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FREE CONFERENCE COMMITTEE REPORT ADOPTED -- NOT PRINTED

June 20, 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(A)(1). 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~~ five residents of the district’s service area who are qualified electors of Anderson or Oconee county. Board members serving on this section’s effective date shall serve the remainder of their terms pursuant to their appointment and until their successors are elected and qualified. Upon the expiration of the term of each member serving on this section’s effective date, the member’s term will be for three years and until a successor is elected and qualified. The members must be elected to represent distinct territories within the district’s service area. A vacancy must be filled for the remainder of the unexpired term.

(2) Each board member must be elected by the qualified customers of Pioneer Rural Water District who are both (a) residents of the district’sservice area and (b) qualified electors of Anderson or Oconee county. For purposes of this section, “resident” is an individual domiciled in Anderson or Oconee county. Each qualified customer is entitled to one vote, provided that only one vote is cast per household.

(B) Sixty days prior to an election to fill a board member’s seat, a meeting of the qualified customers from the board member’s territory shall be held to nominate an individual or individuals who reside in that territory and are qualified customers with service from the district within that territory. The nominated individual or individuals’ names shall be placed on the ballot at the annual meeting. If more than two persons are nominated, only the two individuals receiving the highest number of votes will have their names placed on the ballot. Notice of a district or territory meeting must be provided as follows: (1) posted in at least one newspaper with general circulation in the district’s service areafifteen days prior to the meeting; (2) posted on Pioneer Rural Water District’s website for at least 15 days prior to the meeting; and (3) written notice, in a conspicuous font, at least 24 point bold font,included with the water bill to customers eligible to vote in the district or territory meeting, as applicable, for the billing cycle immediately preceding the meeting.”

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) 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 qualified 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) Before the board makes an investment in a facility or any other action that obligates the water district for one million dollars or more, it must provide for an independent audit by a certified public accountant or public accountant or firm of these accountants who have no personal interest, direct or indirect, in the fiscal affairs of the district or in an entity which may benefit financially from the transaction to be audited. This audit must include the potential impact of the board’s action on its ratepayers and must be presented to the district’s customers at a meeting prior to entering into the action prompting the audit. Notice of a meeting pursuant to this subsection must be provided to customers of the district as follows: (1) posted in at least one newspaper with general circulation in the district’s service area fifteen days prior to the meeting; (2) posted on Pioneer Rural Water District’s website for at least 15 days prior to the meeting; and (3) written notice, in a conspicuous font, in at least 24 point bold font, included with the water bill to all customers for the billing cycle immediately preceding the meeting.

(C) Within thirty days of receiving the audit and prior to its presentation to the customers, the board must submit the audit to the Office of Regulatory Staff for the Office of Regulatory Staff to verify the audit’s assumptions.

(D) Any action taken by the board must be made in the ratepayers’ best interests. Best interests must include consideration of, but not limited to, the public interest of the ratepayers, financial integrity of the water district, and economic development of the area to be provided with service by the water district.”

SECTION 3. Section 6-13-250 of the Code of Laws is amended to read:

“Section 6-13-250. The rates charged for services furnished by the system, as constructed, improved, enlarged and extended, shall not be subject to supervision or regulation by any state bureau, board, commission or like instrumentality or agency thereof. However, the board must provide to the Office of Regulatory Staff by July 1st each year, for information purposes, in such form as the Office of Regulatory Staff may designate, schedules showing all rates, service rules and regulations, and forms of service contract established by the board.”

SECTION 4. This act takes effect upon approval by the Governor.

/s/Sen. Thomas C. Alexander /s/Rep. William E. Sandifer, III

/s/Sen. Kevin L. Bryant /s/Rep. Michael W. Gambrell

Sen. C. Bradley Hutto /s/Rep. Jackie E. Hayes

On Part of the Senate. On Part of the House.

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