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IN THE SUPREME COURT OF FLORIDA

Case No.: SC2026-0440
L.T. Case No. 2022-CA-1562

FLORIDA PACE FUNDING AGENCY, a
public body corporate and politic,

Appellant
v.

STATE OF FLORIDA, and the taxpayers, property owners and citizens of the State of Florida, including non-residents owning, Property or subject to taxation therein, and others claiming any right, title or interest in property to be affected by the issuance of the Bonds herein described or to be affected in any way thereby,

Appellees

APPELLANT'S INITIAL BRIEF

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INTRODUCTION

On October 6, 2022, the Florida PACE Funding Agency (the "Agency") obtained a Final Judgment validating the statewide issuance of up to $5 billion in revenue bonds to fund government-assisted property improvement projects for Florida homeowners pursuant to sections 163.08 and 163.01(7), Florida Statutes (2022).[1] 1A.23–68.[2] As detailed in the Final Judgment, the bonds are repaid via non-ad valorem assessments levied by the Agency, which are collected by the State's tax collectors and then remitted to the Agency. *See, e.g.*, 1A.36, 39, 46. The Final Judgment adjudged that:

1. the Agency is authorized to operate statewide without the need to partner with local governments; and

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[1] Unless stated otherwise, statutory cites are to the 2022 version of the Florida Statutes.

[2] Citations to Appendices 1 and 2 are indicated by 1A.XX and 2A.XX, respectively, where XX refers to the bates-stamped page number of the appendix. Appendix 1 consists of the Agency's appendix filed in support of its earlier emergency motion/petition to this Court, and Appendix 2 consists of briefs filed by tax collectors in the earlier Rule 1.540 proceedings before this Court.

2. tax collectors have a ministerial duty to collect the Agency's assessments on benefitted property.

1A.35–36, 46.

These determinations became "forever conclusive" upon expiration of the time to appeal, and "shall never be called in question in any court by any person." § 75.09, Fla. Stat. When a coalition of the State's tax collectors sought to challenge the Final Judgment via Florida Rule of Civil Procedure 1.540, this Court held that chapter 75 forecloses application of Rule 1.540 to bond validation proceedings, explaining that "the statutory text leads to the inevitable conclusion that its finality language applies to 'all matters adjudicated' by the final order, without reservation." *State Att'ys for Second, Seventh & Ninth Jud. Cirs. v. Fla. Pace Funding Agency*, 424 So. 3d 478, 489 (Fla. 2025).

Despite the plain statutory language and this Court's unambiguous decision, forty-two tax collectors continue refusing to comply with the Final Judgment and their corresponding ministerial duties. Recycling the same arguments they raised in the earlier Rule 1.540 proceedings, the tax collectors have declined to place the Agency's assessments on the tax rolls. But their arguments directly contradict determinations in the "forever conclusive" Final Judgment that, by statute, are immune from further challenge. The practical effect of their intransigence is to impermissibly "call into question" bonds that have been judicially validated and sold in reliance on that judgment.

Faced with this, the Agency asked the circuit court to hold the tax collectors in indirect civil contempt to coerce compliance with obligations conclusively established by the Final Judgment and the March 19, 2024, Order in the tax collectors' Rule 1.540 proceedings, which was affirmed by this Court. But the circuit court (a successor judge to the judge who presided over the bond validation and Rule 1.540 proceedings) never got to the merits of the Agency's motion. Instead, the circuit court ruled, as threshold matters, that the tax collectors were not parties to the proceedings and were not subject to any order directing them to do anything. Based on those rulings, it discharged its order to show cause against the tax collectors.

The circuit court was wrong on both points. The tax collectors are parties to these proceedings—they were represented by the State during the bond validation proceedings, and they received constructive notice of those proceedings as well. Moreover, the tax collectors are subject to the directions to them contained in both the Final Judgment and the circuit court's March 19, 2024, Order in the tax collectors' Rule 1.540 proceedings.

The Agency requests that this Court reverse the circuit court's order and remand this matter with instructions to proceed to the merits of the Agency's motion seeking relief against the tax collectors.

STATEMENT OF THE CASE AND FACTS

I. The Legislature authorizes the Agency to operate statewide.

Section 163.08, Florida Statutes, "enable[s] property owners to voluntarily finance" certain improvements for residential and commercial wind mitigation, energy conservation, and efficiency "with local government assistance." § 163.08(1)(b). To fund these improvements, the statute authorizes a local government to issue public revenue bonds backed by assessments levied against individual property owners who finance capital improvements on their real property. § 163.08(1)–(3). The assessments are collected on the property owner's tax bill by the tax collector, through what is called the uniform method of collection, and the proceeds are remitted to the local government to make the bond payments. § 163.08(4).

