**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 5232**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Wooten, Ott, Brawley, Calhoon, Caskey, Hewitt, Huggins and Toole

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Introduced in the House on February 13, 2020

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Utilities

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/13/2020 House Introduced and read first time ([House Journal‑page 62](file:///h:\hj\20200213.docx))

2/13/2020 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 62](file:///h:\hj\20200213.docx))

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**VERSIONS OF THIS BILL**

[2/13/2020](file:///p:\pprever\2019-20\5232_20200213.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 58‑3‑141 SO AS TO PREVENT UTILITIES FROM RECOVERING CERTAIN NONALLOWED EXPENSES FROM RATEPAYERS, TO ALLOW THE COMMISSION TO EVALUATE UTILITY EXPENSES ON A CASE‑BY‑CASE BASIS, TO PROVIDE PENALTIES WHEN A PUBLIC UTILITY SUBMITS A NONALLOWED EXPENSE TO THE RATEPAYERS, AND TO REQUIRE A PUBLIC UTILITY TO PAY FOR THE COST OF AN AUDIT WHEN THE PUBLIC SERVICE COMMISSION DETERMINES THAT THE UTILITY SUBMITTED A NONALLOWED EXPENSE; AND BY ADDING SECTION 58‑5‑760 REQUIRING WATER AND SEWER UTILITIES TO SUBMIT LONG‑TERM INFRASTRUCTURE IMPROVEMENT PLANS TO THE COMMISSION AND REQUIRING THE PUBLIC SERVICE COMMISSION TO REVIEW AND ACCEPT LONG‑TERM INFRASTRUCTURE IMPROVEMENT PLANS.

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

SECTION 1. Article 1, Chapter 3, Title 58 of the 1976 Code is amended by adding:

“Section 58‑3‑141. (A) In the determination of reasonable operating expenses, no electric, natural gas, water, or sewer utility shall be permitted by the commission to recover from its ratepayers any direct or indirect expenditure made by such public utility for:

(1) lobbying or legislative advocacy, including trade association dues;

(2) political advertising;

(3) expenses associated with a political purpose;

(4) charitable or political contributions or donations including in‑kind contributions;

(5) advertising conducted for the purpose of promoting the public utility’s corporate image or promoting goodwill;

(6) membership fees, dues, or charges to fraternal, social, and sports clubs or organizations;

(7) meetings, conferences, seminars, or other events attended by public utility employees, managers, or directors unrelated to the business of providing reliable utility service including entertainment, recreation, and athletic activities;

(8) gifts, flowers, employee parties, alcoholic beverages, and other unnecessary costs related to nonutility activities;

(9) expenses associated with recreation, entertainment, or other nonessential employee benefits;

(10) expenses associated with criminal and civil penalties, fines, and judgements;

(11) merger and acquisition activities including acquisition premium costs and fair value or purchase price adjustments; and

(12) expenses the commission finds to be unreasonable, unnecessary, or not in the public interest.

(B) Any direct or indirect expenditure made by a public utility for the purposes identified in subsection (A) must be paid for by the public utility’s shareholders or owners and must not be considered as reasonable operating expenses for ratemaking purposes by the commission.

(C) Revenues generated by South Carolina ratepayers may not be used on out‑of‑state infrastructure projects located outside of South Carolina.

(D) The commission may, on a case‑by‑case basis, determine the extent to which a public utility operating expense may:

(1) exceed a reasonable level or amount;

(2) provide no benefit to the using and consumer public; or

(3) not enhance the ability of the public utility to provide efficient and reliable service.

(E) An electric, natural gas, water, or sewer utility that violates subsection (A) or (C) is subject to the following penalties:

(1) liability to the ratepayers for nonallowed expenditures increasing rates; and

(2) a fine of no less than two thousand dollars nor more than ten thousand dollars for each violation. The fines collected by the Public Service Commission pursuant to this section must remain with the commission and be used to offset costs associated with this section.

(F) If an audit by the commission determines the submission of a nonallowed expenditure by a utility to the ratepayers, the utility must pay for the cost of the audit.”

SECTION 2. Article 7, Chapter 5, Title 58 of the 1976 Code is amended by adding:

“Section 58‑5‑760. (A) A water or sewer utility must submit a long‑term infrastructure system improvement plan to the commission. The plan must describe how the water or sewer utility will invest in and maintain its utility infrastructure and system to ensure customers receive adequate, efficient, safe, and reliable service. The plan must include the following:

(1) identification of the types and ages of property owned or operated by the water or sewer utility;

(2) an initial schedule for the planned repair and replacement of property;

(3) a general description of the location of the property;

(4) a reasonable estimate of the quantity of property to be improved;

(5) projected annual expenditures to implement the improvement plan and measures taken to ensure that the plan is cost effective, including the estimated customer rate impact;

(6) the manner in which the replacement of aging infrastructure will be accelerated and how the repair, improvement, or replacement will ensure and maintain adequate, efficient, safe, reliable, and reasonable service to ratepayers;

(7) a description that specifies all utility property repaired, improved, and replaced in the immediately preceding twelve month period;

(8) a detailed description of all the facilities to be improved in the upcoming twelve‑month period;

(9) a detailed description of the utility actions to ensure utility infrastructure and services are resilient during extreme weather events;

(10) a reasonable estimate of the growth in customers and utility total revenue; and

(11) a detailed description of the water or sewer utility improvements to service provided to customers.

(B) If the plan is not adequate and sufficient to ensure and maintain adequate, efficient, safe, reliable, and reasonable service, the commission shall order a new or revised plan from the water or sewer utility.

(C) The commission shall perform a periodic review of the long‑term infrastructure improvement plan.

(D) The submission, review, and acceptance of the long‑term infrastructure system improvement plan by the commission is not determinative of the reasonableness or prudence of the acquisition, construction, or expenditure. The utility retains the burden of proof to show that all of its investments and expenditures are reasonable and prudent when seeking cost recovery rates.

(E)(1) The commission shall have a proceeding to review each water or sewer utility’s long‑term improvement plan. As part of the long‑term improvement plan, the commission shall allow intervention by interested parties.

(2) The Office of Regulatory Staff shall review each utility’s long‑term improvement plan and submit a report to the commission providing a recommendation as to the reasonableness of the long‑term improvement plan.

(F) The commission is authorized to promulgate regulations to carry out the provisions of this section.”

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

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