

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF HAMPTON

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May 06 2022

Hampton County Board of Education,

Plaintiff,

vs.

Hampton County Council and Hampton
County Auditor,

Defendants.

SC Court of Appeals

C.A. No. 2021-CP-25-00388

**ORDER GRANTING DECLARATORY
JUDGMENT, WRIT OF MANDAMUS,
AND PERMANENT INJUNCTION**

This civil action for declaratory judgment came before the Court for hearing on February 14, 2022. By motion filed February 10, 2022, the parties consented to expedited consideration of the merits of this action pursuant to S.C. Code Ann. § 15-53-50.

At the hearing, counsel presented their arguments and testimony of Dr. Ronald Wilcox, Superintendent of the Hampton County School District and Chanel Lewis, Finance Director for Hampton County. After considering these arguments and evidence and the applicable law, I find that Act 184 of 2020, which consolidated Hampton School Districts One and Two effective July 1, 2021, directs the South Carolina Department of Revenue to set millage for local school operations for the consolidated school district. Hampton County has no authority or discretion to reduce the millage rate set by the Department of Revenue pursuant to Act 184.

Section 5 of Act 184 of 2020 provides as follows:

Preparation of annual budget

SECTION 5. (A)(1) For purposes of determining the 2021 property tax millage levy of the Hampton County School District upon its creation, the millage levy for the district must be determined and calculated by the Department of Revenue based on the 2020 levy of the two present school districts and the value of a mill in each district. Thereafter, the millage levy for the years 2022, 2023, and 2024 must be the millage levy for the previous year. To the allowed millage levy for years 2021, 2022, 2023, and 2024 may be added any millage determined by the county governing body necessary to comply with educational mandates imposed by federal or state law.

By letter of August 31, 2021, Director W. Hartley Powell of the Department of Revenue directed the County Council Chair, Auditor, and other relevant officers, pursuant to Section 5 of Act 184, to levy 233.7 mills for 2021-2022 consolidated school district operations. However, by Ordinance #2021-011, Section 5, Hampton County Council purported to set a tax of 221 mills for consolidated school district operations. This would result in a revenue shortfall of more than \$500,000 for school district operations compared to the revenue that would be generated by the 233.7 mills set by the Department of Revenue.

It is settled law that the General Assembly, rather than Hampton County, has the sole authority to “provide for the maintenance and support of a system of free public schools.” *See Moye v. Caughman*, 265 S.C. 140, 143, 217 S.E. 2d 36, 37 (1975); *Richland Cty. Sch. Dist. 2 v. Lucas*, 434 S.C. 299, 305, 862 S.E.2d 920, 923 (2021) (holding that local governments have no authority to effectively overrule a legislative enactment by the General Assembly pertaining to school mask mandates). *Mikell v. Cty. of Charleston*, 386 S.C. 153, 160, 687 S.E.2d 326, 330 (2009)(specific and definite statute prevails over any general statute).

Defendants have not identified any source of authority that would take precedence over Act 184’s clear and unambiguous directive that the Department of Revenue is to set the initial millage for the consolidated school district. At the hearing, Defendants argued that S.C. Code § 12-43-285 permitted the County to lower the millage rate set by the Department of Revenue to account for what it claimed to be excess revenue for the pre-consolidated school districts in prior years. This argument is unavailing for several reasons. First, it ignores the plain and unambiguous language of Act 184 directing the Department of Revenue to set the initial millage for consolidated school district operations. Second, there could be no millage rate “in excess of that authorized by law” because the 233.7 millage rate is clearly “authorized by law,” i.e. Act 184, and is the initial millage rate for the consolidated school district. 233.7 mills is, therefore, not “in excess of that authorized by law.” Further, testimony of Ms. Lewis established that Hampton County had already presented these arguments to the Department of Revenue, which presumably took them into

account and rejected them when setting the millage at 233.7.

In summary, Hampton County, by ordinance, cannot supersede Act 184's directive that the Department of Revenue set the initial millage for operations of the Hampton County School District and unilaterally attempt to reduce that rate.

For these reasons and good cause shown, Plaintiff, Hampton County Board of Education, is entitled to the following relief:

- 1) Pursuant to S.C. Code Ann. § 15-53-20, *et seq.*, a declaratory judgment that Hampton County Ordinance #2021-011, Section 5, is inconsistent with Act 184 of 2020 and is thus, null and void. Initial millage for operations of the consolidated Hampton County School District was properly set by the Department of Revenue at 233.7 mills.
- 2) Pursuant to Rule 65 of the South Carolina Rules of Civil Procedure, the Court, by writ of mandamus, directs the Hampton County Auditor to levy a tax of 233.7 mills, as set by the Department of Revenue pursuant to Act 184 of 2020, for school district operations on all taxable property for the current tax year; and
- 3) Pursuant to Rule 65 of the South Carolina Rules of Civil Procedure, a permanent injunction preventing Hampton County Council and the Hampton County Auditor from violating Act 184 and levying taxes at a rate inconsistent with that set by the Department of Revenue pursuant to Act 184.

IT IS SO ORDERED.

The Honorable Bentley Price
Presiding Judge, Fourteenth Judicial Circuit



Hampton Common Pleas

Case Caption: Hampton County Board Of Education VS Hampton Hampton County Council , defendant, et al
Case Number: 2021CP2500388
Type: Order/Other

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766