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COMMITTEE REPORT

May 8, 2019

**S. 712**

Introduced by Senator Gambrell

L. Printed 5/8/19--H.

Read the first time April 11, 2019.

**THE ANDERSON COUNTY DELEGATION DELEGATION**

To whom was referred a Bill (S. 712) to amend Act 549 of 1973, as amended, relating to the Broadway Water and Sewerage District in Anderson County, so as to ratify a 2001 expansion of the district’s service, etc., respectfully

**REPORT:**

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

JAY WEST for Committee.

**A** **BILL**

TO AMEND ACT 549 OF 1973, AS AMENDED, RELATING TO THE BROADWAY WATER AND SEWERAGE DISTRICT IN ANDERSON COUNTY, SO AS TO RATIFY A 2001 EXPANSION OF THE DISTRICT’S SERVICE AREA PURSUANT TO A TRANSFER OF TERRITORY FROM THE BELTON‑HONEA PATH WATER AUTHORITY.

Whereas, the Broadway Water and Sewerage District of Anderson County was created by Act 549 of 1973, which had an effective date of February 15, 1973; and

Whereas, following the passage of Home Rule, the General Assembly enacted several statutes supporting the continued viability of preexisting special purpose districts, including, but not limited to, Section 6‑11‑410(a), Code of Laws of South Carolina, 1976, which defines a special purpose district as “any district created by act of the General Assembly prior to March 7, 1973, and to which has been committed prior to March 7, 1973, any local governmental function”; and

Whereas, although the general law, in Section 6‑11‑420, provides a mechanism whereby the service areas of special purpose districts created prior to March 7, 1973, may be enlarged, diminished, or consolidated by action of the appropriate county council, the South Carolina Supreme Court recognized a certain degree of latitude regarding special legislation to facilitate an orderly transition from legislative control of local matters to local control. See, e.g., Duncan v. The County of York et al., 267 S.C. 327, 228 S.E.2d 92 (1976); and

Whereas, in 2001 the Belton‑Honea Path Water Authority granted a portion of its service district to the Broadway Water and Sewerage District, ostensibly expanding the latter’s service area; however, this transfer appears never to have been approved either by the governing body of Anderson County pursuant to the aforesaid provisions of Article 3, Chapter 11, Title 6 or by the General Assembly pursuant to transitional local legislation; and

Whereas, because the 2001 expansion of the Broadway Water and Sewerage District’s service area preceded by six years the South Carolina Supreme Court’s ruling in Davis v. Richland County Council, 372 S.C. 497, 642 S.E.2d 740 (2007), which cast significant doubt on future application of the transitional legislation exception, the General Assembly finds that if it had enacted local legislation in 2001 to enlarge the district’s service area, the resulting act would have constituted permissible transitional legislation under Duncan v. County of York et al. Now, therefore,

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

SECTION 1. Section 2 of Act 549 of 1973, as last amended by Act 709 of 1990, is amended by adding at the end to read:

“The South Carolina General Assembly ratifies and confirms the October 22, 2001, action of the Belton‑Honea Path Water Authority granting to the Broadway Water and Sewerage District that portion of the Belton‑Honea Path Water Authority’s service district described in the Authority’s minutes dated October 22, 2001, as the area ‘starting on the north side at Rice Cemetery Road and proceeding in a southerly direction down Jones Chapel Road intersecting at S.C. State Route 20, Due West Hwy. at the Abbeville County Line. All territory from this boundary to Lake Secession and proceeding along the boundary of Abbeville County to Hwy 20’.”

SECTION 2. This act takes effect upon approval by the Governor.

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