~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 9, 2014

**H. 5005**

Introduced by Reps. Bannister, Lowe, G.M. Smith, Weeks, Quinn, McEachern and Hamilton

S. Printed 4/9/14--H.

Read the first time April 1, 2014.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (H. 5005) to amend Section 5‑31‑610, Code of Laws of South Carolina, 1976, relating to the powers and duties of municipalities in regard to municipal utilities including, etc., respectfully

**REPORT:**

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

LEON HOWARD for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

There is no fiscal impact on the General Fund of the State or on federal and/or other funds.

**LOCAL GOVERNMENT IMPACT:**

The Municipal Association of South Carolina states there are no direct costs to cities.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND SECTION 5‑31‑610, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE POWERS AND DUTIES OF MUNICIPALITIES IN REGARD TO MUNICIPAL UTILITIES INCLUDING A WATER SYSTEM, SO AS TO CLARIFY THAT A REFERENDUM AND FAVORABLE VOTE OF THE MUNICIPAL ELECTORATE IS NOT REQUIRED FOR THE SALE OF A WATER SYSTEM; AND BY ADDING SECTION 5‑31‑1315 SO AS TO PROVIDE THAT NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO MUNICIPALITY SHALL BE REQUIRED TO CONDUCT A REFERENDUM, AND OBTAIN A FAVORABLE VOTE THEREIN, PRIOR TO THE SALE OF A WATER SYSTEM.

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

SECTION 1. The General Assembly finds that:

(1) As a result of the June 29, 2009, holding of the South Carolina Supreme Court in the case of *Sojourner v Town of St. George*, 383 S.C. 171, 679 S.E.2d 182, it is now established as the law of this State that there is no requirement of law that a municipality conduct a referendum for the purpose of obtaining approval from the electorate for the sale of a municipal sewer system and that a provision of the Home Rule Act of 1975, S.C. Act 283, now codified as Section 5‑7‑40, Code of Laws of South Carolina, 1976, independently grants municipalities the authority to sell its properties, including utility systems; and

(2) In view of the current state of the law, it is the sense of the General Assembly that municipalities should be not be constrained to conduct a referendum and obtain a favorable vote therein prior to the sale of a water system.

SECTION 2. Section 5‑31‑610 of the 1976 Code is amended to read:

“Section 5‑31‑610. Any city or town may:

(1) Construct, purchase, operate and maintain waterworks and electric light works within or without, partially within and partially without, their corporate limits for the use and benefit of such city or town and the inhabitants thereof;

(2) Purchase, own, operate and maintain machinery, equipment and apparatus for generating either electricity or gas for the use and benefit of such city or town and the inhabitants thereof;

(3) Acquire existing waterworks by condemnation;

(4) Contract for the erection of plants for waterworks, sewerage or lighting purposes, one or all, for the use of such cities and towns, and the inhabitants thereof; and

(5) Sell, convey and dispose of any and all such properties, any ~~such~~ sale, conveyance, or disposal of an electric light plant or water system, however, to be made, except as otherwise provided in Section 5‑31‑1315, under the provisions of Article 13 of this chapter and not under the succeeding provisions of this article.”

SECTION 3. Article 13, Chapter 31, Title 5 of the 1976 Code is amended by adding:

“Section 5‑31‑1315. Notwithstanding the provisions of Section 5‑31‑1310 or any other provision of law, no municipality shall be required to conduct a referendum, and obtain a favorable vote therein, prior to or as a prerequisite of the sale of a water system. However, if such a referendum or special election is ordered in the sole discretion of the municipal governing body, it must be conducted as provided in this article.”

SECTION 4. This act takes effect upon approval by the Governor.

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