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Indicates New Matter

COMMITTEE REPORT

January 10, 2018

**H. 4376**

Introduced by Reps. McCoy, Ott, Lucas, Anderson, Ballentine, Blackwell, Caskey, Crawford, Crosby, Davis, Finlay, Forrester, Gilliard, Hardee, Henegan, Hixon, Mack, Pope, Rutherford, J.E. Smith, Sandifer, Stavrinakis, Erickson, Huggins, W. Newton, Bales, Young, McEachern, Clary, Tallon, Brown, Robinson‑Simpson, V.S. Moss, Bennett and Arrington

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Read the first time January 9, 2018.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4376) to amend Section 58‑31‑20, Code of Laws of South Carolina, 1976, relating to the board of directors of the South Carolina Public Service Authority, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

F. GREGORY DELLENEY for Committee.

**A** **BILL**

TO AMEND SECTION 58‑31‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE BOARD OF DIRECTORS OF THE SOUTH CAROLINA PUBLIC SERVICE AUTHORITY, SO AS TO PROVIDE THAT THE TERMS OF ALL PRESENT MEMBERS OF THE BOARD SHALL EXPIRE ON THE EFFECTIVE DATE OF THIS SECTION AT WHICH TIME NEW MEMBERS OF THE BOARD WITH SPECIFIED QUALIFICATIONS SHALL BE APPOINTED IN THE MANNER PROVIDED IN THE SECTION, AND TO PROVIDE FOR RELATED MATTERS PERTAINING TO THE RECONSTITUTED BOARD; BY ADDING SECTION 58‑31‑25 SO AS TO PROVIDE THAT NEW OR REVISED ELECTRIC RATES AND CHARGES OF THE PUBLIC SERVICE AUTHORITY AS PROPOSED BY THE AUTHORITY MUST BE SUBMITTED TO THE PUBLIC SERVICE COMMISSION FOR APPROVAL AND DETERMINED BY THE COMMISSION IN THE MANNER PROVIDED BY ARTICLE 7, CHAPTER 27, TITLE 58 AS SUPPLEMENTED BY ANY OTHER APPLICABLE PROVISIONS OF LAW; TO AMEND SECTION 58‑31‑30, RELATING TO THE POWERS AND DUTIES OF THE PUBLIC SERVICE AUTHORITY AND ITS BOARD OF DIRECTORS, SO AS TO REVISE THE POWER OF THE AUTHORITY TO FIX RATES AND CHARGES SO THAT NEW AND REVISED RATES AND CHARGES SHALL BE SUBJECT TO THE JURISDICTION AND APPROVAL OF THE PUBLIC SERVICE COMMISSION AND THAT NO NEW RATES OR REVISED CHARGES MAY BE IMPOSED OR APPROVED FOR THE PURPOSE OF PAYING ANY OF THE ABANDONMENT COSTS OF THE TWO NEW NUCLEAR REACTORS CONSTRUCTED PURSUANT TO THE BASE LOAD REVIEW ACT; AND TO AMEND SECTION 58‑31‑360, RELATING TO THE STATE OF SOUTH CAROLINA’S COVENANTS WITH HOLDERS OF BONDED OR OTHER INDEBTEDNESS OF THE AUTHORITY, SO AS TO CLARIFY AND FURTHER PROVIDE FOR THESE COVENANTS AS A RESULT OF THE ABANDONMENT OF THE TWO NUCLEAR REACTORS REFERRED TO ABOVE.

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

SECTION 1. Section 58‑31‑20 of the 1976 Code is amended to read:

