**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 5‑3‑320 SO AS CLARIFY THE MEANING OF THE TERM “CONTIGUOUS” WHEN A MUNICIPALITY THAT IS LOCATED ENTIRELY WITHIN THE BORDERS OF A SPECIAL PURPOSE DISTRICT ANNEXES UNINCORPORATED PROPERTY THAT IS ALSO LOCATED WITHIN THE SAME SPECIAL PURPOSE DISTRICT AS THE ANNEXING MUNICIPALITY.

Whereas, the Constitution of the State of South Carolina encourages and fosters home rule wherever possible, providing that matters of local interest be decided by the persons most impacted by the decision, and encourages communities of interest to unite together where it is possible to do so; and

Whereas,past annexation practices of some municipalities have created breaks in the contiguity of special purpose districts, resulting in “donut holes”; and

Whereas, special purpose districts often provide local government services across these breaks in contiguity; and

Whereas, when some of the voters in a special purpose district have been incorporated within a municipality, and they continue to vote for the governing board of a district that determines the allocation and cost of local government services, the voters in the unincorporated area of the district are left at a disadvantage because they have no ability to influence the policies of the municipality which may impact the good of the entire district; and

Whereas, allowing residents of unincorporated areas of the special purpose district to annex to the municipality would allow them representation in the municipal government and provide for a greater community of interest; and

Whereas, in Tovey v. City of Charleston, 237 S.C. 475, 484, 117 S.E.2d 872, 875 (1961), the South Carolina Supreme Court held that there is no requirement of compactness or unity or regularity of shape of the boundaries of a municipality and that these matters are best left to the determination of the elected officials and voters of the municipality and the territory proposed to be annexed; and

Whereas, it is a matter best left to the elected officials and voters of the municipality, special purpose district, and the area to be annexed whether the contemplated addition is readily accessible to the municipality or whether the contemplated annexation would cause difficulties in the administration of the affairs of the municipality or special purpose district or result in undue hardship to any citizen. Now, therefore,

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

SECTION 1. Chapter 3, Title 5 of the 1976 Code is amended by adding:

“Section 5‑3‑320. (A) If a municipality is located entirely within the area of a special purpose district and a property in the unincorporated area of the special purpose district would be adjacent with the municipality and share a continuous border but for an intervening break in the contiguity of the area of the special purpose district, then that property is deemed to be contiguous to the municipality and may be annexed to the municipality using the methods provided for in this chapter.

(B) For purposes of this section:

(1) ‘special purpose district’ means any district as defined by Section 4‑8‑10 that has an elected governing body; and

(2) the area of a special purpose district is that area where residents are eligible to vote for the governing body of the special purpose district.”

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

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

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