



Oconee Joint Regional Sewer Authority

623 Return Church Road
Seneca, South Carolina 29678
Phone (864) 972-3900
www.ojrta.org

OCONEE JOINT REGIONAL SEWER AUTHORITY Ad-Hoc Sewer Feasibility Implementation Committee April 10, 2025

The Ad-Hoc Feasibility Implementation Committee meeting was held at the Coneross Creek Wastewater Treatment Plant.

Commissioners/Committee Members that were present:

- Joel Jones (ReWa) – Committee Chair
- Chip Bentley (Appalachian Council of Gov'ts.)
- Amanda Brock (Oconee County)
- Chris Eleazer (Oconee Joint Regional Sewer Authority)
- Scott McLane (City of Seneca)
- Celia Myers (City of Walhalla)
- Scott Parris (City of Westminster)
- Rivers Stilwell (Attorney, Maynard Nexsen) - *via Microsoft Teams*
- Scott Willett (Anderson Regional Joint Water System)

Committee Members that were not present:

- Sue Schneider (Citizen - formerly worked for Spartanburg Water)

OJRSA appointments and staff present were:

- Lynn Stephens, Secretary/Treasurer to the Board and Office Manager

Others present were:

- Lawrence Flynn (Pope Flynn - OJRSA Attorney) – *via Microsoft Teams*
- Norm Cannada, The Journal
- Katherine Amidon (Environmental Planner, Bolton & Menk)
- Tony Adams, Oconee Co. Citizen

A. Call to Order – Mr. Jones called the meeting to order at 9:06 a.m. He stated that Ms. Schneider is absent from the meeting today. He also said he hopes the Ad Hoc Committee will complete its work of developing a recommendation for the board by the June meeting. He stated today the committee will discuss Mr. Flynn's memo and add some more content at the next committee meeting and have a draft recommendation in June.

B. Public Comment – Mr. Adams stated there was a discussion at the last meeting about how sewer is allocated in Oconee County. Mr. Adams stated that, in his opinion, sewer service in Oconee County has been used in the past as a political tool for control, which has been prevalent in the last seven-to-eight (7-8) years. He mentioned the lawsuit against the county bond (an attempt to deny infrastructure in parts of the county that had been identified for potential) and the 5-year delay in the Sewer South Phase 2 Project (which resulted in a \$7 million increase in cost and the Rural Infrastructure Authority's grant being renewed twice). He stated this political factor needs to be addressed.

C. Approval of Minutes:

- **Ad Hoc Sewer Feasibility Implementation Committee Meeting of March 13, 2025** – Mr. Willett stated the word “seated” in his statement on page 5 needed to be changed to “ceded.” Mr. Eleazer stated that Mr. Bentley is part of the committee and needs to have his name added to the committee members’ list; however, he was not present at the March meeting. Ms. Myers said her statement on page 6 needed to be corrected to state she was concerned about “not” having someone with knowledge.

Ms. Brock made a motion, seconded by Mr. Willett, to approve the March 13, 2025 Ad Hoc Feasibility Implementation Committee Meeting minutes as presented but with the noted corrections. The motion carried.

D. Committee Discussion and Action Items:

1. **Review Summary of Reconstitution Memo and Discuss Next Steps** – Mr. Jones said Mr. Flynn was asked at the last meeting to revise his memo to include consolidation of all the sewer systems for the OJRSA and Member Cities. Mr. Eleazer handed out this revised memo, as well as the recommended changes to the statute, to the committee (*made a part of these minutes*).

Mr. Jones said, in reviewing this memo, major obstacles need to be identified and captured. He said he doesn’t know if this committee will address all of them, but at least it will acknowledge them as challenges that may lie ahead in the committee’s recommendation to the board. Mr. Jones added that if a committee member didn’t think their entity would approve of something, let it be known so everyone knows what the challenges are.

