

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

CORT LIPPE,

Petitioner,

v.

Case No. _____

RON DeSANTIS, Governor of Florida,

Respondent.

_____ /

PETITION FOR WRIT OF MANDAMUS

1. This is an action seeking a writ of mandamus to remedy Governor DeSantis's violation of Fla. Stat. § 100.111(2).

2. The Governor has refused to perform his statutory duty to call a special election to fill a vacancy in Florida Senate District 14, as the law requires. The vacancy arose over forty-five days ago, when the incumbent senator resigned to become Florida's lieutenant governor. The Governor's failure—inaction longer than any of his predecessors in known history—leaves the district's half a million constituents without representation and threatens to deprive them of a voice in the halls of the Capitol during the 2026 session set to begin in January.

I. JURISDICTION, VENUE, AND PARTIES

3. This Court has jurisdiction, including jurisdiction to issue a writ of mandamus, under Fla. Const. Art. V, § 5(b), Fla. Stat. § 26.012(2)(c), and Fla. R. Civ. P. 1.630.

4. Venue is proper pursuant to Fla. Stat. § 47.011.

5. Petitioner Cort Lippe is a Florida citizen and an elector in Senate District 14.

6. Respondent is the governor of Florida. Under Florida law, the governor must fix the date of elections when there is a vacancy in legislative office. Fla. Stat. §§ 100.101(2), .111(2).

II. FACTUAL ALLEGATIONS

A. Florida's Historical Practice of Prompt Special Elections

7. Since January 1, 1999, there have been 80 vacancies in congressional and legislative offices in Florida filled by special election.

8. For the 65 vacancies arising between 1999 and 2020, it took, on average, 7.6 days for the governor to call a special election after the vacancy arose.

9. In over 25 instances, the governor took fewer than five days to call the election.

10. For example, Rep. Danny Burgess resigned on January 24, 2019, after being appointed executive director of the Department of Veterans Affairs. Governor DeSantis issued an executive order calling a special election to fill Rep. Burgess's seat *the very same day*.¹

11. Even more recently, Governor DeSantis has called special elections relatively promptly—if it suits him. When Senator Blaise Ingoglia resigned on July 18, 2025 (effective July 21), Governor DeSantis took just four days to call a special election.²

B. The Governor's Recent Failures to Timely Call Special Elections

12. But lately, Governor DeSantis has more often chosen to deviate from Florida's longstanding practice of timely special elections, in violation of his mandatory statutory duty.

13. After Congressman Alcee Hastings died in April 2021, Governor DeSantis failed to call a special election for 30 days—longer than any Florida governor had ever taken to call a

¹ Exec. Order 19-20 (Jan. 24, 2019), https://www.flgov.com/wp-content/uploads/orders/2019/EO_19-20.pdf; News Service of Florida, *This Tampa Bay State Representative Now Leads Florida's Veterans Affairs*, TAMPA BAY TIMES (Jan. 24, 2019), <https://www.tampabay.com/florida-politics/buzz/2019/01/24/this-tampa-bay-state-representative-now-leads-floridas-veterans-affairs/>.

² Exec. Order 25-148 (July 22, 2025), <https://files.floridados.gov/media/709346/eo-25-148.pdf>; Blaise Ingoglia, LinkedIn (July 18, 2025), https://www.linkedin.com/posts/blaise-ingoglia-a265874b_the-resignation-letter-has-been-sent-it-activity-7352155194513625089-wP2A/.

special election in at least the prior 22 years, and possibly ever in the history of the state.

14. Twenty-three days after Congressman Hastings died, a would-be candidate filed suit, seeking to compel the Governor to call an election and fulfill his duty under Article I, Section 2 of the U.S. Constitution and Fla. Stat. § 100.111(2). *Dowling v. DeSantis*, No. 9:21-cv-80796 (S.D. Fla. Apr. 29, 2021).

