

CHAPTER 37.

BEAUFORT-JASPER WATER AND SEWER AUTHORITY

SECTION 6-37-10. Citation of chapter.

This chapter may be cited as the "Beaufort-Jasper Water and Sewer Authority Act".

HISTORY: 2009 Act No. 55, Section 1, eff June 2, 2009.

SECTION 6-37-20. "Authority".

For purposes of this chapter, unless the context clearly indicates otherwise, "authority" means the Beaufort-Jasper Water and Sewer Authority.

HISTORY: 2009 Act No. 55, Section 1, eff June 2, 2009.

SECTION 6-37-30. Function and powers.

(A) The Beaufort-Jasper Water and Sewer Authority is a body corporate and politic whose function is to acquire supplies of water and to distribute such water within its service area. To that end, the authority is empowered to construct such reservoirs, wells, treatment facilities, impounding dams or dykes, canals, conduits, aqueducts, tunnels, water distribution facilities, water mains and water lines, and appurtenant facilities, as in the opinion of the authority as may be considered necessary, and to acquire such land, rights of way, easements, machinery, apparatus, and equipment as is considered useful.

(B) The authority shall acquire, construct, operate, maintain, improve, and enlarge facilities which provide for the collection, treatment, disposal, and recycling of water and wastewater at any point within its service area, wherever such facilities are found by the authority to be necessary for the public health and the protection of the environment; to make such facilities available to private persons, private corporations, and governmental entities as authorized by this chapter; and to finance the cost of such facilities by the means made available to the authority by the provisions of this chapter.

(C) In order to perform services and functions related to the provision of water and waste water collection, treatment, and disposal services and related public works activities, the authority is authorized to contract with any of the following counties and any political subdivision therein: Beaufort, Jasper, Hampton, and Colleton Counties.

(D) Without in any way limiting the provisions of this section, the service territory of the authority shall be Beaufort and Jasper Counties.

HISTORY: 2009 Act No. 55, Section 1, eff June 2, 2009.

SECTION 6-37-40. Members; appointment; terms; compensation.

(A) Notwithstanding the provisions of Section 6-11-610 or any other provision of law, the authority is comprised of eleven members, seven of whom shall be resident electors of Beaufort County and four of whom shall be resident electors of Jasper County.

(B) The seven Beaufort County members of the authority shall be appointed by the Governor upon the recommendation of a majority of the Legislative Delegation of Beaufort County. Of the Beaufort County members, the respective governing bodies of the City of Beaufort, the Town of Bluffton, and the Town of Port Royal shall each recommend to the Legislative Delegation of Beaufort County one person who may in turn be recommended by the Legislative Delegation of Beaufort County to the Governor for appointment and the Beaufort County Council shall recommend to the Legislative Delegation of Beaufort

County three persons who may in turn be recommended by the Legislative Delegation of Beaufort County to the Governor for appointment. One person shall be recommended by the Legislative Delegation of Beaufort County to the Governor for appointment without recommendation by any other entity.

(C) The four Jasper County members of the authority shall be appointed by the Governor upon the recommendation of a majority of the Legislative Delegation of Jasper County. Of the Jasper County members, the respective governing bodies of the Town of Ridgeland and the City of Hardeeville shall each recommend to the Legislative Delegation of Jasper County one person who may in turn be recommended by the Legislative Delegation of Jasper County to the Governor for appointment.

(D) The terms of office for all members and their successors of the authority shall be for six years. All members of the authority shall hold office until their successors have been appointed and qualify. Any vacancy occurring for any reason among the members of the authority shall be filled for the remainder of the unexpired term by the same procedure for appointment. Notwithstanding the provisions of Section 6-11-610, the seating of additional members of the authority shall not affect the terms of other members serving upon the effective date of this section.

(E) The members of the authority may fix or change the compensation or other benefits, including insurance benefits and per diem for the members of the authority. Reimbursable expenses actually incurred while on official business must not exceed the amounts authorized for members of state boards, committees, and commissions, and insurance benefits must not exceed those provided for state employees.

