

February 24, 2021

The Honorable Harvey S. Peeler, Jr.
President of the Senate
State House, Second Floor
Columbia, South Carolina 29201

Dear Mr. President and Members of the Senate:

I am hereby vetoing and returning without my approval R-3, S. 478, which seeks to increase the initial membership of the Board of Trustees of Clarendon County School District No. 4 (“Board of Trustees”) from seven to nine members appointed by the Clarendon County Legislative Delegation (“Delegation”). The bill also attempts to delay the election of a seven-member successor Board of Trustees from 2022 until 2024. For the reasons set forth below, I must veto S. 478.

First, as the General Assembly is aware, in many of our State’s counties—including Clarendon County, even after the enactment of Act No. 183 of 2020—there is more than one public school district. This fractured arrangement has led to precisely the sort of wastefulness alluded to by the South Carolina Supreme Court in the *Abbeville* litigation—namely, “administrative costs which are disproportionate to the number of students served by [each] district, and which divert precious funding and resources from the classroom.” *Abbeville Cty. Sch. Dist. v. State (Abbeville II)*, 410 S.C. 619, 649, 767 S.E.2d 157, 172–73 (2014). As I have repeatedly noted, there is no single, or easy, solution or approach to meaningful education reform, but consolidating smaller school districts will quickly reduce overhead, create efficiencies, and return additional funding to the classroom. Indeed, the South Carolina Department of Education previously estimated that consolidating school districts would save \$89 million over five years. Therefore, I applaud legislative efforts to address the critical issue of school-district consolidation; however, much work remains to be done in this regard, both in Clarendon County and beyond. Because S. 478 does not advance the ultimate goal of school-district consolidation and would simply extend the duration of the Delegation’s dominion and control over the Board of Trustees, I cannot support this effort.

Second, while S. 478 only applies to a single county, or a portion thereof, issues related to school-district consolidation are not limited to Clarendon County. Accordingly, I am compelled to reiterate my longstanding concerns regarding local or special legislation and would encourage the General Assembly to address the critical issue of consolidation by passing comprehensive legislation with statewide application. The South Carolina Constitution expressly prohibits the General Assembly from enacting legislation “for a specific county” and “where a general law can be made applicable.”

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S.C. Const. art VIII, § 7; S.C. Const. art. III, § 34(IX). Although our courts have held that greater deference is warranted when local or special legislation relates to the General Assembly's obligation to provide for the maintenance and support of public schools, the regular resort to this practice has produced an undesirable assortment of authorities governing South Carolina's school districts. Therefore, while any progress towards consolidation is commendable, the General Assembly should address this important issue on a statewide scale and not by adding to the existing patchwork of piecemeal and often-inconsistent local laws. In addition to furthering this fragmented approach, as noted herein, I believe that S. 478 is also problematic for reasons separate and apart from this threshold constitutional inquiry.

Third, any legislative efforts to merge school districts should take care to avoid unnecessary, and potentially unconstitutional, legislative entanglement in the consolidation process. In accordance with article I, section 8 of the South Carolina Constitution, the General Assembly may not "undertake[e] 'to both pass laws and execute them by setting its own members to the task of discharging such functions by virtue of their offices as legislators.'" *Knotts v. S.C. Dep't of Nat. Res.*, 348 S.C. 1, 8, 558 S.E.2d 511, 514 (2002). Here, S. 478 seeks to expand the number of members of the Board of Trustees initially appointed by the Delegation and attempts to delay the popular election of members of a successor entity until 2024. Although this may be a well-intentioned measure, I have not received a sufficient explanation or justification for the same. Therefore, I cannot support this type of temporary disenfranchisement under the circumstances.

Finally, as it relates to S. 478's attempt to delay the popular election of members of the Board of Trustees until 2024, I must note that the legislation appears to contain conflicting language. In seeking to amend Section 2(A) of Act No. 183 of 2020, Section 1 of S. 478 provides that the initial, and additional, members of the Board of Trustees appointed by the Delegation shall serve "until their successors are elected in school district elections conducted at the same time as the 2022 General Election and qualify." Yet, the bill later states that "[b]eginning in 2024, the Clarendon County School District No. 4 must be governed by a board of trustees of seven members elected in nonpartisan elections." Accordingly, S. 478 is less than clear about when the public will be able to participate directly in the important process of electing members of the Board of Trustees. I will continue to call on the General Assembly to address issues associated with school-district consolidation on a statewide basis. However, at a minimum, any intermediate legislative efforts to consolidate and transition specific districts should be free of internal inconsistencies and should avoid unnecessary and prolonged legislative entanglement in the affairs of local schools. Because S. 478 falls short in both respects, I cannot approve this legislation.

For the foregoing reasons, I am respectfully vetoing R-3, S. 478 and returning the same without my signature.

Yours very truly,

Henry McMaster