**South Carolina General Assembly**

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**H. 4076**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. McCoy

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Introduced in the House on March 30, 2017

Currently residing in the House Committee on **Judiciary**

Summary: Special purpose districts

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/30/2017 House Introduced and read first time ([House Journal‑page 85](file:///h:\hj\20170330.docx))

3/30/2017 House Referred to Committee on **Judiciary** ([House Journal‑page 85](file:///h:\hj\20170330.docx))

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**VERSIONS OF THIS BILL**

[3/30/2017](file:///p:\pprever\2017-18\4076_20170330.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 5‑3‑320 SO AS TO PROVIDE FOR AN ADDITIONAL METHOD OF ANNEXATION BY RESOLUTION OF A SPECIAL PURPOSE DISTRICT WHEN A PREEXISTING MUNICIPALITY THAT DOES NOT OPERATE AN ELECTRICITY DISTRIBUTION SYSTEM ANNEXES A MAJORITY OF THE POPULATION OF THE DISTRICT OR WHEN A MUNICIPALITY INCORPORATES A MAJORITY OF THE POPULATION OF A DISTRICT.

Whereas, the Constitution of the State of South Carolina encourages and fosters home rule wherever possible, providing that matters of local interest be decided by the persons most impacted by the decision, and encourages communities of interest to unite together where it is possible to do so; and

Whereas, allowing annexation of the remainder of the special purpose district would allow voters in that portion of that district to have representation in the municipal government and provide for a greater community of interest for provision of services; and

Whereas, in *Tovey v. City of Charleston*, 237 S.C. 475, 484, 117 S.E.2d 872, 875 (1961), the South Carolina Supreme Court held that there is no requirement of compactness or unity or regularity of shape of the boundaries of a municipality and that such matters are best left to the determination of the elected officials and voters of the municipality and the territory proposed to be annexed; and

Whereas, when a majority of the registered voters in a special purpose district have been incorporated within a municipality, and they continue to vote for the governing board of a district which determines the allocation of public services, the remaining voters in the district are left at a disadvantage because they have no ability to influence the policies of the municipality which may impact the good of the entire district; and

Whereas, annexation of the remainder of the special purpose district would allow voters in that portion of the district to have representation in the municipal government and provide for a greater community of interest; and

Whereas, public service districts often provide local government services across the entire district despite breaks in contiguity; and

Whereas, it is a matter best left to the elected officials and voters of the municipality, special purpose district, and the area to be annexed whether the contemplated addition is readily accessible to the municipality or whether the contemplated annexation would cause any difficulties in the administration of the affairs of the municipality or special purpose district or result in any undue hardship to any citizen. Now, therefore,

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

SECTION 1. Chapter 3, Title 5 of the 1976 Code is amended by adding:

“Section 5‑3‑320. (A) In addition to any other methods of annexation authorized by this chapter, this method of annexation applies to a municipality that:

(1) at the time of incorporation included the majority of the population or registered voters of a special purpose district; and

(2) did not provide electricity service at the time of incorporation or at the time when this method of annexation was initiated.

(B) For purposes of this section, ‘special purpose district’ means a district as defined by Section 4‑8‑10 that has an elected board.

(C) This method of annexation allows a municipality that meets the requirements in subsection (A) to annex in a single annexation procedure the remaining unincorporated service area of the special purpose district. This method of annexation is governed exclusively by the election requirements in this section. Compliance with the notice requirements in Section 7‑13‑35 is not required.

(1) For purposes of this method of annexation, contiguity of the municipality with any part of the district, including a part already incorporated in the municipality, is sufficient to allow annexation of the entire remainder of the district regardless of a break in contiguity in the area where the district currently provides services. Annexation of a special purpose district pursuant to this section does not create contiguity for purposes of annexation of unincorporated areas beyond the boundaries of the special purpose district.

(2) Within three years of the incorporation by a municipality that meets the requirements of subsection (A) or within three years of the effective date of this statute, whichever occurs later, the governing body of the special purpose district, at its sole discretion and after a public hearing, may petition the municipality by resolution to annex the remaining unincorporated portion of the district.

(3) No less than sixty days after receiving a petition by resolution from the district, the municipality must publish in a newspaper of general circulation within the municipality and the district a notice containing:

(a) a description of the area to be annexed;

(b) the act or code section pursuant to which the proposed annexation is to be accomplished; and

(c) a statement that the municipal council requests the county election commission to order an election be held on the question of annexation in the area proposed to be annexed.

(4) No less than sixty days after receiving a petition by resolution from the district, the municipal council shall request the county election commission to order an election. The municipal council shall pay all the costs of this election. The county election commission shall give at least thirty days’ notice prior to the date set for the election by publishing the notice of election in a newspaper of general circulation within the municipality and the district. Registered qualified electors residing within the area to be annexed have the same qualifications to vote in this election as are required of registered qualified electors to vote in the State and county general elections. The county election commission shall certify the result of the election to the district commission and the municipality.

(5) If a majority of the votes cast by the qualified electors of the area to be annexed are in opposition to the annexation, the municipal council shall publish the result of the election, and the area is not annexed. If a majority of the votes cast by the qualified electors of the area to be annexed are in favor of the annexation, the municipal council by resolution shall declare the area annexed.

(D) If the remainder of the district is annexed by the municipality according to the provisions of subsection (C), the district must be allowed to continue to provide services and collect millage in the entire area of the district incorporated in the municipality. Any effort to dissolve the district as provided in Article 15, Chapter 11, Title 6 or to plan for the transfer of services from the district to the municipality pursuant to Sections 5‑3‑311 through 5‑3‑315, must not be formulated unless a separate referendum occurs after all areas of the district are annexed and represented on the municipal council.

(E) This method of annexation does not have the effect of changing the boundaries of the special purpose district.

(F) The provisions of this section expire three years from the effective date of this act.”

SECTION 2. The provisions of this act are declared by the General Assembly to be nonseverable, and if any portion of this act is declared by a court of competent jurisdiction to be invalid, unconstitutional, unenforceable, or unlawful, the remaining provisions are declared to be null and void.

SECTION 3. This act takes effect January 1, 2018.

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