The City of Kissimmee and Flagler County created the Agency to fund voluntary property improvements under chapter 163. *See* 1A.25-26. In 2012, the Legislature amended chapter 163, and the Agency and other separate legal entities created to fund property improvements under chapter 163 now had the authority to issue assessment-backed bonds throughout the state. § 163.01(7)(g)1.

II. The Agency obtains a $5 billion bond validation in a "forever conclusive" Final Judgment that confirms its statewide authority and the tax collectors' ministerial duty to collect its assessments.

Acting on its new statewide authority, in 2022, the Agency sought to validate up to $5 billion in assessment-backed revenue bonds to fund property improvements under chapter 163 across the state. *See Fla. Pace Funding Agency*, 424 So. 3d at 481. As required by section 163.01(7)(e)(4), the Agency filed a bond validation action under chapter 75, Florida Statutes, in Leon County; served the requisite state entities, *id.*; and published the required notice, 1A.77. "It is undisputed that the Agency complied with all statutory notice requirements." *Id.* The circuit court issued a Final Judgment after a hearing at which the State was represented by the state attorneys designated in the statute, *see id.*, leaving no doubt that (1) the Agency is authorized to operate statewide without the need to partner with local governments, and (2) tax collectors have a ministerial duty to collect assessments the Agency levies on property that receives the benefit of the Agency's funding. 1A.23–69.

The Final Judgment prefaced its findings by noting that the Agency's action was "against the State of Florida and all of the property owners, taxpayers and citizens of the entire State of Florida." 1A.23. Confirming the Agency's statewide authority, the Final Judgment states:

- In its fourth paragraph: The Agency "is empowered to act separately and independently as a special purpose local government **throughout Florida**." 1A.26 (emphasis added).

- In its eighth paragraph: "General law expressly provides the [Agency] with independent and concurrent authority to finance facilities on behalf of any person, relating to a governmental function or purpose, **which may serve populations within or outside of the members of the [Agency]**." 1A.28 (emphasis added).

- In its ninth paragraph: "[A]ll power and authority available to the [Agency] . . . has been duly authorized by the Legislature and may be implemented by the [Agency] to serve populations **throughout the State, both within and outside of members of the [Agency]**." *Id.* (emphasis added).

- In its forty-seventh paragraph: "[E]xpress assignment of authority and responsibility to the [Agency] . . . is duly authorized by general law to accomplish compelling state interests and may, at the sole option of the [Agency] in this circumstance, be implemented by the [Agency] to independently, concurrently and nonexclusively serve populations **within and outside of the members of the [Agency]** with its qualifying improvement financing program and associated activities in Florida." 1A.52 (emphasis added).

- In its seventy-first paragraph: "The character of the Bonds and the nature of the [Agency] entitle the [Agency] to proceed in accordance with general law and the provisions of chapter 75, Florida Statutes, including the . . . imposition, collection and use of . . . assessments originated by the [Agency] **throughout the State** as Pledged Revenues to repay the Bonds." 1A.64–65 (emphasis added).

Affirming that the Agency is empowered to independently exercise its statewide authority without partnering with any local government, the Final Judgment states:

- In its twenty-first paragraph: "[S]eparate legal entities, formed in the same manner as that of the [Agency], once constituted and established as provided by general law, **are authorized to act alone** to assist private property owners who alternatively and voluntarily choose to apply to and consent to such financing directly with the [Agency] by virtue of execution of a financing agreement." 1A.34–35 (emphasis added).

- Also in its twenty-first paragraph: "The Legislature has provided express general law authority to the [Agency] to **independently** fund and finance qualifying improvements for interested private property owners **throughout the State** in a concurrent, alternative, but non-exclusive manner." 1A.35 (emphases added).

- In its twenty-second paragraph: "[T]here is **no requirement or necessity for the [Agency] to enter into any agreement or partnership**, beyond the general law provisions of the Charter Agreement, to serve any property owner." 1A.35–36 (emphasis added).

- In its forty-eighth paragraph: "The power and authority of the [Agency] to independently engage and transact with private property owners . . . throughout the State to accomplish compelling state interests and impose . . . assessments, issue its obligations to fund and finance qualifying improvements, all as provided by general law is separate, alternative, concurrent with, and in all respects **independent from any other financing regime or program implemented by any other local government in Florida**, unless in all respects voluntarily agreed otherwise by the [Agency] from time to time." 1A.52–53 (emphasis added).

- In its fifty-second paragraph: "[A] general purpose local government may establish its own financing program **but is not authorized to** . . . **impose conditions on or otherwise regulate** the authorized exercise of general law powers by the [Agency], **frustrate the accomplishment of compelling state interests** specifically articulated as desirous statewide by general law, **or provide for different methods for doing a particular act by the [Agency]** than the methods set forth by authorizing State legislation." 1A.54–55 (emphases added).

