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RECALLED

April 19, 2017

**S. 530**

Introduced by Senator Talley

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Read the first time April 18, 2017.

**A** **BILL**

TO AUTHORIZE THE PELHAM-BATESVILLE FIRE DISTRICT, WHICH PROVIDES FIRE PROTECTION SERVICES TO PORTIONS OF GREENVILLE AND SPARTANBURG COUNTY, TO ISSUE BONDS TO FINANCE CERTAIN NECESSARY CAPITAL IMPROVEMENTS AND TO PROVIDE FOR THE AMOUNT AND PROCESS THROUGH WHICH THE BONDS MAY BE ISSUED.

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

SECTION 1. The Pelham‑Batesville Fire District (the “district”) was established by the South Carolina General Assembly pursuant to the provisions of Act No. 554 of 1971, as amended (the “act”). The implementation of the act was contingent upon the results of a referendum to create the district. Thereafter, a referendum was held on September 14, 1971, which resulted favorably to the creation of the district. The district serves portions of Greenville County and Spartanburg County for the purpose of providing fire protection services. Since its creation, the area of the district has grown both industrially and commercially and now includes numerous manufacturing facilities as well as corporate headquarters of national and international companies along and beyond the corridor of I‑85 between the cities of Greenville and Spartanburg.

In order to adequately serve the residents, commercial establishments and industrial facilities, the board of fire control, the governing body of the district (the “fire board”) has determined that certain capital improvements must be undertaken as provided in SECTION 2 below (the “improvements”). Due to the fact that the district is not a governmental entity with its boundaries located in only one county but is a fully integrated political unit located both in Greenville and Spartanburg Counties, neither the County Council of Greenville County nor the County Council of Spartanburg has the individual authority to authorize the fire board to issue general obligation bonds. Thus, because of its regional nature, the fire board has determined to ask the General Assembly to authorize the issuance of general obligation bonds of the district in a specific amount for specific purposes.

SECTION 2. The district is hereby authorized to issue general obligation bonds (the “bonds”) in the principal amount of $6,500,000 in a single series or multiple series, in accordance with the remaining sections of this act. The proceeds shall be used to defray the costs of the improvements to include, as follows:

(1) The development, construction, and outfitting of an approximately 26,000 square foot headquarters and fire station building of the district, to include public access areas for meeting facilities, training, and community events; office and administrative areas; crew quarters; apparatus bays and apparatus and facility support areas; and furniture, fixtures and equipment, the plan of which shall provide sufficient space, facilities, and equipment to satisfy the current and projected future needs of the district as necessary to ensure the district is capable of meeting the standards of modern fire and rescue facilities; and

(2) The costs of issuance of the bonds.

SECTION 3. A public hearing or hearings shall be held upon the question of the issuance of the bonds of the district by the governing bodies of both Spartanburg and Greenville Counties at such time and place as they may prescribe. In the event public hearings are held under the provisions of Article 5 of Chapter 11 of Title 6, Code of Laws of South Carolina, 1976, as amended, such hearings shall meet the requirements to hold the public hearings provided for herein.

SECTION 4. A notice of each public hearing shall be published once a week for three successive weeks in a newspaper or newspapers, as necessary, of general circulation in Greenville County and in Spartanburg County. Such notice shall state:

(1) The time and date of each such public hearing, which shall be not less than sixteen (16) days following the first publication of the notice.

(2) The place of each such public hearing.

(3) The proposed principal amount of bonds to be issued by the district, including a debt service table showing the estimated annual principal and interest requirements for the proposed bonds.

(4) A statement setting forth the purpose for which the proceeds of such bonds are to be expended.

(5) A brief summary of the reasons for the issuance of such bonds and the method by which the principal and interest of such bonds are to be paid.

SECTION 5. Such public hearing or hearings shall be conducted publicly and both proponents and opponents of the issuance of the bonds shall be given full opportunity to be heard.

SECTION 6. Following the holding of the public hearing or hearings, the fire board, by public vote, shall determine whether bonds are to be issued. If bonds are to be issued, the fire board shall determine by resolution the manner in which the bonds shall be issued, all in accordance with the remaining sections of this act.

SECTION 7. All bonds issued pursuant to this act shall mature in such annual series or installments as the fire board shall prescribe, except that the first maturing bonds shall mature not later than five years from the date of their original issuance. No bond shall mature later than forty years from the date of its original issuance.