15. A week later, the Governor called a special election, but set it for January 11, 2022—more than nine months after Congressman Hastings’ death.³

16. In July 2021, three legislators submitted resignations to run in the congressional special election.

17. Governor DeSantis broke the 30-day personal—and perhaps all-time—record he had just set, waiting *over ninety days* to call special election to fill these vacant legislative seats.

18. The Governor did not call special elections until he was forced to—after residents of the districts petitioned this Court for mandamus relief. Compl., *Staples v. DeSantis*, No. 2021 CA 1781 (Fla. 2nd Jud. Cir. Oct. 15, 2021). Following months of inaction, the Governor called elections within *days* of this Court ordering him to show cause why the writ should not issue. Not. of Vol’y Dismissal, *Staples* (Oct. 28, 2021).

19. In 2023, Governor DeSantis waited 38 days to call a special election for a State House seat. Yet again, the Governor did not call the election until he was forced to—after this Court ordered the Governor to show cause why mandamus should not issue in a lawsuit brought by a district resident. Order to Show Cause, *Zamora v. DeSantis*, No. 2023 CA 1857 (Fla. 2nd Jud. Cir. Ct. July 17, 2023).

³ Exec. Order 21-103 (May 6, 2021), <https://files.floridados.gov/media/704305/executive-order-21-103.pdf>.

C. The Instant Vacancy and the Governor's Failure to Call an Election

20. On August 12, 2025, Jay Collins resigned from the Florida Senate after the Governor appointed him lieutenant governor.⁴

21. The Governor has failed to call an election to fill the vacancy.

22. Interim committee weeks for the 2026 legislative session begin on October 6, 2025. The 60-day session begins on January 13, 2026.⁵

23. Unless the Governor sets a special election very soon, Petitioner and other district residents will go without representation for the entirety of the interim committee weeks and 2026 session.

CLAIM FOR RELIEF

24. Petitioner has a clear legal right to have the Governor fix the date of a special election for the instant vacancy.

25. Petitioner has a right to be represented by a senator, elected by him. *See* FLA. CONST. art. III, § 1.

26. The Governor has a clear legal duty to fix the dates of the special election.

27. The Governor's clear legal duty is ministerial and nondiscretionary in nature.

28. By failing to fix the election date for over forty-five days, the Governor has failed to perform his mandatory duty under Fla. Stat. § 100.111(2).

29. Petitioner has no adequate remedy at law.

⁴ Romy Ellenbogen & Bea Anhuci, *DeSantis Chooses Tampa's Jay Collins for Lieutenant Governor. Who Is He?*, TAMPA BAY TIMES (Aug. 12, 2025), <https://www.tampabay.com/news/florida-politics/2025/08/12/florida-jay-collins-desantis-lieutenant-lt-gov-2026-tampa/>.

⁵ *Fall Interim Committee Weeks*, Memorandum from Senate President Ben Albritton & House Speaker Daniel Perez to All Legislators (June 16, 2025), https://flsenate.gov/PublishedContent/Offices/2024-2026/President/Documents/Fall_Interim_Committee_Weeks.pdf.

REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Issue an alternative writ of mandamus pursuant to Fla. R. Civ. P. 1.630(d)(2) ordering the Governor to show cause (within 20 days of service of the order, *id.* 1.630(e), 1.140(a)(1)) why mandamus should not issue in this matter;
- B. Issue a writ of mandamus directing the Governor to perform his clear ministerial duty to fix the date of a special primary election and a special election for Senate District 14 within a reasonable time, not to exceed 5 days;
- C. Award Petitioner his costs of suit; and
- D. Issue any such other relief the Court deems appropriate.

* * *

ARGUMENT

Article III, Section 1 of the Florida Constitution mandates that “[t]he legislative power of the state shall be vested in a legislature of the State of Florida, consisting of a senate composed of one senator elected from each senatorial district and a house of representatives composed of one member elected from each representative district.” Each resident of the state has the right to be represented by one senator and one representative. These legislators are their voice in the halls of the Capitol.

When a vacancy arises in legislative office, the people have the right to fill that vacancy in a special election. *See* Fla. Stat. § 100.101(2). The reason is obvious: no Floridian should be deprived of representation because of the death, resignation, or removal of their representatives.