HISTORY: 2009 Act No. 55, Section 1, eff June 2, 2009.

SECTION 6-37-50. Powers relating to acquiring and operating facilities.

Subject to the limitations set forth in this section, the authority is fully empowered to acquire, construct, operate, maintain, improve, and extend facilities that enable it to obtain, distribute, and sell water, and to collect, treat, recycle, and dispose of water and wastewater, to persons, firms, corporations, municipal corporations, political divisions, and the United States Government, or any agencies thereof, at any point within its service area. To that end, the authority shall have the powers to:

- (1) have perpetual succession;
- (2) sue and be sued;
- (3) adopt, use, and alter a corporate seal;
- (4) define a quorum for its meetings;
- (5) establish a principal office;
- (6) make bylaws for the management and regulation of its affairs;
- (7) build, construct, maintain, and operate wells, canals, aqueducts, ditches, tunnels, culverts, flumes, conduits, mains, pipes, dykes, dams, water reservoirs, treatment facilities, and appurtenant facilities;
- (8) impound water in lakes or reservoirs;
- (9) build, construct, maintain, and operate water distribution systems;
- (10) construct, operate, maintain, improve, and enlarge facilities which provide for the collection, impoundment, retention, transmission, treatment, recycling, and disposal of water and wastewater;
- (11) acquire and operate any type of machinery, appliances, or appurtenances, necessary or useful to discharge the functions committed to the authority by this chapter;
- (12) accept gifts or grants of services, properties, or monies from the United States, or any of its agencies, under such conditions as the United States or such agency shall prescribe;
- (13) subject to the provisions of this section, sell water and wastewater services for agricultural, industrial, commercial, residential, or domestic use;
- (14) prescribe rates and regulations under which water and wastewater services shall be sold or provided;
- (15) subject to the provisions of this section, enter into contracts for the sale of water and to enter into contracts to furnish services for any or all of the collection, treatment, recycling, and disposal of water or

wastewater, upon such terms as the parties thereto shall approve, with persons, private corporations, municipal corporations, public bodies, public agencies, and with the United States Government, or any agencies thereof;

(16) prescribe regulations fixing the conditions under which services shall be provided;

(17) prescribe such regulations as the authority considers necessary to protect from pollution all water in its canals, aqueducts, reservoirs, or distribution systems;

(18) prescribe such regulations as the authority considers necessary to ensure the efficient use of water supply, collection, treatment, and disposal resources within its service area;

(19) make contracts of all sorts and to execute all instruments necessary or convenient for the carrying on of the business of the authority including, but not limited to, source water protection agreements with upstream landowners;

(20) lease or sell and convey lands or interests therein;

(21) make use of county and state highway rights of way in which to lay pipes and lines, in such manner and under such reasonable conditions as the appropriate officials in charge of such rights of way shall approve;

(22) alter and change county and state highways wherever necessary in order that the authority may discharge the functions committed to it, in such manner and under such reasonable conditions as the appropriate officials in charge of such highways shall approve;

(23) acquire, by purchase, gift, or through the exercise of eminent domain, all land, interests therein, easements, or rights of way, which the authority shall consider necessary to enable it to fully and adequately discharge all functions committed to it. The power herein granted shall be considered to include the power to acquire protective areas of land adjacent to any of its facilities and water supplies;

(24) exercise the power of eminent domain for any corporate function. The power of eminent domain may be exercised through any procedure prescribed by general law as it may be amended or expanded from time to time;

(25) appoint officers, agents, employees, and servants, to prescribe the duties of such, to fix their compensation, and to determine if and to what extent they shall be bonded for the faithful performance of their duties;

(26) make contracts for construction, engineering, legal, and other services, with or without competitive bidding;

