~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

January 23, 2013

**H. 3290**

Introduced by Reps. Bingham, Bannister, Harrell, Simrill, Merrill, Rutherford, Norman, Crawford, Sottile, Herbkersman, Barfield, Clemmons, V.S. Moss, Hixon, D.C. Moss, Gambrell, Horne, Erickson, G.R. Smith, Sandifer, Forrester, Cole, Allison, Crosby, Murphy, Spires, Patrick, Hardwick, Putnam, H.A. Crawford, Southard, Henderson, Chumley, Bedingfield, Atwater, Goldfinch, Bowen, Funderburk, Gagnon, Long, Owens, Tallon, Thayer, Vick, Whitmire and Branham

S. Printed 1/23/13--H. [SEC 1/24/13 12:10 PM]

Read the first time January 10, 2013.

**THE COMMITTEE ON AGRICULTURE, NATURAL**

**RESOURCES AND ENVIRONMENTAL AFFAIRS**

To whom was referred a Bill (H. 3290) to amend the Code of Laws of South Carolina, 1976, so as to enact the “Business Freedom to Choose Act”, by amending Section 44-96-80, relating to county solid waste, etc., respectfully

**REPORT:**

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

Amend the bill, as and if amended, by striking Section 5 and inserting:

/SECTION 5. This act takes effect upon approval by the Governor and applies to ordinances in existence on or after the effective date of this act. An ordinance enacted prior to the effective date of this act is rendered invalid from the effective date of this act forward. Nothing in this act shall be construed to impair the contractual obligations of any county, municipality, or other political subdivision arising from, or incurred in connection with, any bonds, notes, or other evidences of indebtedness issued by such entity prior to the effective date of this act, which are secured by, and payable from, a solid waste user fee imposed by such entity. /

Renumber sections to conform.

Amend title to conform.

NELSON L. HARDWICK for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “BUSINESS FREEDOM TO CHOOSE ACT”, BY AMENDING SECTION 44‑96‑80, RELATING TO COUNTY SOLID WASTE PROGRAMS, INCLUDING A COUNTY’S AUTHORITY TO ENACT ORDINANCES CONSISTENT WITH THE STATE PLAN, LAW, AND REGULATIONS, SO AS TO MAKE TECHNICAL CORRECTIONS, TO DELETE OBSOLETE LANGUAGE, AND TO PROVIDE THAT AN ORDINANCE THAT RESTRICTS SOLID WASTE DISPOSAL AT A PERMITTED FACILITY OR IMPEDES THE DEVELOPMENT OR IMPLEMENTATION OF A RECYCLING PROGRAM IS INCONSISTENT WITH THE PROVISIONS OF CHAPTER 96 OF TITLE 44; AND TO AMEND SECTION 44‑55‑1210, RELATING TO A COUNTY’S AUTHORITY TO REQUIRE THE COLLECTION AND DISPOSAL OF SOLID WASTE, SO AS TO PROVIDE THAT A COUNTY ORDINANCE IS VOID TO THE EXTENT THAT THE ORDINANCE RESTRICTS OR PROHIBITS SOLID WASTE DISPOSAL AT A PERMITTED FACILITY OR IMPEDES THE DEVELOPMENT OR IMPLEMENTATION OF A RECYCLING PROGRAM.

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

SECTION 1. This act may be cited as the “Business Freedom to Choose Act”.

SECTION 2. Section 44‑96‑80(G) of the 1976 Code is amended to read:

“(G) Counties are strongly encouraged to pursue a regional approach to solid waste management. Nothing in this chapter, however, ~~shall~~ may be construed to require a county to participate in a regional plan or to prohibit two or more counties within the State which are not contiguous from preparing, approving, and submitting a regional solid waste management plan or one or more counties, including ~~industrial~~ solid waste generators located ~~therein~~ in these counties, from contracting with an in‑state solid waste disposal facility located outside of the county or region. ~~Not later than eighteen months after the date of enactment of this chapter, each county shall notify the department in writing whether it intends to submit a single county solid waste management plan or to participate in a regional plan.~~”

SECTION 3. Section 44‑96‑80(K) of the 1976 Code is amended to read:

“(K) The governing body of a county is authorized to enact ~~such~~ ordinances ~~as may be~~ necessary to carry out its responsibilities under this chapter~~; provided, however, that the governing body of a county~~ but may not enact an ordinance inconsistent with the state solid waste management plan, with ~~any~~ a provision of this chapter, with ~~any other~~ another applicable provision of state law, or with ~~any~~ a regulation promulgated by the department providing for the protection of public health and public safety or ~~for protection of~~ the environment. An ordinance that restricts or prohibits disposal of waste at a permitted solid waste management facility regardless of location or impedes the development or implementation of a public or private recycling program regardless of location is considered inconsistent with the provisions of this chapter.”

SECTION 4. Section 44‑55‑1210 of the 1976 Code is amended to read:

“Section 44‑55‑1210. The governing body of ~~any~~ a county may by ordinance or resolution ~~provide that~~ require the county ~~shall~~ ~~engage in the collection and disposal~~ to collect and dispose of solid waste. ~~Such~~ This collection and disposal may be accomplished either by use of county employees and equipment or by contract with a private ~~agencies~~ entity or ~~municipalities~~ municipality of the county. ~~Service charges~~ A service charge may be levied against ~~persons~~ a person for whom a collection ~~services are~~ service is provided whether ~~such services are~~ this service is performed by the county, a municipality, or a private ~~agency~~ entity. To the extent that a county ordinance restricts or prohibits disposal of waste at a permitted solid waste management facility regardless of location or impedes the development or implementation of a public or private recycling program regardless of location, the ordinance is void.”

SECTION 5. This act takes effect upon approval by the Governor and applies to ordinances in existence on or after the effective date of this act. An ordinance enacted prior to the effective date of this act is rendered invalid from the effective date of this act forward.

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