The bonds shall be dated as of the date of delivery and shall bear interest from their dated date. The resolution of the fire board approving the bonds (the “resolution”) shall state: (1) whether the bonds will be issued in fully registered form registered in the name of the purchaser thereof or under a book‑entry only system in accordance with the provisions of SECTION 18 hereof; (2) the denomination of the bonds, and the interest payment dates of the bonds; (3) whether to award the bonds on a net interest cost or true interest cost basis; (4) whether, and in what manner, the bonds may be subject to optional and/or mandatory sinking fund redemption; and (5) such other matters regarding the bonds as are necessary, desirable or appropriate to effect the issuance thereof.

SECTION 8. Subsequent to the adoption of the resolution, a notice of such adoption shall be published in a newspaper or newspapers, as necessary, of general circulation in Greenville County and in Spartanburg County. The resolution and the validity of the bonds authorized thereby shall not be open to question except by a suit or other proceeding instituted within twenty (20) days from the date of the publication.

SECTION 9. Subject to the last sentence of this section, as long as any of the bonds remain outstanding, there shall be a registrar and paying agent, each of which shall be a financial institution maintaining corporate trust offices where (1) the bonds may be presented for registration of transfers and exchanges, (2) notices and demands to or upon the district in respect of the bonds may be served, and (3) the bonds may be presented for payment, exchange, and transfer. Initially, such financial institution designated by the fire board shall act as both registrar and paying agent. In the event the bonds are issued in physical form payable to the successful bidder at the sale of the bonds, the Treasurer of Greenville County shall serve as registrar and paying agent for the bonds.

SECTION 10. Any bonds issued pursuant to this act may be issued with a provision for their redemption prior to their maturity at par and accrued interest, plus such redemption premium as may be prescribed by the fire board, but no bond shall be redeemable before maturity unless it contains a statement to that effect. In the proceedings authorizing the issuance of the bonds, provisions shall be made specifying the manner of redemption and the notice thereof that must be given.

SECTION 11. The bonds shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

SECTION 12. bonds issued pursuant to this act shall bear interest at a rate or rates determined by the fire board.

SECTION 13. (A) The bonds shall be executed in the name and on behalf of the district by the manual or facsimile signature of the Chairman of the fire board, with its official seal impressed, imprinted, or otherwise reproduced thereon, and attested by the manual or facsimile signature of the Secretary of the fire board. The bonds may bear the signature of any person who shall have been such an officer authorized to sign the bond at the time such bond was so executed, and shall bind the district notwithstanding the fact that his or her authorization may have ceased prior to the authentication and delivery of the bond.

(B) Each bond shall not be valid or obligatory for any purpose nor shall it be entitled to any right or benefit hereunder unless there shall be endorsed on the bond a certificate of authentication in the form set forth in the resolution, duly executed by the manual signature of the registrar, and such certificate of authentication upon any bond executed on behalf of the district shall be conclusive evidence that the bond so authenticated has been duly issued hereunder and that the Holder thereof is entitled to the benefit of the terms and provisions of the resolution authorizing the issuance of the bonds.

SECTION 14. The bonds shall be sold at public sale, after advertisement of a notice of sale, which may be in summary form, in The State or in a financial publication published in the City of New York. The advertisement must appear not less than seven (7) days prior to the date set for the sale. The advertisement may set as a sale date a fixed date not less than seven (7) days following publication, or the advertisement may advise that the sale date will be at least seven (7) days following the date of publication. If a fixed date of sale is not set forth in the notice of sale published in accordance with this section, the date selected for the receipt of bids must be disseminated via an electronic information service at least forty‑eight hours prior to the time set for the receipt of the bids. If a fixed date of sale is set forth in the notice of sale, it may be modified by notice disseminated via an electronic information service at least forty‑eight hours prior to the time set for the receipt of bids on the modified date of sale. No bonds may be sold pursuant to this act on a date that is more than sixty (60) days after the date of the most recent publication of the notice of sale. Bids for the purchase of bonds may be received in such form as determined by the fire board.

SECTION 15. For the payment of the principal and interest of all bonds issued pursuant to this act, as they respectively mature, and for the creation of such sinking fund as may be necessary therefor, the full faith, credit, and taxing power of the district shall be irrevocably pledged, and there shall be levied annually by the Auditors of Greenville County and Spartanburg County and collected by the Treasurers of Greenville County and Spartanburg County, in the same manner as county taxes are levied and collected, a tax without limit on all taxable property in the district sufficient to pay the principal and interest of such bonds as they respectively mature and to create such sinking fund as may be necessary therefor. The taxes levied and collected for the bonds shall be subject to a statutory lien in favor of the purchaser of the bonds. Each bond shall contain a statement on the face thereof specifying the sources from which payment is to be made and shall state that the full faith, credit, and taxing power of the district are pledged therefor.