Leaving no doubt about the tax collectors' ministerial duty to collect the Agency's assessments levied within their respective jurisdictions, the Final Judgment states:

- In its twenty-sixth paragraph: The Agency's assessments "are indistinguishable from and fully equivalent to all other" assessments levied on real property for public revenue purposes. 1A.38.

- In its twenty-ninth paragraph: The Agency's assessments "**must be collected pursuant to the uniform collection method** . . . annually over a period of years on the same bill as property taxes." 1A.39 (emphasis added).

- In its thirty-eighth paragraph: The Agency's "assessments **must be collected as a ministerial act by the tax collector** at the same time as payment of other taxes and . . . assessments." 1A.45 (emphasis added).

- In its thirty-ninth paragraph: "The use of the uniform method of collection is by general law a fundamental and uniform collection approach **required statewide**." *Id.* (emphasis added)

- In its fortieth paragraph: "Any duties of a property appraiser or tax collector . . . to collect the assessments and remit payment to the local government . . . **are wholly ministerial and the property appraiser and tax collector are without any discretion with regard to the collection** . . . on the same notice as for taxes or otherwise once the local government elects to use the uniform method and complies with the requirements of section 197.3632, Florida Statutes." 1A.46 (emphasis added).

- In its forty-second paragraph: The Agency is "**entitled to use**" the uniform method of collection upon "timely providing an initial of intent to use the uniform method of collection" to "the property appraiser, **the tax collector**, and the [Florida Department of Revenue by United States mail." 1A.47 (emphases added).

- In its seventy-first paragraph: The Agency is entitled "to proceed in accordance with general law and the provisions of chapter 75, Florida Statutes, . . . for the purposes of obtaining the Court's determination of . . . **the imposition, collection and use of non-ad valorem assessments originated by the Plaintiff through the State as Pledged Revenues to repay the Bonds**, and all matters in connection therewith. 1A.64–65 (emphasis added).

- In its last paragraph: "It is ordered and adjudged that . . . this Final Judgment validates and confirms . . . the legality and validity of the Second Master Bond Resolution and **the independent and concurrent imposition and means of collection of non-ad valorem assessments to annually fund the agreed upon debt service** to repay the cost of funding and financing the assessments . . . [and] **the power and method of collection provided in the Supplemental Act** . . ." 1A.66–67 (emphases added).

Neither the State nor any other party objected to the entry of the Final Judgment. *See Fla. Pace Funding Agency*, 424 So. 3d at 481. To the contrary, an attorney statutorily designated to represent the State, including its tax collectors, "testified that he had read the proposed final judgment" and that "it appeared 'fairly straightforward.' " *Id.* No one appealed the Final Judgment or otherwise intervened within the statutory window to do so, and the clerk of the circuit court issued a certificate of no appeal. *See id.*

III. The tax collectors refuse to collect the Agency's assessments and then "call in question" the "forever conclusive" Final Judgment in an unauthorized motion.

With its bond validation in hand, the Agency began issuing bonds and funding property improvements across the State. *See id.* In accordance with the statutory annual schedule, the Agency timely submitted its first assessment rolls, relating to bonds validated in the Final Judgment, to the appropriate tax collectors. 1A.138, 618–22. Yet despite the Final Judgment's express validation of the Agency's statewide authority to operate without interlocal agreements and its conclusive resolution of the tax collectors' duty to collect the Agency's assessments, the tax collectors refused to place those assessments on their tax rolls for improvements financed with the bond proceeds, except where the property was located in a jurisdiction with an interlocal agreement. 1A.139, 143, 144, 140.[3]

[3] This citation refers to pages contained in the Supplemental Affidavit of Wendi Leach, the Agency's Executive Director. 1A.618-623. In the appendix, some of the affidavit's pages are out of order, but because this is how it appears in the circuit court record, the

To the extent the tax collectors believed there remained any lawful basis to challenge the Agency's use of bond proceeds, chapter 75 required them to pursue that contention, if at all, through the narrow post-validation procedure set out in section 75.17, supported by an affidavit of good faith. They did not do so. Rather, they refused to obey—and impermissibly "called in question"—a Final Judgment that section 75.09 makes forever conclusive. *Fla. Pace Funding Agency*, 424 So. 3d at 488.

Nearly one year after entry of the "forever conclusive" Final Judgment, the tax collectors joined with a group of other governmental entities and "called in question" its validity by moving under Rule 1.540(b) for relief from the duties the Final Judgment (and the law) imposed. *See id.* at 481–82 & n.2. Among other things, the tax collectors argued that the circuit court "lacked personal jurisdiction over the parties and deprived them of due process." *Id.* at 482.

