011.69(5), Fla. Stat. (2016) to mandate that the school boards "shall provide" Title I funding to "all eligible schools . . . , including a charter school."

105. HB 7069 provides that "eligible schools may not exceed the threshold established by a school district for the 2016-2017 school year or the statewide percentage of economically disadvantaged students, as determined annually." § 1011.69(5), Fla. Stat. (2017).

106. According to the Department, the current statewide percentage of economically disadvantaged students is 63 percent.

107. HB 7069 only allows district school boards to withhold Title I funds from "eligible schools" for a narrow list of specified purposes.

108. As a result, HB 7069 restricts locally elected district school boards' authority to use federal Title I funds for purposes they deem to be the most educationally beneficial and most likely to effectively address the educational needs of low-income students within their respective jurisdictions. These measures include school-district-wide programs that allow cost effective measures to be put in place more efficiently in school districts with high concentrations of low-income students and providing additional support to public schools with the very highest percentages of low-income students.

109. Article IX, § 4(b) of the Florida Constitution provides in pertinent part as follows: "The school board shall 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."

110. HB 7069 on its face violates Article IX, § 4(b) of the Florida Constitution because it unduly restricts the authority of locally elected district school boards to determine the most efficient and effective use of Title I funds in their jurisdictions.

SIXTH CAUSE OF ACTION: TURNAROUND PROVISIONS
(Violation of Article I § 10 and Article IX § 4 of the Florida Constitution)

111. The allegations in Paragraphs 1-44 are incorporated herein by reference.

112. HB 7069 amends § 1008.33, Fla. Stat. (2016) adding additional provisions to the State's requirements that district school boards take actions to help low performing schools.

113. The Florida Department of Education has already indicated that this provision applies to public schools operated by some of the Plaintiffs and will apply to others in the near future.

114. Under § 1008.33, Fla. Stat. (2017), the State Board of Education is responsible for a state system of school improvement and education accountability that assesses student performance by school, identifies schools that are not meeting accountability standards, and institutes appropriate measures for enforcing improvement. § 1008.33(2)(a), Fla. Stat. (2017).

115. Under the new system, a school that receives a "D" or "F" grade on an annual report issued by the Department is deemed to be a "public school in need of intervention and support to improve school performance." § 1008.33(3)(b), Fla. Stat. (2017).

116. HB 7069 instructs the State Board to provide "intensive intervention and support strategies" to public schools earning two consecutive "D" grades or an "F" grade. § 1008.33(4)(a), Fla. Stat. (2017).

117. HB 7069 requires district school boards to implement at any district public school with three consecutive grades below a "C" one of the State-mandated turnaround provisions:

> 1) Reassign students to another school and monitor the progress of each reassigned student; 2) Close the school and reopen the school as one or more charter schools, each with a governing board that has a demonstrated record of effectiveness; or 3) Contract with an outside entity that has a demonstrated record of effectiveness to operate the school. An outside entity may include a district-managed charter school in which all instructional personnel are not employees of the school district, but are employees of an

> independent governing board composed of members who did not participate in the review or approval of the charter.

§ 1008.33(4)(b), Fla. Stat. (2017).

118. Article IX §4(b) of the Florida Constitution states, "the school board shall operate, control and supervise all free public schools within the school district."

119. Article IX of the Florida Constitution vests the state board with the power to supervise Florida's public school system.

120. Prior to the implementation of HB 7069, Florida law permitted school districts to have the option to turnaround such schools themselves. Some district school boards, like Plaintiff The School Board of Hamilton County, Florida, were in the process of doing that based on past performance of the schools, and now HB 7069 completely removes that option retroactively.

121. Indeed, since the Hamilton County schools in question include the only middle and high schools in the district, the effect of the new turnaround provision could be that the role of the locally elected district school board with respect to secondary education is eliminated entirely.

122. HB 7069's turnaround provisions on their face divest locally elected district school boards, including Plaintiffs, of their authority and responsibility to decide how best to improve a district public school that the State has identified as low performing. This authority and responsibility is reserved to the district school boards within their Constitutional power to "operate, control and supervise all free public schools within their school districts." Art. IX, § 4(b), Fla. Const.

123. HB 7069's turnaround provisions are in direct conflict with the powers vested in locally elected school boards by Article IX § 4(b) of the Florida Constitution.

REQUEST FOR EXPEDITED CONSIDERATION

124. Plaintiffs respectfully request that the court expedite consideration of this action pursuant to § 86.111, Fla. Stat. (2017), which authorizes the Court to "order a speedy hearing of an action for a declaratory judgment" and "advance it on the calendar."

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs respectfully request that this Court:

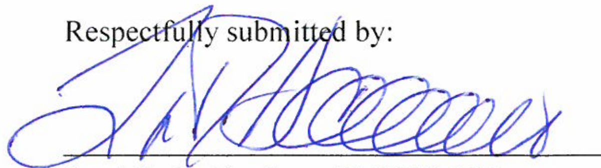
(1) Declare the six provisions of HB 7069 identified above to be unconstitutional under (a) Article VII, § 1, of the Florida Constitution; (b) Article VII, § 9, of the Florida Constitution; (c) Article IX, § 1, of the Florida Constitution; and (d) Article IX, § 4, of the Florida Constitution;

(2) Enjoin Defendants, and all persons and entities acting under their direction or in concert with them, from taking any measures to implement these aspects of HB 7069 or portions of Chapter 2017-116, Laws of Florida;

(3) Enter an order placing this matter on an accelerated calendar and scheduling a case management and scheduling hearing forthwith to accomplish accelerated processing of this action; and

(4) Order such other and further relief as this Court may deem appropriate.

Respectfully submitted by:



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