



HENRY McMASTER
GOVERNOR

April 13, 2022

The Honorable James H. Lucas
Speaker of the House
State House, Second Floor
Columbia, South Carolina 29201

Dear Mr. Speaker and Members of the House:

I am hereby vetoing and returning without my approval R-149, H. 5138, which seeks to amend Act No. 105 of 2021, providing for the consolidation of Barnwell County School District No. 19 and Barnwell County School District No. 29 into the Barnwell County Consolidated School District, so as to make minor modifications to account for the transitional period. For the reasons detailed further below, and principally because this legislation appears to be identical to another bill I have already signed into law, I am compelled to veto H. 5138.

By way of background, Act No. 105 of 2021 provides, *inter alia*, that effective July 1, 2022, the terms of the members of the present school districts' boards of trustees will expire and the powers and duties of the present school districts' boards of trustees must be devolved on the Barnwell County Consolidated School District Board of Trustees ("Board"). To provide a mechanism to maintain fully constituted boards of trustees during the so-called transitional period, from the effective date of Act No. 105 of 2021 until July 1, 2022, this legislation would allow the Barnwell County Legislative Delegation to reappoint an incumbent member of either of the two present boards of trustees to a truncated term to expire on July 1, 2022, if the term of the incumbent member expires during the transitional period.

As the General Assembly is aware, like several of my predecessors, I have consistently vetoed unconstitutional local or special legislation. 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." S.C. Const. art VIII, § 7; S.C. Const. art. III, § 34(IX). Although our courts have held that greater deference is warranted in the context of public education, "legislation regarding education is not exempt from the requirements of Article III, § 34(IX)." *Horry Cty. v. Horry Cty. Higher Educ. Comm'n*, 306 S.C. 416, 419, 412 S.E.2d 421, 423 (1991). Therefore, I carefully review and consider all such legislation presented to me and scrutinize the same in view of the governing law. Here, H. 5138 would apply to only a single county, but it appears that a general law could not be made applicable, and the General Assembly

The Honorable James H. Lucas

Page 2

April 13, 2022

has established that a special law is necessary to “best meet the exigencies of [this] particular situation.” *Charleston Cty. Sch. Dist. v. Harrell*, 393 S.C. 552, 559, 713 S.E.2d 604, 608 (2011).

Although H. 5138 is unlikely to violate the constitutional prohibition against local or special legislation, it nonetheless illustrates my longstanding concerns regarding the General Assembly’s regular resort to local or special legislation, which has produced a patchwork of authorities governing South Carolina’s schools and school districts. Here, H. 5138 appears to be identical to an earlier bill, R-139, S. 1157, which the General Assembly ratified the same day as this legislation, and which I have already signed into law. Accordingly, while I commend the bill’s sponsors for their attention to the underlying issue, because I have signed an identical bill into law, and in the interest of avoiding redundancy, I am compelled to veto H. 5138.

For the foregoing reasons, I am respectfully vetoing R-149, H. 5138 and returning the same without my signature.

Yours very truly,

A handwritten signature in blue ink, appearing to read "Henry McMaster". The signature is fluid and cursive, with a long horizontal stroke at the end.

Henry McMaster