Following an evidentiary hearing, the circuit court issued an order siding with the Agency's position that the Final Judge is

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Agency has not corrected this. As a result, the citations above refer to pages three through six of the affidavit.

unassailable (the “March 19, 2024, Order”). 1A.71–93. The circuit court rejected the tax collectors’ jurisdictional arguments based on the Agency’s compliance with the statutory notice provisions, ruling that not only was there constructive notice on the tax collectors as “interested parties” in the bond validation proceedings, but “[e]ven more, the State was represented at the Final Judgment hearing by three different assistant state attorneys.” 1A.92. The circuit court thus concluded that “the State’s interests—including its political subdivisions—were adequately represented at the bond validation proceedings” and that the tax collectors’ “disagreement with how the State presented (or failed to present) arguments at those proceedings does not present a due process violation.” 1A.93.

The circuit court also rejected the tax collectors’ various non-jurisdictional challenges to the Final Judgment, agreeing with the Agency that section 75.09 foreclosed any attempt to reopen the matters decided in the Final Judgment after the thirty-day deadline to appeal because the Final Judgment is “forever conclusive as to all matters adjudicated” and thus “shall never be called in question in any court or by any person or party.” 1A.80. The trial court affirmed its judgment in the Final Judgment that “the tax collectors are without discretion to collect the non-ad valorem assessments issued by the Agency," 1A.91, and further ordered that the "Court's Final Judgment remains in full force and effect," 1A. 93.

The tax collectors appealed to this Court, reasserting the same arguments rejected by the circuit court. Regarding jurisdiction, they argued, for example, that "the trial court lacked personal jurisdiction because [the tax collectors] were not and *could not* have been parties to the Bond Proceeding," 2A.103, and that the trial court erred in concluding that the tax collectors "were adequately represented in the Bond Proceedings because [the Agency] published statutory notice and several State Attorneys appeared," 2A.104.[4]

Regarding the circuit court's other rulings, the tax collectors argued, for example, that the circuit court "erred in determining that" the Agency "can lawfully operate with statewide jurisdiction," 2A.27-28, and "[i]n the absence of an interlocal agreement," 2A.30. They further argued that the circuit court's ruling that the Agency's

[4] The group of tax collectors denominated the "County Tax Collectors" in their brief adopted the arguments set forth in the separate brief filed by the Palm Beach County, Polk County, and Lee County Tax Collectors. 2A.26.

assessments must be collected under the uniform method of collection as a ministerial act by the tax collectors was in error because it "invalidate[d]" their "discretion." 2A.31. The tax collectors urged this Court to relieve them from their ministerial duty to collect the Agency's assessments because the circuit court's "determination[s]" were "collateral to the underlying bond validation proceeding." 2A.31.

This Court affirmed the March 19, 2024, Order in its entirety. *See Fla. Pace Funding Agency*, 424 So. 3d at 489. The Court agreed with the Agency that (1) "[c]hapter 75 . . . prescribes the scope of judicial power as it relates to bond validation proceedings," (2) "circuit courts 'have jurisdiction to determine the validation of bonds and certificates of indebtedness and all matters connected therewith,' " and (3) "[o]nce those matters are adjudicated, section 75.09 provides that if the circuit court validates such bonds and no appeal is taken within the time prescribed[,] such judgment is forever conclusive as to all matters adjudicated against the bond issuer and the validity of said bonds or of the proceedings authorizing the issuance thereof shall never be called in question in any court by any person or party." *Id.* at 484–85 (alterations adopted). This language "contains no exceptions," continued the Court, which "leads to the inevitable conclusion that its finality language applies to 'all matters adjudicated' by the [Final Judgment], without reservation"—including "what one may argue is a collateral matter." *Id.* at 488. "Bond validation judgments not challenged after the time for appeal expires cannot be collaterally attacked," concluded the Court. *Id.* at 489. "The judgment **and proceeding authorizing the issuance thereof** is, as the statute says, 'forever conclusive.' " *Id.* (emphasis added).

The Court issued its mandate on January 8, 2026. 1A.134–135.

IV. The tax collectors continue relitigating the matters laid to rest by the circuit court (twice) and this Court.

Despite the Court's affirmation of the "forever conclusive" nature of the Final Judgment, the tax collectors continue to flout its binding and conclusive authority as to all matters pertaining to the Agency's bond validation and continue to impermissibly "call in question" the Final Judgment's adjudications that (1) the Agency is authorized to operate statewide without the need to partner with local governments, and (2) tax collectors have a ministerial duty to collect assessments the Agency levies on property that receives the benefit of the Agency's funding.