“Section 58‑31‑20. (A) The Public Service Authority consists of a board of twelve directors who reside in South Carolina and who have the qualifications stated in this section, as determined by the State Regulation of Public Utilities Review Committee pursuant to Section 58‑3‑530(14), before being appointed by the Governor with the advice and consent of the Senate as follows: one from each congressional district of the State; one from each of the counties of Horry, Berkeley, and Georgetown who reside in authority territory and are customers of the authority; and two from the State at large, one of whom must be chairman. ~~Two of the directors must have substantial work experience within the operations of electric cooperatives or substantial experience on an electric cooperative board, including one of the two who must have substantial experience within the operations or board of a transmission or generation cooperative~~ All members must meet the qualifications prescribed in subsection (C). A director shall not serve as an employee or board member of an electric cooperative during his term as a director. Each director shall serve for a term of seven years, except as provided in this section. At the expiration of the term of each director and of each succeeding director, the Governor, with the advice and consent of the Senate, must appoint a successor, who shall hold office for a term of seven years or until his successor has been appointed and qualified. In the event of a director vacancy due to death, resignation, or otherwise, the Governor must appoint the director’s successor, with the advice and consent of the Senate, and the successor‑director shall hold office for the unexpired term. ~~A director may not receive a salary for services as director until the authority is in funds, but~~ Each director must be paid his actual expense in the performance of his duties~~, the actual expense to be advanced from the contingent fund of the Governor until the time the Public Service Authority is in funds, at which time the contingent fund must be reimbursed. After the Public Service Authority is in funds,~~. Directors shall serve until their successors are appointed and qualify. The compensation and expenses of each member of the board must be paid from ~~these~~ authority funds, and the compensation and expenses must be fixed by the advisory board established in this section. Members of the board of directors may be removed for cause, pursuant to Section 1‑3‑240(C), by the Governor of the State, the advisory board, or a majority thereof. A member of the General Assembly of the State of South Carolina is not eligible for appointment as Director of the Public Service Authority during the term of his office. No more than two members from the same county may serve as directors at any time.

(B) Candidates for appointment to the board must be screened by the State Regulation of Public Utilities Review Committee and, prior to confirmation by the Senate, must be found qualified by meeting the minimum requirements contained in subsection (C). The review committee must submit a written report to the Clerk of the Senate setting forth its findings as to the qualifications of each candidate. A candidate must not serve on the board, even in an interim capacity, until he is screened and found qualified by the State Regulation of Public Utilities Review Committee.

(C) ~~Each member must possess abilities and experience that are generally found among directors of energy utilities serving this State and that allow him to make valuable contributions to the conduct of the authority’s business. These abilities include substantial business skills and experience, but are not limited to:~~

~~(1) general knowledge of the history, purpose, and operations of the Public Service Authority and the responsibilities of being a director of the authority;~~

~~(2) the ability to interpret legal and financial documents and information so as to further the activities and affairs of the Public Service Authority;~~

~~(3) with the assistance of counsel, the ability to understand and apply federal and state laws, rules, and regulations including, but not limited to, Chapter 4 of Title 30 as they relate to the activities and affairs of the Public Service Authority; and~~

~~(4) with the assistance of counsel, the ability to understand and apply judicial decisions as they relate to the activities and affairs of the Public Service Authority.~~ Each member of the board of directors of the Public Service Authority must have the following qualifications:

(1) a baccalaureate or more advanced degree from:

(a) a recognized institution of higher learning requiring face‑to‑face contact between its students and instructors prior to completion of the academic program;

(b) an institution of higher learning that has been accredited by a regional or national accrediting body; or

(c) an institution of higher learning chartered before 1962; and

(2) a background of substantial duration and an expertise in at least one of the following:

(a) energy issues;

(b) water and wastewater issues;

(c) finance, economics, and statistics;

(d) accounting;

(e) engineering; or

(f) law.

In addition to the above qualifications, two of the directors must have substantial work experience within the operations of electric cooperatives or substantial experience on an electric cooperative board with one of these two directors also having substantial experience within the operations or board of a transmission or generation cooperative.

(D) For the assistance of the board of directors of the Public Service Authority, there is hereby established an advisory board to be known as the advisory board of the South Carolina Public Service Authority, to be composed of the Governor of the State, the Attorney General, the State Treasurer, the Comptroller General, and the Secretary of State, as ex officio members, who must serve without compensation other than necessary traveling expenses. The advisory board must perform any duties imposed on it pursuant to this chapter, and must consult and advise with the board of directors on any and all matters which by the board of directors may be referred to the advisory board. The board of directors must make annual reports to the advisory board, which reports must be submitted to the General Assembly by the Governor, in which full information as to all of the acts of ~~said~~ the board of directors shall be given, together with financial statement and full information as to the work of the authority. On July first of each year, the advisory board must designate a certified public accountant or accountants, resident in the State, for the purpose of making a complete audit of the affairs of the authority, which must be filed with the annual report of the board of directors. The Public Service Authority must submit the audit to the General Assembly.