(27) borrow money and to make and issue negotiable bonds, notes, and other evidences of indebtedness, payable from all or any part of the revenues derived from the operation of its system and facilities. The sums borrowed may be those needed to pay all costs incident to the construction and establishment of the facilities, and any extension, addition, and improvement thereto, including engineering costs, construction costs, the sum needed to capitalize and pay interest for a period of three years from the date of delivery of the bonds, such sum as is needed to supply working capital to place the facilities in operation, and all other expenses of any sort that the authority may incur in establishing, extending, and enlarging its system or the facilities. Neither the faith and credit of the State of South Carolina, nor of any county, municipality, or political subdivision of the State shall be pledged for the payment of the principal and interest of the obligations, and there shall be on the face of each obligation a statement, plainly worded, to that effect. Neither the members of the authority nor any person signing the obligations shall be personally liable thereon. To the end that a convenient procedure for borrowing money may be prescribed, the authority shall be fully empowered to avail itself of all power granted by general law for the issuance or refinancing of revenue bonds by political subdivisions of the State including future amendments and modifications thereto. In exercising the power conferred upon the authority by such general law, the authority may make all pledges and covenants authorized by any provision thereof, and may confer upon the holders of its securities all rights and liens authorized by such general law. Notwithstanding any other provision of law, the authority is specifically authorized to:

(a) covenant and agree that upon it being adjudged in default as to the payment of any installment of principal or interest upon any obligation issued by it or in default as to the performance of any covenant

or undertaking made by it, that in such event, the principal of all obligations of such issue may be declared forthwith due and payable, notwithstanding that any of them may not have then matured;

(b) confer upon a corporate trustee the power to make disposition of the proceeds from all borrowings and of all revenues derived from the operation of the facilities, in accordance with and in the order of priority prescribed by the resolutions adopted by the authority as an incident to the issuance of any notes, bonds, or other types of securities;

(c) dispose of its obligations at public or private sale, and upon such terms and conditions as it shall approve;

(d) make such provisions for the redemption of any obligations issued by it prior to their stated maturity, with or without premium, and on such terms and conditions as the authority shall approve;

(e) covenant and agree that any reserve fund established to further secure the payment of the principal and interest of any obligations shall be in a fixed amount;

(f) limit or prohibit free service to any person, firm, corporation, municipal corporation, or any subdivision or division of the State;

(g) prescribe the procedure, if any, by which the terms of the contract with the holders of its obligations may be amended, the number of obligations whose holders must consent thereto, and the manner in which such consent shall be given;

(h) prescribe the events of default and the terms and conditions upon which all or any obligations shall become or may be declared due before maturity, and the terms and conditions upon which such declaration and its consequences may be waived; notwithstanding any contrary provision of law, revenue bonds payable from the revenues of the system or systems of the authority shall be payable from and secured by a pledge of the net revenues of such system or systems remaining after provisions shall have been made for the operation and maintenance thereof;

(i) provide that all bonds of any issue mature at a fixed time in lieu of serial maturities;

(28) do all other acts and things necessary or convenient to carry out any function or power committed or granted to the authority;

(29) withdraw from the Salkehatchie River not more than twenty-five million gallons of water per day;

(30) withdraw from the Savannah River not more than one hundred million gallons of water per day;

(31) exercise the powers conferred on special purpose districts by the provisions of Article 7, Chapter 11, Title 6 related to front-foot assessments, and to provide that if assessments are imposed to defray the cost of a particular water or sewer line, any parcel that is initially or subsequently connected to the water or sewer line, whether or not the parcel actually abuts that particular line, is subject to the assessment at the time of the initial assessment or at the time the parcel becomes connected, and further provided that where any lines are extended in segments over time, the authority may treat all segments of the line or lines as a single project and may recalculate the assessments on properties subject to earlier front-foot assessments at the time of a subsequent extension of the line or lines, provided that:

(a) the new assessment is less than or equal to the amount of the earlier assessment; and

(b) the term of the new assessment must not be extended beyond the term of the original assessment.