As relevant to this appeal, after this Court issued its mandate, the tax collectors continued refusing to place the Agency's assessments on the tax rolls. 1A.141–42. The Agency sought relief from the circuit court through an emergency proceeding seeking an order to show cause why the tax collectors should not be held in indirect civil contempt of the Final Judgment and the March 19, 2024, Order. 1A.1–236. The circuit court issued an order to show cause, the tax collectors responded, and the circuit court held a hearing on February 9, 2026. 1A.1229.

The tax collectors' responses to the order to show cause asserted the same jurisdictional objections to the Final Judgment they had asserted in the Rule 1.540 proceedings. For example, the Hillsborough County Tax Collector argued that the tax collector was "not a party to this bond validation proceedings and bond final judgment," 1A.274, and the circuit court lacked personal jurisdiction because the Agency's publication of the statutorily prescribed notice was insufficient to establish constructive notice over the tax collector. 1A.274–76. As a result, according to the tax collector, enforcement of the Final Judgment would deprive the tax collector of its (alleged) "constitutional and statutory due process rights." 1A.276–77. The Tax Collectors for Lake, Brevard, and Indian River Counties raised similar arguments, asserting that since they "were not named as parties and were not served with process, there remains the threshold issue of jurisdiction, as this Court in its bond validation proceeding had and has no jurisdiction over any tax collector outside the Second Judicial Circuit." 1A.294. Similar arguments were asserted by the other tax collectors. *See* Lee County Tax Collector, 1A.454; Duval County Tax Collector, 1A.464; Palm Beach County, 1A.472; Respondent Tax Collectors, 1A.1198–99.

In addition to relitigating their jurisdictional attacks, the tax collectors' responses recycled the other attacks on the validity of the Final Judgment they had asserted in the 1.540 proceedings. For example, the Hillsborough County Tax Collector asserted that the Leon County circuit court erroneously "made numerous collateral findings that went well beyond the statutory scope of bond validation proceedings," including that the Agency "may operate statewide and independent of any local government regulation, cooperation or permission" and impose "assessments in any county in Florida, without the cooperation of the local county government and without the necessity of any interlocal agreement with the local county government." 1A.276. The Hillsborough County Tax Collector further argued that the circuit court "impermissibly . . . affect[ed] the performance by the Tax Collector of her duties regarding the imposition of . . . assessments under the Uniform Method." 1A.277.

On February 10, 2026, the circuit court (a successor judge to the judge who issued both the Final Judgment and the March 19, 2024, Order) issued its Order Denying Motion for Contempt and Discharging Order to Show Cause (the "Discharge Order"). 1A.1229–36. The Discharge Order did not address the merits of the Agency's motion, but instead ruled, in an unelaborated fashion, that the circuit court was "without authority to find any of the Tax Collectors in contempt in this proceeding" because the tax collectors were (1) "never impleaded, served process or otherwise made parties to this proceeding" and (2) "never subject to an order directed specifically to any of them." 1A.1229.

The Agency timely appealed the Discharge Order.

SUMMARY OF THE ARGUMENT

The Agency sought an order from the circuit court holding the tax collectors in indirect civil contempt to coerce the tax collectors into finally complying with the Final Judgment and the March 19, 2024, Order. But the circuit court never ruled on the merits of the Agency's arguments and instead issued its Discharge Order based on its answers to two threshold legal questions: (1) were the tax collectors made parties to or otherwise bound by the Final Judgment entered in these bond proceedings, and (2) was there an order directed specifically to them? Without elaboration, the circuit court answered "no" to both questions. The circuit court got it wrong on both counts.

First, this Court's holding that the Final Judgment is "forever conclusive," *Fla. Pace Funding Agency*, 424 So. 3d at 489, foreclosed the circuit court from considering the tax collectors' recycled jurisdictional arguments. Once a bond validation Final Judgment becomes "forever conclusive," the bonds' validity and "the proceedings authorizing [their] issuance" shall "never be called in question in any court by any person or party," *id.* at 485 (quoting § 75.09, Fla. Stat.) Under the law of the case doctrine, the circuit court should never have entertained, in the first place, the tax collectors' attack on the jurisdictional sufficiency of the statutory notice scheme the Legislature created for bond validation proceedings. Moreover, this Court's prior decision implicitly addressed or necessarily considered whether the tax collectors were parties to the bond validation proceedings, thereby foreclosing consideration of that issue by the circuit court. And even if the circuit court had remained free to consider the tax collectors' third bite at the jurisdictional apple, it got it wrong on the merits. The tax collectors were represented by the State at the bond validation proceedings and, separately, were also bound by publication of the statutorily prescribed notice of the proceedings.