(E)(1) The terms of all twelve present members of the board of directors of the Public Service Authority serving in office on the effective date of this subsection expire on the effective date of this section at which time their successors appointed in the manner provided in this section shall take office.

(2) The initial terms of members of the board of directors from the first, third, fifth, and seventh congressional districts, from the county of Horry, and from the state at large who is not the chairman shall be for three-years and until their successors are appointed and qualify. Therefore, successors to these members serving initial terms of three years shall be appointed for seven-year terms. The initial terms of all other members of the board not serving initial three year terms as provided above shall be for seven years and until their successors are appointed and qualify.”

SECTION 2. Article 1, Chapter 31, Title 58 of the 1976 Code is amended by adding:

“Section 58‑31‑25. On and after the effective date of this section, new or revised electric rates and charges of the Public Service Authority as proposed by the authority must be submitted to the Public Service Commission for approval and determined in the manner provided by Article 7, Chapter 27, Title 58 as supplemented by any other applicable provisions of law.”

SECTION 3. Section 58‑31‑30(13) of the 1976 Code is amended to read:

“(13) to fix, alter, charge, and collect tolls and other charges for the use of their facilities of, or for the services rendered by, or for any commodities furnished by, the Public Service Authority at rates to be determined by it and approved and set by the Public Service Commission in the manner provided by Section 58‑31‑25, these rates except as otherwise provided by law to be at least sufficient to provide for payment of all expenses of the Public Service Authority, the conservation, maintenance, and operation of its facilities and properties, the payment of principal and interest on its notes, bonds, and other evidences of indebtedness or obligation, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such notes, bonds, or other evidences of indebtedness or obligation. Any prorated costs of the authority in regard to its share of abandonment costs or related costs of the two new nuclear power plants constructed pursuant to the Base Load Review Act by its public utility majority partner may not be included as part of its rate base or as a basis for any new or revised rate increases proposed by the authority or approved by the Public Service Commission after the effective date of this provision;”

SECTION 4. Section 58‑31‑360 of the 1976 Code is amended to read:

“Section 58‑31‑360. In order to protect those subscribing to, purchasing or acquiring the notes, bonds, evidences of indebtedness or other obligations of the Public Service Authority, the State of South Carolina does hereby covenant and agree with any person, firm or corporation, the government of the United States of America, and any corporation or agency created, designated or established by the United States, subscribing to, purchasing or acquiring the notes, bonds, evidences of indebtedness or other obligations heretofore or hereafter issued or incurred by the Public Service Authority for any authorized purpose, that the State will not alter, limit or restrict the power of the Public Service Authority to, and the authority shall, fix, establish, maintain and collect rents, tolls, rates and charges for the use of the facilities of or for the services rendered or for any commodities furnished by the Public Service Authority, at least sufficient to provide for payment of all expenses of the Public Service Authority, the conservation, maintenance and operation of its facilities and properties and the payment of the principal of and interest on its notes, bonds, evidences of indebtedness or other obligations, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such notes, bonds, evidences of indebtedness or obligations heretofore or hereafter issued or incurred. Provided, however, that prior to putting into effect any increase in rates the Public Service Authority after final approval by the Public Service Commission shall give at least sixty days’ notice of such increase to all customers who will be affected by the increase.

The provisions of this section and the covenants of the State of South Carolina as to the sufficiency of the electric rates which must be charged by the authority to meet its expenses and obligations do not apply to the authority’s pro‑rata share of abandonment costs or related costs of the two new nuclear power plants constructed pursuant to the Base Load Review Act by its public utility majority partner in that no new or revised increases in electric rates may be imposed by the authority or approved by the commission after the effective date of this section to generate revenue to pay these abandonment or related costs. These abandonment costs as they become payable must be paid in other ways the authority shall determine consistent with what other actions the General Assembly may take from time to time by law to deal with these costs. However, in all cases the electric rates of the authority as provided in this section must be sufficient to pay the required debt service on all bonded or other indebtedness of the authority. The General Assembly declares that it is the purpose of this section to permit, allow, and enable the Public Service Authority to remain a viable electric provider with rates at a level which are not punitive to ratepayers while at the same time protecting creditors and bondholders from unwarranted risk due to the abandonment of these two nuclear reactors.”

SECTION 5. This act takes effect upon approval by the Governor.

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