Mr. Jones asked Mr. Flynn to summarize the changes that have been made and any obstacles that he can see moving forward. Mr. Flynn said this memo also aligns with the draft language for the revised legislation as well. Although the memo looks similar to the previous one, various changes that came into effect because the recommendations largely around the constitution of the governing board from the last meeting were incorporated into the language around the consolidation options.

There were two (2) major changes:

- 1) To pivot towards the recommendation of getting out of the treatment-only business and taking over the collection systems of the various satellite sewer agencies that are currently members, with the idea of negotiating for the acquisition of the collection network by Seneca, Walhalla, and Westminster, and potentially the Town of West Union. The memo also includes the Member Cities’ outstanding debt, and the recommendations should be reviewed by the Member Cities’ bond counsels and financial advisors to determine how to decouple the assets without affecting bonds. The debt is secured by pledge of the combined utility systems (Seneca and Westminster have combined water, sewer, and electric systems; Walhalla has combined water and sewer systems), and that may require the redemption of certain debt (or payment of funds necessary to redeem debt) associated with the sewer systems as part of the acquisition. This is a moving target that is only addressed at a very high level in the memo recognizing the process will need to happen. It also lays the foundation that acquisition of the sewer systems can be sold, and acquired, under the terms of an ordinance of the respective Member City, because the referendum requirement that formerly existed with the state law had been repealed.
- 2) Then after deciding how the consolidation process will work, issues regarding recomposition of the existing Oconee Joint Regional Sewer Authority, which is the direction that has already been discussed, need to be figured out. The idea is to create new governance documents, new implementation documents, new debt proposals, and entire parameters around how

members are appointed. The committee will need to talk about governance and an operating agreement. The main structure of the governance will largely focus on the success of the newly proposed legislation.

Mr. Flynn said the direction he received from the last meeting was to keep the proposed five (5)-member board; however, with the three (3) Member Cities and adding Oconee County, that only brings it to four (4) members. The question is how do you get the fifth (5th) member? The original proposal was to amend the legislation to allow for a joint agency with an even number of members and have the fifth (5th) member recommended by the legislative delegation and appointed by the state governor.

Mr. Flynn added the open item still needing addressing is whether the members should be agents or employees of the entity, and he believes it is in the best interest of the OJRSA to have representation by members who are unaffiliated with the appointed bodies because of fiduciary considerations. He gave the following example: If mayor of a city is also on the OJRSA board, do you have capability to think in a fiduciary capacity acting in the best interest of the OJRSA?

Mr. Flynn said there were two (2) additional authorizations added into the statute:

- 1) Getting rid of the member-appointment methodology in its entirety (not allowing members to appoint members but having entire board appointed by the governor upon recommendation by the legislative delegation) to move towards how most Special Purpose Districts are appointed. This would be an election the members make at the outset and would default their decision-making authority on board membership to the delegation and governor; and
- 2) As recommended by Ms. Sue Schneider, having some experience with Ad Hoc members, ex-officio members, and some elected members: To have a full-blown elected commission, elected from the boundaries of the OJRSA service area, which would require the recommendation as an elector.

Mr. Flynn stated these two (2) new methods for appointing membership are to try and avoid the current situation with the fiduciary limitations and the potential for how additional members get appointed. This is in addition to acquiring the collection systems. Mr. Flynn also recommended that the number of board members should not go over seven (7), as it becomes more difficult to functionally operate a board with more than that amount.

Mr. Flynn added that all these options are explicitly conditional on the legislation being introduced and considered. This memo pre-supposes several things being introduced through legislative amendments based on every one of the governance structures that are being proposed.

Mr. Flynn said there were some general items in the legislation that were discussed in previous meetings, such as:

- 1) The voting mechanism (1 man/1 vote for certain matters and weighted voting for financial functions). He said the idea of having weighted voting becomes less important if you have membership elected from the service area at large or if you have appointed membership by the governor where there are no constituent duties or the potential conflicts if an appointed member by the respective governing body. Therefore, the voting mechanism may change depending on the governance structure that is put in place.
- 2) The expansion of debt parameters is the same thing as seen before to potentially expand, but also what it looks like to pre-approve debt (which was previously recommended knowing the capital budget is significant to the organization) by making some authorizations and approvals to do treatment plant expansions and collection system improvements as part of the reconstitution.

