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RECALLED

May 30, 2012

**H. 4801**

Introduced by Reps. Sandifer, Gambrell, Bowen, Whitmire, Agnew, Thayer, Putnam and White

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Read the first time March 14, 2012.

**A** **BILL**

TO AMEND SECTION 6‑13‑230, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PIONEER RURAL WATER DISTRICT OF OCONEE AND ANDERSON COUNTIES, SO AS TO REVISE THE QUALIFICATIONS OF PERSONS WHO MAY BE APPOINTED TO THE GOVERNING BOARD OF THE DISTRICT AND THE MANNER OF THEIR APPOINTMENT; AND TO AMEND SECTION 6‑13‑240, AS AMENDED, RELATING TO THE POWERS AND DUTIES OF THE DISTRICT ACTING THROUGH ITS GOVERNING BOARD, SO AS TO PROVIDE THAT THE DISTRICT MUST NOT CONTRACT FOR OR UNDERTAKE THE CONSTRUCTION OF ANY NEW FRESHWATER TREATMENT FACILITIES UNTIL JANUARY 1, 2016.

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

SECTION 1. Section 6-13-230 of the 1976 Code is amended to read:

“Section 6‑13‑230. The district ~~shall~~ must be operated and managed by a board of directors to be known as the Pioneer Rural Water District Board of Oconee and Anderson Counties which ~~shall constitute~~ constitutes the governing body of the district. The board ~~shall~~ must consist of ~~five resident electors of the area who shall be appointed by the Governor, upon the recommendation of a majority of those persons attending a meeting of residents of the area held pursuant to at least one week’s notice in a local newspaper giving the time and place of the meeting. The chairman and secretary of the meeting shall certify the names of those recommended to the Governor. The original appointments must be for a term of two years for two appointees, for four years for two appointees, and for six years for one appointee. All terms after the initial appointments shall be for six years. All appointees shall hold office until their successors shall have been appointed and qualify. The initial terms of office shall begin as of June 8 1965. Any vacancy shall be filled in like manner as the original appointment for the unexpired portion of the term. Immediately after appointment, the board shall meet and organize by the election of one of its members as chairman, one as vice chairman, one as secretary and one as treasurer. The offices of the secretary and treasurer may be combined in the discretion of the board~~ the existing directors until the expiration of their current terms. Thereafter, the district must be governed by a board comprising the same number of members as the predecessor board had as directors; provided that the governing board shall consist of five residents of the service area of the district who are qualified electors of Anderson or Oconee Counties. The successor members must be appointed by the respective county legislative delegations in accordance with the following procedures. Each county legislative delegation shall have the right to appoint a number of members that bears the same relationship to the total number of members as the number of customers of the district within the county bears to the total number of customers of the district, all numbers to be rounded to the nearest whole number. The number of customers within each county, and the total number of customers, must be determined by reference to the billing and customer records of the district. The county legislative delegation with the greater number of customers in the district shall appoint first as terms expire and the delegations then shall alternate in making appointments as other terms expire until a county reaches its full complement of members. Not less than forty‑five days before the expiration of the term of any member, the governing board shall submit to the county legislative delegation with the right to appoint the successor member the name of a person recommended for appointment or reappointment to the board. A letter of recommendation by the board stating why the name is recommended shall accompany the submission. The county legislative delegation shall consider the recommendation of the board, but is not limited to that person in making its appointment. Each member must be appointed for a term of four years and until his successor is appointed and qualifies, provided that the terms of the members must be staggered by a county legislative delegation in making its appointments such that approximately one‑half of the total members appointed by that county legislative delegation must be appointed or reappointed every two years. No member may be appointed for more than two consecutive terms. A vacancy must be filled for the remainder of the unexpired term in the manner of original appointment.”

SECTION 2. Section 6‑13‑240 of the 1976 Code, as last amended by Act 277 of 2004, is further amended to read:

“Section 6‑13‑240. (A) Subject to the provisions of subsection (B), the district, acting through its governing body, is hereby vested with all such powers as may be necessary or incidental to carry out its purposes, functions and responsibilities including, but without limitation, the following:

(1) To have perpetual succession.

(2) To sue and be sued.

(3) To adopt, use and alter a corporate seal.

(4) To define a quorum for meetings.

(5) To maintain a principal office.

(6) To make bylaws for the management and regulation of its affairs.

(7) To build, construct, maintain and operate ditches, tunnels, culverts, flumes, conduits, mains, pipes, dikes, dams and reservoirs.

(8) To build, construct, maintain and operate distribution systems for the distribution of water for domestic or industrial use.

(9) To acquire and operate any type of machinery, appliances or appurtenances, necessary or useful in constructing, operating and maintaining the system.

(10) To contract for or otherwise acquire a supply of water and sell water for industrial or domestic use.

(11) To prescribe rates and regulations under which such water shall be sold for industrial and domestic use.

(12) To enter into contracts of long duration for the purchase and sale of water with persons, private corporations, municipal corporations, or public bodies or agencies.

(13) To prescribe such regulations as it shall deem necessary to protect from pollution all water in its pipes, tanks, reservoirs, distribution systems or elsewhere within its system.

(14) To make contracts of all sorts and to execute all instruments necessary or convenient for the carrying on of the business of the district.

(15) To acquire, purchase, hold, use, lease, mortgage, sell, transfer and dispose of any property, real, personal or mixed, or any interest therein.