Second, both the Final Judgment and the March 19, 2024, Order direct the tax collectors to perform their ministerial duty and collect the Agency's assessments. The Final Judgment runs statewide and need not name each tax collector individually in order to impose upon each of them the obligation to perform their statutory duties. Moreover, the March 19, 2024, Order, which was affirmed by this Court (without qualification), expressly affirmed that "the tax collectors"—whose Rule 1.540 motions resulted in the

March 19, 2024, Order—"are without discretion to collect the non-ad valorem assessments issued by the Agency." 1A.91.

This Court should reverse the Discharge Order and remand to the circuit court to proceed on the merits of the Agency's motion.

STANDARD OF REVIEW

Circuit court rulings on questions of law, including questions relating to personal jurisdiction, are subject to de novo review. *E.g., Execu-Tech Bus. Sys., Inc. v. New Oji Paper Co., Ltd.*, 752 So. 2d 582, 584 (Fla. 2000). Here, the circuit court did not engage in any factfinding nor did it exercise its discretion when denying the Motion; instead, its rulings that the Tax Collectors were "never impleaded, served process or otherwise made parties to this proceeding" and "never subject to an order directed specifically to any of them" were solely conclusions of law.

ARGUMENT

This is a straightforward indirect civil contempt proceeding. The Agency did not ask the circuit court to enlarge either the Final Judgment or the March 19, 2024 Order, or to impose any new substantive obligations on the tax collectors; it asked the circuit court to coerce compliance with obligations already conclusively established by two circuit court orders—first in the Final Judgment, and again in the March 19, 2024, Order entered on the tax collectors' own Rule 1.540 motions and later affirmed by this Court on the tax collectors' appeal.

Indirect civil contempt exists for exactly that purpose: to secure obedience to binding court orders by parties who, though outside the court's immediate presence, knowingly refuse to comply. The circuit court therefore should have addressed whether the tax collectors' continued refusal to collect the Agency's assessments justified coercive relief. Instead, it declined to reach that question based on two erroneous legal conclusions: that the tax collectors were not bound by the proceedings and that no order was directed specifically to them. For the reasons explained below, that ruling should be reversed.

I. The circuit court erred in ruling that tax collectors were not parties to the bond validation proceeding.

A. The law of the case doctrine foreclosed consideration of the tax collectors' arguments that they were not parties to the bond validation proceedings.

The law of the case doctrine forecloses a circuit court's consideration of "questions of law actually presented and considered on a former appeal" in the same proceeding, as well as "subsequent consideration of issues implicitly addressed or necessarily considered by the appellate court's decision." *Fla. Dep't of Transp. v. Juliano*, 801 So. 2d 101, 106 (Fla. 2001). In the latter circumstance, the doctrine bars reconsideration by the circuit court even when "such conclusion is not stated in express words" in the appellate decision. *Buckley v. City of Miami Beach*, 559 So. 2d 310, 311 (Fla. 3d DCA 1990).

1. **Because this Court held that the Final Judgment is forever conclusive, the circuit court erred by even considering the tax collectors' jurisdictional challenges to it.**

This Court previously concluded that "chapter 75 means what it says" and that, where a bond validation judgment is not timely appealed, "the judgment and proceeding authorizing the issuance [of the Agency's bonds] is, as the statute says, 'forever conclusive.' " *Fla. Pace Funding Agency*, 424 So. 3d at 489. When a bond validation final judgment is "forever conclusive," the "validity of said bonds . . . or of the proceedings authorizing the issuance thereof . . . shall never be called in question in any court by any person or party." § 75.09, Fla. Stat.; *see also Fla. Pace Funding Agency*, 424 So. 3d at 485 (quoting statute).

The tax collectors' regurgitation of the jurisdictional arguments asserted in the Rule 1.540 proceedings was yet another attempt to "call in question" the earlier bond validation proceedings. Because this Court concluded that the failure to timely appeal the Final Judgment rendered that judgment "forever conclusive," it foreclosed "any person or party" from calling in question the Final Judgment—whether through old arguments or newly minted ones. The circuit court's entertainment of the tax collectors' jurisdictional arguments in and of itself violated the law of the case doctrine.

2. Because this Court implicitly addressed or necessarily considered the tax collectors to be parties to the bond proceedings, the circuit court erred by ruling that they were not.

During the Rule 1.540 proceedings, the tax collectors argued they were not parties to the bond validation proceeding and that enforcing the Final Judgment against them would violate due process. The circuit court rejected that argument based on the Agency's compliance with the statutory notice provisions, ruling that not only was there constructive notice on the Tax Collectors as "interested parties" in the bond validation proceedings, but "[e]ven more, the State was represented at the Final Judgment hearing by three different assistant state attorneys." 1A.92.