3) Discussion what the process is for a new rate structure that will come from the Willdan Financial reports.

Mr. Flynn stated that this is what the memo proposes at a high level to help identify the next steps to be taken forward: make appropriate arrangements for the proposed legislative amendments to be filed; engage all necessary professionals to start moving forward on the recommendation (including engineers, rate consultants, lawyers, and financial advisors) to determine how to redeem the outstanding debt of the current members as necessary for the transition and convey those various collection systems; obtain commitments from each of the Member Cities to consolidate the collection systems; and put deadlines in place to get all of this established. Then to ensure this is successful, the draft legislation needs to be approved, everyone needs to agree to the authorization, and a schedule for implementation needs to be set forth.

Ms. Amidon stated, regarding the third (3rd) option recommended by Ms. Schneider for the duly called election of the board, that it looks like it only applies for those in the current service area. She asked for clarity if it is actually the boundary by which the OJRSA can serve (the whole county as a whole). Mr. Flynn replied that this is a question to be run through legislative drafting. The constitution requires the person to be a qualified elector in order to serve, so the question is who becomes a qualified elector. OJRSA does not tax, so the argument would largely be that you only have the authority to serve in the areas in which OJRSA is currently serving, because those are the people ultimately affected by the business decisions being made. If OJRSA was a taxing agency and people were paying property taxes on debt or operations and not actually receiving service, there could be an argument that they were an elector, but this is not the case. The current legislation requires an elector to be a member or a service recipient from the OJRSA.

Ms. Amidon asked how that limits the OJRSA, because that would be a very tight area within Fair Play. Ms. Brock said Oconee County had funding for eighteen (18) years at \$613,000 per year to the entire system. That would not just be for Fair Play but would also include all the upgrades to Martin Creek and Seneca Creek, because they were high-dollar investments in the system. Ms. Amidon replied she's just trying to figure out where the service area is.

Mr. Jones said this was discussed in the last meeting and asked if this was a limitation in the current municipal joint legislation or outside of that. Mr. Flynn said it is a limitation of the constitution that says you can only be elected to a position in which you serve as a qualified elector, and the problem is how you identify who an elector is. Mr. Jones stated that this Authority will impact people outside the current customer base in the future and asked if there was a way to designate service territory (and not necessarily countywide). Mr. Flynn said he thinks it could, but it must be designated. Mr. Flynn added that the current definition of an elector is someone who is residing within the service area of the joint system, and this must be addressed with legislative drafting.

Mr. Stilwell said this will go to the legislative delegation in their next session, and he asked if the delegation was going to be asked to approve all three (3) options or is the committee going to ask the delegation to approve the one that is recommended. Mr. Flynn replied that all of these are options that will be put into the statute and then the members would get to choose which option to pursue.

Mr. Stilwell asked if Senator Alexander already has a draft of it. Mr. Flynn replied that he, Mr. Kevin Bronson (OJRSA Board Chair), and Mr. Eleazer had a conversation with Senator Alexander and his drafting attorney prior to this most recent draft. Due to timing and trying to get in at the end of the current session or at least beginning of the next session, it was decided to provide Senator Alexander with the draft that he could introduce but was conditioned that it was not reviewed or considered formally by the Ad Hoc Committee or the full OJRSA board.

Mr. Stilwell asked if the committee is going to recommend going with the legislation and a specific option or is the committee just going to say which legislation works. Mr. Jones said the committee must work out the consolidation and debt issue to find out if it's viable to decide which path to go with governance modeling. Mr. Stilwell agreed, saying if the money doesn't work then none of the legislative solutions will work. The critical path is determining what the systems are worth.

