AS PASSED BY THE SENATE

February 1, 2012

**H. 4627**

Introduced by Reps. Merrill, Stavrinakis, Harrison, King, Knight, Williams, Jefferson, Johnson, Sabb, Munnerlyn, Anderson, G.A. Brown, Allison, Horne, Agnew, Gambrell, McCoy, Ryan, Mack, Gilliard, Sottile, Hardwick, Hearn, Weeks, Simrill, Pope, Delleney, Dillard, Sandifer, Erickson, Herbkersman, Brantley, Crosby, Daning, Brady, Quinn, Spires, Frye, Pitts, Southard, Butler Garrick, Pinson, Tallon, Long, Parker, Hodges, Whitmire, Anthony, Bannister, Putnam, Edge, Allen, Thayer, Funderburk, Lucas, Cobb‑Hunter, Howard, Harrell, Bowers, Patrick, Whipper, Bowen, White, Murphy and R.L. Brown

S. Printed 2/1/12--S. [SEC 2/2/12 12:21 PM]

Read the first time January 26, 2012.

**A** **JOINT RESOLUTION**

TO SUSPEND THE AUTHORITY OF THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL FOR ALL DECISIONS SUBSEQUENT TO 2007 PERTAINING TO THE NAVIGABILITY, DEPTH, DREDGING, WASTEWATER AND SLUDGE DISPOSAL, AND RELATED COLLATERAL ISSUES OF THE SOUTH CAROLINA PORTION OF THE SAVANNAH RIVER BECAUSE THE AUTHORITY OF THE SAVANNAH RIVER MARITIME COMMISSION SUPERSEDES AND REPLACES THE AUTHORITY OF THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL WITH REGARD TO ALL ACTIONS CONCERNING THE SOUTH CAROLINA PORTION OF THE SAVANNAH RIVER BY ENACTMENT OF ACT 56 OF 2007, EFFECTIVE MAY 1, 2007.

Amend Title To Conform

Whereas, the South Carolina Department of Health and Environmental Control, hereinafter the department, was granted the authority to maintain reasonable standards of purity of air and water quality by enactment of the South Carolina Pollution Control Act; and

Whereas, the Savannah River Maritime Commission, hereinafter the Maritime Commission, by enactment of Act 56 in 2007, effective May 1, 2007, was granted the authority to represent this State in all matters pertaining to the navigability, depth, dredging, wastewater and sludge disposal, and related collateral issues in regard to the use of the Savannah River as a waterway for ocean‑going container or commerce vessels; and

Whereas, the General Assembly granted to the Maritime Commission by statute the oversight and permitting responsibilities for the State as to the navigability or depth of the South Carolina portion of the Savannah River, superseding any other concurrent responsibilities of a particular state agency or department; and

Whereas, by enactment of Act 56 in 2007, the General Assembly also bifurcated the permitting process for construction in the South Carolina portion of the Savannah River, such that all matters pertaining to the navigability, depth, dredging, wastewater and sludge disposal, and related collateral issues, including navigable waters permitting criteria, in regard to the use of the Savannah River as a waterway for ocean‑going container or commerce vessels fell within the purview of the Maritime Commission; and

Whereas, the South Carolina General Assembly has learned that, contrary to its legislative enactment of 2007, the authority of the Maritime Commission was unlawfully usurped by the department in its approval of an application from the Savannah District Office of the United States Corps of Engineers for Water Quality Certification pursuant to Section 401 of the Clean Water Act and Construction in Navigable Waters Permit to dredge a portion of the Savannah River in South Carolina as part of the Savannah River Expansion Project; and

Whereas, the South Carolina General Assembly has learned that the approval of the above-referenced application could present imminent and irreversible public health and environmental concerns; and

Whereas, Section 7, Article I of the South Carolina Constitution provides that the power to suspend the laws shall be exercised only by the General Assembly. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. The General Assembly, pursuant to Section 7, Article I of the South Carolina Constitution, suspends the authority of the South Carolina Department of Health and Environmental Control, hereinafter the department, for all decisions subsequent to 2007 related to all matters pertaining to the navigability, depth, dredging, wastewater and sludge disposal, and related collateral issues in regard to the use of the Savannah River as a waterway for ocean-going container or commerce vessels, in particular the approval by the department of the application of the United States Army Corps of Engineers for a Construction in Navigable Waters Permit for the dredging of the South Carolina portion of the Savannah River, because the authority of the Savannah River Maritime Commission, hereinafter the Maritime Commission, superseded the responsibilities of the department for such approval, as established by Act 56 of 2007, and the approval by the department could present imminent and irreversible public health and environmental concerns for the South Carolina portion of the Savannah River. The Department of Health and Environmental Control retains authority for all matters pertaining to the Savannah River unrelated to the navigability, depth, dredging, wastewater and sludge disposal, and related collateral issues in regard to the use of the Savannah River as a waterway for ocean-going container or commerce vessels.

SECTION 2. This joint resolution takes effect upon approval of the Governor.

‑‑‑‑XX‑‑‑‑