(16) To make use of county and state highway rights of way in which to lay pipes and lines in such manner and under such conditions as the appropriate officials in charge of such rights of way shall approve.

(17) Subject always to the limitations of Section 15, Article VIII, of the Constitution of South Carolina, 1895, to make use of all the streets and public ways of an incorporated municipality for the purpose of laying pipes and lines.

(18) To alter and change county and state highways wherever necessary to construct the system under such conditions as the appropriate officials in charge of such highways shall approve.

(19) To exercise the power of eminent domain for any corporate function. The power of eminent domain may be exercised through any procedure prescribed by Sections 28‑5‑10 through 28‑5‑390 and Sections 57‑5‑310 through 57‑5‑590, Code of Laws of South Carolina, 1976, as now or hereafter constituted, it being the intent of this provision that further amendments and modifications of these code provisions shall be deemed to amend and revise correspondingly the powers granted by this paragraph. Provided, that the power of eminent domain conferred hereunder shall not extend to the property of any public utility that the utility could have acquired under its power of eminent domain.

(20) To appoint officers, agents, employees and servants, to prescribe the duties of such, to fix their compensation and to determine if and to what extent they shall be bonded for the faithful performance of their duties.

(21) To make contracts for construction and other services; provided, that such contracts shall be let on competitive bidding and shall be awarded to the lowest responsible bidder.

(22) To borrow money and to make and issue negotiable bonds, notes and other evidences of indebtedness, payable from all or any part of the revenues derived from the operation of its system. The sums borrowed may be those needed to pay all costs incident to the construction and establishment of the system, and any extensions, additions and improvements thereto, including engineering costs, legal costs, construction costs; the sum needed to pay interest during the period prior to which the system, or any extension, addition or improvement thereof, shall be fully in operation; such sum as is needed to supply working capital to place the system in operation; and all other expenses of any sort that the district may incur in establishing, extending or enlarging the system. Neither the full faith and credit of the State of South Carolina, nor Oconee and Anderson Counties, shall be pledged for the payment of the principal and interest of the obligations, and there shall be on the face of each obligation a statement, plainly worded, to that effect. Neither the members of the board, nor any person signing the obligations, shall be personally liable thereon. To the end that a convenient procedure for borrowing money may be prescribed, the district shall be fully empowered to avail itself of all powers granted by Chapters 17 and 21 of this title, Code of Laws of South Carolina, 1976, as now or hereafter constituted, it being the intent of this provision that further amendments and modifications of the code provisions shall be deemed to amend and revise correspondingly the powers granted by this paragraph. In exercising the power conferred upon the district by such code provisions, the district may make or omit all pledges and covenants authorized by any provision thereof, and may confer upon the holders of its securities all rights and liens authorized by law. Notwithstanding contrary provisions in the code, the district may:

(a) Disregard any provision requiring that bonds have serial maturities, and issue bonds in such form and with such maturities as the district shall determine.

(b) Provide that its bonds, notes or other evidence of indebtedness be payable, both as to principal and interest, from the net revenues derived from the operation of its system, as such net revenues may be defined by the district.

(c) Covenant and agree that upon it being adjudged in default as to the payment of any installment of principal or interest upon any obligation issued by it, or in default as to the performance of any covenant or undertaking made by it, in such event the principal of all obligations of such issue may be declared forthwith due and payable, notwithstanding that any of them may not have then matured.

(d) Confer upon a corporation trustee the power to make disposition of the proceeds from all borrowings and of all revenues derived from the operation of the system, in accordance with the resolutions adopted by the authority as an incident to the issuance of any notes, bonds or other types of securities.

(e) Dispose of bonds, notes or other evidence of indebtedness at public or private sale, and upon such terms and conditions as it shall approve.

(f) Make provision for the redemption of any obligations issued by it prior to their stated maturity, with or without premium, and on such terms and conditions as the district shall approve.

(g) Covenant and agree that any cushion fund established to further secure the payment of the principal and interest of any obligation shall be in a fixed amount.

(h) Covenant and agree that no free service will be furnished to any person, municipal corporation, or any subdivision or division of the State.

(i) Prescribe the procedure, if any, by which the terms of the contract with the holders of its obligations may be amended, the number of obligations whose holders must consent thereto, and the manner in which consent shall be given.

(j) Prescribe the events of default and terms and conditions upon which all or any obligations shall become or may be declared due before maturity and the terms and conditions upon which such declarations and their consequences may be waived.

(23) To extend its system or systems, within Oconee and Anderson Counties, beyond the defined limits of the district to provide services to those living outside the district and outside any incorporated municipality when, in the discretion of the board, it is feasible and practicable so to do, in which case any person or agency receiving such service shall be subject to the same rules, regulations and requirements concerning services being received from the district as persons residing within the district. The board may, in its discretion, establish rates and charges higher than those within the district for the extension of its system and the provision of services beyond the limits of the district.

(24) To construct, operate, or maintain sewer lines or to contract with other entities to construct, operate, or maintain sewer lines. The authority granted in this item does not give the district the power to construct or operate a sewerage treatment facility.

(B) This district must not contract for or undertake the construction of any new freshwater treatment facilities from the effective date of this subsection until July 31, 2016.”

SECTION 3. This act takes effect upon approval by the Governor.

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