On appeal to this Court, the tax collectors raised these same arguments. *See, e.g.*, 2A.102–09. But this Court's decision necessarily held—on the facts of this case, where it is undisputed that all statutory notice requirements were met—that the "forever conclusive" effect of the Final Judgment overcomes the tax collectors' jurisdictional and process-based claims that they were not parties to the Final Judgment. The Court explained the role of the state attorneys as the legislatively designated representatives of the State in statewide bond validation proceedings, *Fla. Pace Funding Agency*, 424 So. 3d at 488, and noted that "[no] lawyer representing the State or other party objected to the entry of the Final Judgment" and that "an assistant state attorney testified that he had read the proposed final judgment, it appeared 'fairly straightforward,' and he did not object to its entry at that time," *id.* at 481. Moreover, the Court referred to the tax collectors as "parties," *id.* at 482, 484, contextualized them as a "state party," *id.* at 481, and held that their jurisdictional and process-based challenges to the Final Judgment were not “constitutional in character,” *id.* at 489.

On remand, the tax collectors (yet again) contended that, despite their constitutional status as officers of political subdivisions of the State, they are somehow separate from “the State” for purposes of the statutorily designated representation of the State in bond validation proceedings by the state attorneys. This Court’s prior decision, however, necessarily foreclosed any State governmental entity’s claim that the Final Judgment does not apply to it. The circuit court’s conclusion to the contrary—that the “Tax Collectors were never impleaded, served process, or otherwise made parties to this proceeding”—separately violated the law of the case doctrine.

B. Even if the law of the case doctrine does not apply, the circuit court erred in ruling that the tax collectors were not parties to the bond proceedings.

Even if the circuit court were free to consider whether the tax collectors were parties to the bond validation proceedings (which it was not), the circuit court got it exactly wrong. To start with, there is no dispute that the Agency complied with the statutory notice requirements set forth by the Legislature for the Agency’s bond validation proceeding. That starting point is the end point as well, because it necessarily means that the tax collectors were parties to and bound by the bond validation proceedings.

Consider first the State's participation in the bond validation proceeding. Actual notice is made on the State, which is a defendant in all bond validation proceedings, by service on the statutorily designated state attorney representing the State in those proceedings. § 75.02, Fla. Stat. In the Agency's case, service is made on the State Attorney for the Second Judicial Circuit and the State Attorneys for the Seventh and Ninth Circuits, which are the judicial circuits where the Agency's principals—Flagler County and the City of Kissimmee, respectively—are located. § 163.01(7)(e)(4), Fla. Stat.

The tax collectors are part of "the State" for purposes of bond validation. As "political subdivisions" of the State, Art. VII, § 1(a), Fla. Const., counties "do not possess any indicia of sovereignty; they are creatures of the legislature . . . and accordingly are subject to the legislative prerogatives in the conduct of their office." *Weaver v. Heidtman*, 245 So. 2d 295, 296 (Fla. 1st DCA 1971). Tax collectors, as officers of the State's political subdivisions, Art. VII, §

1(d), Fla. Const., possess no more sovereignty—and no greater independence from legislative prerogative—than the counties themselves. Indeed, their "duties . . . [are] prescribed by general law," *id.*[5]; their compensation is established by statute, § 145.11, Fla. Stat.; and they are subject to supervision by the Department of Revenue, § 197.603, Fla. Stat. The State—and its political subdivisions—received actual notice of and was represented in the bond validation proceeding through its statutorily designated representatives; the tax collectors are bound by the Final Judgment to the same extent as the State and all its political subdivisions.

If that were not sufficient, consider the statutory regime providing constructive notice. The Agency perfects constructive notice on property owners, individuals, and entities claiming any interest in the property to be affected by the issuance of the bonds—as well as "others" "to be affected" by issuance of the bonds—by publishing the notice required by section 75.06(1) in Leon, Flagler, and Osceola Counties. § 163.01(7)(e)(4), Fla. Stat. "By this publication," all interested persons "are made parties

[5] *See, e.g.*, § 197.332, Fla. Stat.

defendants to the action and the court has jurisdiction of them to the same extent as if named as defendants in the complaint and personally served with process." § 75.06(1), Fla. Stat.; *see also Keys Citizens for Responsible Gov't, Inc. v. Fla. Keys Aqueduct Auth.*, 795 So. 2d 940, 949 (Fla. 2001) (explaining that publication constitutes "constructive notice [to] property owners *or other interested parties* in bond validation proceedings") (emphasis added). The tax collectors are plainly "interested parties" affected by issuance of the bonds—the Agency would not be before this Court if it were otherwise—so even if they were not bound by virtue of the State's participation in the proceedings (which they are), they are bound by way of the statutorily prescribed constructive notice regime.