Mr. Stilwell said the county has a good amount of debt with essentially no customer base. Mr. Flynn replied the County is supported by taxes, but this is a revenue-only system, so the OJRSA must be able to support that debt, so that's why this is difficult. Each layer that is explored opens another set of issues to resolve.

Mr. Flynn added that the main thought was how to decide on the fiduciary questions. If you deal with the fiduciary issue, the finances can largely follow it because you won't have people making decisions based on other constituencies that are unrelated to the sewer service.

Mr. Flynn stated that it's been said you don't make money making sewer, but you can make money in sewer by setting rates and charges at a level sufficient to be able to recover those costs, and right now it is not happening. Mr. Stilwell said you can change the people in the chairs, but the money problem is still there. There is substantial debt with the members, the rates aren't sufficient, and the elephant in the room is deferred maintenance to the systems. Mr. Flynn said the new people could increase the rates to the level those repairs require, and you can afford anything if you create the rate base to support what you are trying to finance.

Mr. Willett asked how Oconee County is paying back its debt when it has no customer base. Ms. Brock replied with interest. Mr. Flynn said with property taxes. Ms. Brock said the interest that the County is earning on the bond itself is paying the debt as well as increased property taxes by new users. Mr. Willett said that if the debt is being paid by property taxes countywide, the service area shouldn't be limited. The County is a new member of the board, and everyone in Oconee County could be an elector and eligible to be on the board. Mr. Flynn replied that taxes could be levied based on a general benefit (such as non-parents paying school taxes as a general benefit). Mr. Flynn stated a definition of who is identified as an elector added to the statute might be the solution to this issue, but he added that it is difficult to identify what the electoral map looks like.

Mr. Jones asked if these items are something to be worked out by this implementation committee. He also asked if any of the three (3) items within the legislation that is before this committee is unworkable. Ms. Brock stated she didn't think the Oconee County Council would approve the board being fully elected. Mr. Jones asked if the committee was all for these three (3) opportunities for governance and representation. He said the committee can recommend what is most preferred under certain scenarios.

Ms. Brock said she was talking to committee members in the parking lot after the last Ad Hoc meeting about a possible compromise. She thinks there could be a formation of a transitional committee. Each member currently has the opportunity to appoint a person to serve as a transition person, because going from what it is now to a whole new system is not palatable to a lot of people holding the purse strings. The purse strings are the most difficult part of this organization. Although there would still be two bosses, there would be a five (5) member board, and they would have staggered terms. The County seat would be three (3) years, and each of the Member Cities could have two (2) years with two (2) consecutive terms. This would give an opportunity for a transition to occur, and when the seats run out, then you move on to the next step.

Ms. Brock added that the County Council is going to want someone from Oconee County sitting in the seat to go from start to finish. If that person knows someone else will be appointed in three (3) years that can learn the County structure of funding and the County's position without being an

employee or having strings tied to the purse, they could help find that person, and that would make a smoother transition. Less progress will be made with a flip of the coin. Mr. Flynn replied that this would require further manipulation of the statute, because that's not currently contemplated as the statute is currently drafted. Mr. Flynn said he's not saying it can't be done, but the statute was amended to authorize the governor to appoint to the board, and he doesn't know the practical benefit of adding this separate transitional authorization that doesn't solve any underlying issues that were the reason for going through this process to make recommendations on how to proceed. Ms. Brock said the benefit of doing it this way is to allow for the transition. She asked if the Member Cities were ready to flip a coin. Ms. Myers said no; Mr. Parris replied that some details needed to be worked out on handing everything over; it is going to take time.