SECTION 16. The Auditors of Greenville County and Spartanburg County and the Treasurers of Greenville County and Spartanburg County shall each be notified of the issuance of the bonds or each series of bonds, as the case may be, and directed to levy and collect, upon all taxable property in the district an annual tax sufficient to meet the payment of the principal installment and interest on said bonds, as the same respectively mature, and to create such sinking fund as may be necessary therefor.

SECTION 17. The bond payments shall be exempt from all State, county, municipal, school district, and all other taxes or assessments of the State, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate, transfer, or certain franchise taxes.

SECTION 18. (A) Notwithstanding anything to the contrary herein, the fire board may determine that the bonds will be issued in physical form to the purchaser or issued under the book‑entry only system in fully registered form, registered in the name of a securities depository nominee (the “securities depository nominee”), which will act as initial securities depository (a “securities depository”) for the bonds. Notwithstanding anything to the contrary herein, so long as the bonds are being held under a book‑entry system of a securities depository, transfers of beneficial ownership of the bonds will be effected pursuant to rules and procedures established by such securities depository.

(B) As long as a book‑entry system is in effect for the bonds, the securities depository nominee will be recognized as the holder of the bonds for the purposes of: (i) paying the principal, interest, and premium, if any, on such bonds, (ii) selecting the portions of such bonds to be redeemed, if bonds are to be redeemed in part, (iii) giving any notice permitted or required to be given to bondholders under the resolution, (iv) registering the transfer of bonds, and (v) requesting any consent or other action to be taken by the holders of such bonds, and for all other purposes whatsoever, and the district shall not be affected by any notice to the contrary.

(C)The district shall not have any responsibility or obligation to any participant, any beneficial owner or any other person claiming a beneficial ownership in any bonds which are registered to a securities depository nominee under or through the securities depository with respect to any action taken by the securities depository as holder of such bonds.

(D) The paying agent shall pay all principal, interest, and premium, if any, on bonds issued under a book‑entry system, only to the securities depository or the securities depository nominee, as the case may be, for such bonds, and all such payments shall be valid and effectual to fully satisfy and discharge the obligations with respect to the principal of and premium, if any, and interest on such bonds.

(E) In the event that the district determines that it is in the best interest of the district to discontinue the book‑entry system of transfer for the bonds, or that the interests of the beneficial owners of the bonds may be adversely affected if the book‑entry system is continued, then the district shall notify the securities depository of such determination. In such event, the district shall appoint the Treasurer of Greenville County as registrar and paying agent, which shall authenticate, register and deliver physical certificates for the bonds in exchange for the bonds registered in the name of the securities depository nominee.

(F) In the event that the securities depository for the bonds discontinues providing its services, the district shall either engage the services of another securities depository or arrange with the registrar and paying agent for the delivery of physical certificates in the manner described in subparagraph (e) above.

(G) In connection with any notice or other communication to be provided to the holders of bonds by the district or by the registrar and paying agent with respect to any consent or other action to be taken by the holders of bonds, the district or the registrar and paying agent, as the case may be, shall establish a record date for such consent or other action and give the securities depository nominee notice of such record date not less than fifteen (15)days in advance of such record date to the extent possible.

SECTION 19. The proceeds derived from the sale of any bonds issued pursuant to this act shall be paid to the Treasurer of Greenville County, to be deposited in a bond account fund for the district, and shall be expended and made use of by the fire board as follows:

(1) Any accrued interest shall be applied to the payment of the first installment of interest to become due on such bonds.

(2) Any premium shall be applied to the payment of the first installments of principal of, and/or interest on the bonds or paid into the bond account fund described above.

(3) The remaining proceeds shall be used to pay the cost of acquiring and constructing the improvements specified in SECTION 1 hereof and to pay the costs of issuance of the bonds, and, if the fire board shall so prescribe, to fund the interest to become due on the bonds issued under this act during not exceeding the first three years following the date of the bonds.

(4) If any balance remains, it shall be held by the Treasurer of Greenville County in a special fund or otherwise transferred to the paying agent and used to effect the retirement of the bonds authorized hereby.

SECTION 20. The district may utilize the provisions of Article 5, Chapter 15, Title 11 of the Code of Laws of South Carolina, 1976, as amended, to effect the refunding or, pursuant to Section 11‑21‑20 of the Code of Laws of South Carolina, 1976, as amended, the advance refunding of the bonds issued pursuant hereto.

SECTION 21. Any prior act, or provision contained within a prior act, of the General Assembly related to bonding by the district that is in conflict with this act, or any provision contained within this act, shall be superseded by the provisions contained herein.

SECTION 22. This act takes effect upon approval by the Governor.

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