But left to his own devices, the Governor would deprive the residents of Senate District 14 of their constitutionally protected voice in the Capitol. The Governor has failed to perform his

statutorily proscribed ministerial duty to fix the date of a special election for the district, where Petitioner resides. The vacancy in District 14 arose over forty-five days ago. No other governor in living memory has waited this long to schedule a special election.

The Governor's failure to call this election violates Fla. Stat. § 100.111(2). Mandamus is the appropriate remedy to address this violation. *Young v. Lamar*, 115 So. 3d 1132, 1133–34 (Fla. 1st DCA 2013) (finding mandamus “an appropriate remedy to correct” a violation of the law); *Valdes v. Galco Constr.*, 883 So. 2d 359, 361 (Fla. 1st DCA 2004) (granting mandamus to compel officer to issue an order “within a reasonable time, not to exceed 30 days”); *Fla. Caucus of Black State Legislators, Inc. v. Crosby*, 877 So. 2d 861, 864 (Fla. 1st DCA 2004) (finding mandamus appropriate to compel state department head to comply with statute providing that department “shall assist” certain persons and “shall ensure” documents are forwarded); *Kramp v. Fagan*, 568 So. 2d 479, 480 (Fla. 1st DCA 1990) (granting mandamus and directing lower court judge to dispose of a neglected motion within fifteen days); *AHF MCO of Fla., Inc., v. Exec. Office of the Governor*, No. 2018 CA 1648 (Fla. 2nd Jud. Cir. Sep. 5, 2018) (finding governor had a statutory duty to produce certain records and issuing writ of mandamus commanding him to produce the records within ten days).

To show entitlement to a writ of mandamus,

a petitioner must show that he has a clear legal right to the performance of a clear legal duty by a public officer and that he has no other legal remedies available to him. When a petitioner files a petition for mandamus, the court has the initial task of assessing the legal sufficiency of the allegations [I]f the petition is facially sufficient, the court must issue an alternative writ, i.e., an order directed to the respondent to show cause why the requested relief should not be granted.

S.J. v. Thomas, 233 So. 3d 490, 495 (Fla. 1st DCA 2017) (citation modified); *see also Moore v. Ake*, 693 So. 2d 697, 698 (Fla. 2d DCA 1997) (trial court must issue an alternative writ of

mandamus if petition is facially adequate, even if petitioner has not served respondent with the complaint).

As demonstrated below, Petitioner has established all the above requirements, and an alternative writ of mandamus should issue directing the Governor to show cause why this Court should not grant the requested relief.

A. The Governor has an indisputable, ministerial duty to fix a special election when there is a vacancy in legislative office.

The statutory commands are clear: “A special election or special primary election shall be held . . . [i]f a vacancy occurs in the office of state senator or member of the state house of representatives.” Fla. Stat. § 100.101. “Whenever there is a vacancy for which a special election is required pursuant to s. 100.101, the Governor, after consultation with the Secretary of State, shall fix the dates of a special primary election and a special election.” *Id.* § 100.111(2).

The Governor’s duty to fix a special election after a vacancy arises is ministerial and nondiscretionary. *See Town of Manalapan v. Rechler*, 674 So. 2d 789, 790 (Fla. 4th DCA 1996) (“A duty or act is defined as ministerial when there is no room for the exercise of discretion, and the performance being required is directed by law.”). A plain reading of the language of section 100.111(2) demonstrates the ministerial nature of this duty. The statute provides, “the Governor . . . *shall* fix the dates of a special primary election and a special election” (emphasis added). “Shall” is not discretionary. Rather, its plain meaning indicates the Legislature has bestowed upon the Governor a ministerial obligation.

