



HENRY McMASTER
GOVERNOR

March 3, 2023

The Honorable Joseph H. Jefferson, Jr.
304B Blatt Building
Columbia, South Carolina 29201

Dear Representative Jefferson:

I have signed into law R-2, H. 3254, which amends Act No. 593 of 1992, as amended by Act No. 254 of 2022, so as to repeal the provision imposing limitations on the allowable amount of cash reserves for Dorchester County School District Nos. 2 and 4 (“Districts”).

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).” *Charleston Cnty. Sch. Dist. v. Harrell*, 393 S.C. 552, 558, 713 S.E.2d 604, 607 (2011). Therefore, I carefully review and consider all such legislation presented to me and scrutinize the same in view of the governing law. Absent other issues or infirmities, I have, on occasion, signed local or special legislation that is not clearly unconstitutional, such as where a general law could not be made applicable or where “a special law would best meet the exigencies of a particular situation.” *Id.* at 559, 713 S.E.2d at 608. Regardless, I have repeatedly cautioned the General Assembly to avoid relying on local legislation instead of addressing the underlying issues by passing laws of uniform, statewide application.

As you will recall, last year, the General Assembly enacted Act No. 254, which increased the permissible amount of cash in reserves from 5% to 15% of the Districts’ total operating budgets and exempted Dorchester County School District No. 4 from the increased limit for Fiscal Year 2021–2022. In explaining my objections to the bill that became Act No. 254 of 2022, I noted that the legislation applied to only a single county and that the General Assembly had not established that a special law was necessary to “best meet the exigencies of [the]

particular situation.” *Id.* When the General Assembly subsequently endeavored to suspend the reserve-account limitations via budget proviso, I raised similar concerns and called for addressing such matters in separate legislation.

Now, the General Assembly has passed new standalone legislation and has provided additional information to demonstrate that it is necessary to “best meet the exigencies of [this] particular situation.” *Id.* For instance, Dorchester County School District No. 2’s superintendent recently cited the need to increase cash reserves both to align with accepted accounting practices and to avoid financial hardships in hazardous-weather scenarios. In light of this explanation, it appears H. 3254 does not constitute impermissible local legislation based on the standards established by the South Carolina Supreme Court. That said, while I do not believe this bill is clearly unconstitutional, given the General Assembly’s regular resort to—and the recurring nature of—special legislation in this context, I am nevertheless compelled to reiterate my longstanding concerns regarding this practice, which has produced a patchwork of authorities governing South Carolina’s schools and school districts and has, at times, involved micromanaging districts through piecemeal and inconsistent uncodified laws. Accordingly, I again encourage you and your colleagues to address similar issues in the future by passing general laws of uniform, statewide application.

Separate and apart from any exigencies, a general law could be—and likely should be—made applicable here. Although school districts in this State enjoy varying degrees of fiscal autonomy, questions pertaining to the ideal size of reserve funds and corresponding accounting practices certainly are not unique to the Districts. Indeed, in 2017, the General Assembly passed, and I signed into law, Act No. 23 of 2017, which directed the South Carolina Department of Education to work with school district superintendents and finance officers to develop and adopt a statewide program “identifying fiscal practices and budgetary conditions that, if uncorrected, could compromise the fiscal integrity of a school district.” S.C. Code Ann. § 59-20-90(A)(1). Act No. 23 also required specific action by the Superintendent of Education with respect to certain issues or areas of concern, such as school districts not maintaining “a general reserve fund of at least one month of general fund operating expenditures.” *Id.* § 59-20-90(C)(2)(b). Thus, state law indirectly requires districts to maintain only a one-month reserve account; yet, H. 3254 is premised on the Districts needing to fund larger rainy-day reserves in accordance with generally accepted accounting principles.

Against this backdrop, I submit that issues pertaining to school districts’ reserve funds are worthy of further evaluation on a statewide basis. The General Assembly should consider requiring all school districts to adopt fiscally prudent “best practices” and should analyze the need to increase and standardize the relative size of districts’ reserve accounts and the revenue sources used to fund them. In doing so, the legislature should simultaneously ensure that school districts are not unnecessarily raising taxes and fees to hoard reserve funds. Fortunately, the forthcoming public transparency dashboard required by Proviso 1.3 of the Fiscal Year 2022–23 Appropriations Act will inform this analysis by revealing how school districts spend federal, state, and local dollars and fund the requisite reserve accounts.

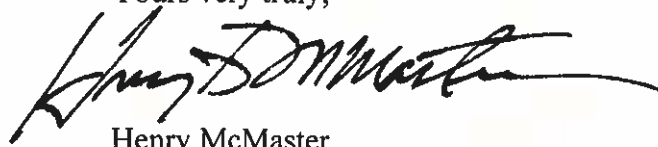
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For the foregoing reasons, I have signed H. 3254 into law. I look forward to continuing to work with the General Assembly to address these important issues on a statewide basis.

Yours very truly,

A handwritten signature in black ink, appearing to read "Henry McMaster", written in a cursive style.

Henry McMaster

HM/tl

cc: Dorchester County Legislative Delegation