COMMITTEE REPORT

March 27, 2019

**H. 3661**

Introduced by Rep. McCoy

S. Printed 3/27/19--H.

Read the first time January 17, 2019.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3661) to amend the Code of Laws of South Carolina, 1976, by adding Section 5‑3‑320 so as to clarify the meaning of the term “contiguous”, 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, SECTION 1, by adding an appropriately lettered subsection at the end to read:

/ ( ) Lawfully permitted outdoor advertising structures annexed under this section must continue to be permitted under the same conditions as existing prior to the annexation. Such structures may be repaired, replaced, or relocated under the permitted uses prior to the annexations.” /

Renumber sections to conform.

Amend title to conform.

PETER M. MCCOY, JR. for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 5‑3‑320 SO AS TO CLARIFY THE MEANING OF THE TERM “CONTIGUOUS” WHEN A MUNICIPALITY THAT IS LOCATED ENTIRELY WITHIN THE BORDERS OF A SPECIAL PURPOSE DISTRICT ANNEXES UNINCORPORATED PROPERTY THAT IS ALSO LOCATED WITHIN THE SAME SPECIAL PURPOSE DISTRICT AS THE ANNEXING MUNICIPALITY.

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,past annexation practices of some municipalities have created breaks in the contiguity of special purpose districts, resulting in “donut holes”; and

Whereas, special purpose districts often provide local government services across these breaks in contiguity; and

Whereas, when some of the voters in a special purpose district have been incorporated within a municipality, and they continue to vote for the governing board of a district that determines the allocation and cost of local government services, the voters in the unincorporated area of 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, allowing residents of unincorporated areas of the special purpose district to annex to the municipality would allow them representation in the municipal government and provide for a greater community of interest; 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 these 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, 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 difficulties in the administration of the affairs of the municipality or special purpose district or result in 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) If a municipality is located entirely within the area of a special purpose district and a property in the unincorporated area of the special purpose district would be adjacent with the municipality and share a continuous border but for an intervening break in the contiguity of the area of the special purpose district, then that property is deemed to be contiguous to the municipality and may be annexed to the municipality using the methods provided for in this chapter.

(B) For purposes of this section:

(1) ‘special purpose district’ means any district as defined by Section 4‑8‑10 that has an elected governing body; and

(2) the area of a special purpose district is that area where residents are eligible to vote for the governing body of the special purpose district.”

SECTION 2. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