Florida Caucus of Black State Legislators, Inc. v. Crosby, 877 So. 2d 861 (Fla. 1st DCA 2004), is particularly instructive here. In that case, petitioners sought a writ of mandamus compelling the secretary of the Department of Corrections to comply with a statute mandating the agency do the following when a felony offender was about to be discharged from state supervision:

[A]n authorized agent of the department *shall* obtain from the Governor the necessary application and other forms required for the restoration of civil rights. The authorized agent *shall* assist the offender in completing these forms and *shall* ensure that the application and all necessary material are forwarded to the Governor before the offender is discharged from supervision.

877 So. 2d at 862 (quoting § 944.293, Fla. Stat. (2002)) (emphasis added). Writing for a unanimous panel, then-Judge Polston reasoned that, “[b]ecause the legislature chose to use the word ‘shall’ throughout section 944.293, the Department’s obligations are not discretionary.” *Id.* at 863. The court ruled that the writ should issue, requiring the Department of Corrections to comply with their mandatory, ministerial duties under the statute. *Id.* at 863. The same reasoning applies to the Governor’s duty to fix a special election under section 100.111(2).⁶

It is well established that “[i]f the language of the statute is clear and unambiguous and conveys a clear and definite meaning, the statute should be given its plain meaning.” *Fla. Hosp. v. Agency for Health Care Admin.*, 823 So. 2d 844, 848 (Fla. 1st DCA 2002). Because the language in section 100.111(2) is nondiscretionary, the Governor is bound to follow its command. Accordingly, the Governor has an indisputable duty to fix a special election date for the legislative vacancy. And given the constitutional imperative that no Floridian lack representation longer than necessary, the Governor has a duty to fix the election for the earliest date possible.

B. Petitioner has a clear legal right to compel the Governor to perform his statutory duty.

Petitioner is a resident and voter of the district in which the Governor has failed to call a special election. In the absence of a special election called very soon, Petitioner will go without

⁶ Significantly, the *Crosby* court stressed that the existence of a disagreement over the existence or scope of the statutory duty—or even ambiguity in the statute—does not foreclose mandamus relief. 877 So. 2d at 863. (“While we agree with the trial court that the Department’s statutory obligations are ambiguous, . . . it is appropriate for us to interpret an ambiguous statute and then determine it to be sufficiently ‘clear’ for the purpose of mandamus.”).

the representation to which he is entitled in the 2026 legislative session and for weeks, potentially months, afterward—during which legislators provide constituent services, perform official duties, and may be called back into special session. Petitioner’s voice, and the voices of his neighbors, will go unheard in the Capitol. His vote will be denied, twice over. In the first instance, the Governor’s failure to call a special election deprives Petitioner the right to vote on his senator. In the second instance, the Governor’s inexplicable inaction denies Petitioner a vote on the floor of the Florida Senate.

Given the Governor’s clear legal duty, “Petitioner, as a citizen and taxpayer, has a clear legal right to request that the Governor carry out that duty.” *Pleus v. Crist*, 14 So. 3d 941, 945 (Fla. 2009); *see also Chiles v. Phelps*, 714 So. 2d 453, 456 (Fla. 1998) (finding that “citizens and taxpayers” have standing “to challenge alleged unconstitutional acts of the executive branch”).

C. Petitioner has no adequate remedy at law.

Petitioner has no other adequate remedy at law. Florida courts have recognized mandamus as an appropriate remedy to resolve violations of the law and matters where the executive branch has failed to perform a ministerial duty imposed by law. *Young*, 115 So. 3d at 1133–34 (“[T]he Commission . . . was required, at a very minimum, to process the petitioner’s complaint in accordance with the dictates of Florida Administrative Code Rule 34-5.002. Mandamus is an appropriate remedy to correct this error.”); *Bd. of Trs. of the City Supplemental Pension Fund for Firemen & Policemen in the City of Miami Beach v. Mendelson*, 601 So. 2d 594, 595 (Fla. 3d DCA 1992). As such, mandamus is the appropriate remedy to address the Governor’s failure to fix a special election to fill the instant vacancy.

D. Conclusion

For the foregoing reasons, the Court should issue a writ of mandamus compelling the Governor to fix a special election for this vacancy, with an election occurring as soon as possible.

Respectfully submitted September 30, 2025,

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