~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 22, 2012

**H. 4721**

Introduced by Reps. Bingham, Merrill, Hixon, Southard, Corbin, Erickson, Parker, J.R. Smith, Allison, G.R. Smith, Sottile, Gambrell, Huggins, Murphy, Ryan, Putnam, Brady, Whitmire, Atwater, Ballentine, Bannister, Barfield, Bowen, G.A. Brown, Chumley, Cole, Crawford, Crosby, Daning, Forrester, Frye, Hamilton, Harrell, Henderson, Herbkersman, Horne, Limehouse, Long, Lowe, McCoy, D.C. Moss, V.S. Moss, Norman, Owens, Pinson, Pitts, Pope, Quinn, Sandifer, Simrill, Skelton, G.M. Smith, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, White, Willis, Hardwick and Patrick

S. Printed 3/22/12--S.

Read the first time March 14, 2012.

**THE COMMITTEE ON MEDICAL AFFAIRS**

To whom was referred a Bill (H. 4721) 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, 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, page 2, by striking lines 15-43, and on page 3 by striking lines 1-29 and inserting:

/ 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 regulation promulgated by the department providing for the protection of public health and public safety or ~~for protection of~~ the environment. Any ordinance that restricts or prohibits disposal of waste at any 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 the county ~~shall~~ must engage in the collection and disposal 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. /

Renumber sections to conform.

Amend title to conform.

Majority favorable. Minority unfavorable.

HARVEY S. PEELER, JR. FLOYD NICHOLSON

For Majority. For Minority.

**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, 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 THIS CHAPTER; 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 regulation promulgated by the department providing for the protection of public health and public safety or ~~for protection of~~ the environment. Any prior, existing, or future ordinance that restricts or prohibits disposal of waste at any 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 the county ~~shall~~ must engage in the collection and disposal 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 prior, existing, or future 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. Section 44‑96‑80 of the 1976 Code is amended by adding appropriately lettered subsections to read:

“Question # 1

( ) Notwithstanding any other provision of law, a local government must not be held liable for any costs or damages resulting from operation of a privately owned or operated solid waste management facility solely on the basis that solid waste managed at the facility was generated within the jurisdiction of the local government.

Question # 2

( ) Notwithstanding any other provision of law, a solid waste management facility owned and operated by a local government or local governmental entity must not be required to accept solid waste generated outside the jurisdiction of that local government unless the governing body of the local government approves the acceptance of this waste by a two‑thirds vote of its elected members.”

SECTION 6. This act takes effect upon approval by the Governor.

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