HISTORY: 2009 Act No. 55, Section 1, eff June 2, 2009.

SECTION 6-37-60. Rates for services furnished.

The rates charged for services furnished by the authority are not subject to supervision or regulation by any state bureau, board, commission, or like instrumentality, or agency thereof.

HISTORY: 2009 Act No. 55, Section 1, eff June 2, 2009.

SECTION 6-37-70. Exemption of property from ad valorem taxes.

All property of the authority is exempt from all ad valorem taxes levied by the State, county, or any municipality, division, subdivision, or agency thereof, directly or indirectly.

HISTORY: 2009 Act No. 55, Section 1, eff June 2, 2009.

SECTION 6-37-80. Fiscal year; annual report.

The authority shall conduct its affairs on the fiscal year basis employed by the State. The authority's fiscal year shall begin July first of each year and shall end on the thirtieth day of June of the succeeding year. Within one hundred eighty days of the end of each fiscal year, an audit of its affairs shall be made by certified public accountants, of good standing, to be designated by the authority. Copies of such audits, incorporated into an annual report of the authority, shall be filed in the office of the Clerks of Court for Beaufort and Jasper Counties, with the Beaufort and Jasper Legislative Delegations, and with the Secretary of State.

HISTORY: 2009 Act No. 55, Section 1, eff June 2, 2009.

SECTION 6-37-90. Wilful injury or destruction of authority property; penalties.

(A) It is unlawful for any person to wilfully injure or destroy, or in any manner hurt, damage, tamper with, or impair the facilities of the authority, or any part of the same, or any machinery, apparatus, or equipment of the authority, or to pollute the water in any part of its service area, or to obtain water illegally from facilities of the authority, or to turn, raise, remove, or in any manner tamper with any cover of any manhole, filter, bed, or other appurtenance of any sewer except in accordance with the regulations promulgated by the authority. Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, shall be fined not less than ten dollars nor more than one hundred dollars, or shall be imprisoned for not more than thirty days at the discretion of the court, and shall be further liable to pay all damages suffered by the authority.

(B) Any person violating any regulation or any permit, permit condition, or final determination as required by state or federal law is subject to a civil penalty not to exceed two thousand dollars for each day of violation.

(C) All penalties assessed under this section must be held as debt and payable to the authority by the person against whom they have been charged and shall constitute a lien against the property of the person.

(D) The authority is empowered to conduct vulnerability assessments, prepare emergency response plans, and address threats from terrorist attacks, or other intentional actions designed to disrupt the provision of safe drinking water or significantly affect the public health or significantly affect the safety or supply of drinking water.

HISTORY: 2009 Act No. 55, Section 1, eff June 2, 2009.

SECTION 6-37-100. Disposition of revenues.

All revenues derived by the authority from the operation of its facilities, which may not be required to discharge covenants made by it in issuing bonds, notes, or other obligations authorized by this chapter, shall be disposed of by the authority from time to time for purposes germane to the functions of the authority.

HISTORY: 2009 Act No. 55, Section 1, eff June 2, 2009.

SECTION 6-37-110. Service contracts with municipalities.

All municipalities, public bodies, and public agencies operating water district systems or wastewater systems in any part of Beaufort, Jasper, Hampton, and Colleton Counties are authorized to enter into contracts to buy water and wastewater service from the authority. Such contracts shall extend over such periods of time and shall contain such terms and conditions as shall be mutually agreeable to the authority and to the contracting municipalities, public bodies, or public agencies.

HISTORY: 2009 Act No. 55, Section 1, eff June 2, 2009.

SECTION 6-37-120. Effect of amendment or repeal on contractual obligation.

Any amendment or repeal of this chapter shall not operate to impair the obligation of any contract made by the authority pursuant to any power conferred by this chapter.

HISTORY: 2009 Act No. 55, Section 1, eff June 2, 2009.