The expansive reach of the bond validation notice provisions is consistent with the structure of chapter 75. Bond validation proceedings are "sui generis," "not known to the common law," and therefore "purely statutory," *Fla. Pace Funding Agency*, 424 So. 3d at 484. The "judicial branch . . . perform[s] a limited role as part of the broader scheme to ensure the marketability of the proposed bonds or certificates of indebtedness by foreclosing a subsequent attack on their validity." *Id.* The Legislature was well within its prerogative to create a scheme that binds tax collectors to the Final Judgment—whether because they are part of the State or because they are "others" affected by issuance of the bonds—without requiring the Agency to name or serve each tax collector individually. *Id.* at 487 (explaining that "[i]f the bonds are validated and no appeal is taken, the judgment is 'forever conclusive' as to all matters adjudicated against plaintiff and all parties affected thereby"). Indeed, the Legislature's statutorily mandated rule of finality sweeps even more broadly to ensure the bonds' marketability: where, as here, the circuit court validated the bonds and no appeal was taken, "the validity of such bonds . . . or of the proceedings authorizing the issuance thereof . . . shall never be called in question *in any court by any person* or party." § 75.09, Fla. Stat. (emphasis added).

Thus, even if the circuit court had not been bound by the law of the case (which it was), it misapprehended the statutory scheme governing notice and finality in bond validation proceedings and incorrectly ruled that the tax collectors were not parties to or otherwise bound by the Final Judgment entered in these proceedings. By reexamining these closed issues, the circuit court ignored the Legislature's directive that a "forever conclusive" final judgment "shall never be called in question in any court by any person or party"—creating the very separation of powers problems, *see* art. II, § 3, Fla. Const., that this Court's prior decision was crafted to avoid.

II. The circuit court erred in ruling that tax collectors were not "subject to an order directed specifically to them."

As the other ground for denying the Agency's motion and discharging its order to show cause, the circuit court ruled that the tax collectors were "never subject to an order directed specifically to them." 1A.1229. This was error, as there are two orders specifically directed to the tax collectors.

First, the "forever conclusive" Final Judgment, which authorizes bonds to be issued on a statewide basis, requires that the State's tax collectors undertake their "ministerial duty" to collect the Agency's non-ad valorem assessments using the uniform method of collection established by section 197.3632, Florida Statutes. *See* Section II, STATEMENT OF THE CASE & FACTS *supra*. The language of the Final Judgment is both concrete and specific: The State's tax collectors' duty in collecting the Agency's assessments is "wholly ministerial," and they are "without any discretion" to decline to collect the Agency's assessments once the Agency has elected to use the uniform method of collection (which it has). These determinations and mandates are consistent with the statutes cited in the Final Judgment, as well as case law. *See Escambia County v. Bell*, 717 So. 2d 85, 88 (Fla. 1st DCA 1998) (holding that once a local governmental agency complies with section 197.3632, the tax collector has no discretion to refuse collection based on billing or lienability concerns, because the tax collector's duty to place the special assessment on the annual tax bill is purely ministerial).

True, the Final Judgment does not identify each tax collector by name. But it validates the Agency's bond offering financed by assessments imposed across the State, it binds the State and its political subdivisions, including the tax collectors, and its mandates are directed to the tax collectors, who are "without any discretion with regard to the collection of non-ad valorem assessments." 1A.46.

Second, if the Final Judgment were not sufficient, the March 19, 2024, Order is an "order directed specifically" to the tax collectors. Indeed, but for the tax collectors' Rule 1.540 motions challenging the Final Judgment, the March 19, 2024, Order would not exist. And in that order, the circuit court specifically "affirm[ed] its judgment that *the tax collectors* are without discretion to collect the non-ad valorem assessments issued by the Agency," 1A.91 (emphasis added), and further ordered that the "Court's Final Judgment remains in full force and effect," 1A.93. The tax collectors may not like what the March 19, 2024, Order directed them to do, but having asked for an order on these issues, the tax collectors cannot claim that the order was not directed squarely at them.

CONCLUSION

This Court held in no uncertain terms that the Final Judgment is "forever conclusive." Yet the tax collectors persist in refusing to perform their ministerial duty to place the Agency's assessments on the tax rolls and collect the amounts due. Their recalcitrance threatens default for the Agency's bonds, frustrates the Legislature's bond validation scheme, and undermines the stability of the State's bond market.

When the Agency sought relief, the circuit court ruled that the tax collectors were not parties to these proceedings and were not subject to any order directed to them, then discharged its order to show cause without reaching the merits. That was error. This Court should reverse the Discharge Order and remand with instructions to consider the merits of the Agency's motion.

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I certify that this brief complies with the requirements of Florida Rules of Appellate Procedure 9.045(b) and (e) and 9.210(a)(2) because it was prepared using Bookman Old Style 14-point font and because the word count from the word-processing system used to prepare this document is 6,860.

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