Mr. Willett asked what the difficulties would be in using the existing entity and existing governance to bring on someone else and make that the transitional team, making it the last act of the existing and current joint water system; then on a certain date, the certification with the state is filed. Mr. Flynn replied to Mr. Willett that you cannot go through the reconstitution until you address the outside issues; you must transition and convey the entire system to the organization. In addition, a new system is not being created, but rather the existing system is being reconstituted to bypass all the real estate work of transferring the assets to a new organization. Everyone needs to agree upon the transfer of the assets, but then all of this can be subject to a certain date and tie that to the recomposition of the organization at large. This is not something that will happen in the next six (6) months. Mr. Willett said it doesn't look like changes to the Act will happen until next year, and it will probably stretch a year from that before you have a transition date. Mr. Flynn said it will be a couple of years at a minimum.

Mr. Jones said his biggest concern is who is going to hold the board accountable to get to that point; who is the authority that will enforce this? Mr. Jones asked where the fine line was. Mr. Flynn replied that the committee will make its recommendation, and then once the recommendation is made, the impetus to take some action falls back to the OJRSA Board of Commissioners.

Mr. Flynn said the state regulators, including the Rural Infrastructure Authority (RIA), warned if OJRSA does not move forward on this, they will not receive any additional state funding. The pressure is coming from the state regulatory side and not the local government side. He added that Ms. Mettlen and her team were tasked with moving this forward, and he admitted he is concerned if the OJRSA loses that leadership. He said someone should stay in charge and on top of it.

Mr. Jones thinks that, along with the recommendation, the committee should suggest ways to ensure that implementation is successful. Ms. Brock suggested looking to Ms. Mettlen to continue to be the leadership.

Mr. Stilwell said of the three (3) choices in the memo, the second (2nd) choice seems to be the most attractive to him. He didn't think anyone on the committee would prefer to see elected commissioners. Ms. Brock agreed. Mr. Bentley asked if the committee would recommend the second (2nd) choice to the board, or would it give the board all three (3) options and have the board to decide. Mr. Jones said when it is drafted up, the committee will decide how to do it (that will be the committee's recommended option). Mr. Willett said having some weighting based on the members makes sense, and breaking the ties of answerability is important; the second (2nd) choice is the one that comes closest to doing that.

Mr. Flynn stated that no matter what option the committee determines is most preferred, the members who are reconstituting the organization have the flexibility to choose which option within the legislation that suits them. Mr. Willett replied that this committee has the task of making a recommendation, and he has no problem stating what is the preferred route to take.

There was some additional talk about debt and the rates needed to pay for it. Mr. Flynn felt the committee members were mixing concepts and took the time to explain that Oconee County had already issued the "GO bond" (general obligation bond) to run sewer improvements along the I-85 corridor of the county; this will continue unabated and should not be affected in any way by the consolidation that is being proposed, because it is untethered to the asset. The receipt of sewer service to a customer in the southern part of the county has nothing to do with rates. He added he understands the OJRSA will own that asset and will charge accordingly for it to be part of its regular rate base. Oconee County, regardless of what option is taken, will continue to have that GO bond outstanding and payable from the full faith and power of the County to pay off the debt.

Mr. Stilwell asked if someone could do the financial case and explain what the rates would have to be, because that is ultimately what the power of the purse will run back to. Mr. Flynn said this is where all the Member Cities need to agree to consolidation. He spoke about Walhalla having a \$21 million revenue bond from a couple of years ago exclusively done for expanding their water treatment plant. This is completely untethered from the sewer system; however, from a debt standpoint, the security for this obligation is the combined revenues of the water and sewer system together. The water system should be paying for all the debt on that bond without reliance on the sewer system, but that may not be the way it's working; therefore, there should be analysis with Walhalla's bond counsel and financial advisor to see if Walhalla can decouple and sell off the sewer system without having to touch the outstanding revenue bond, because the OJRSA is diminishing the security that the bond holders are receiving. Mr. Flynn added Seneca and Westminster have combined water, sewer, and electricity.

Mr. Stilwell asked if the Member Cities think the OJRSA is going to write them a check, or that they are going to unload \$10 million in debt on the OJRSA and say, "Take it"? Mr. Flynn replied that is a question of how the OJRSA obtains the systems. Mr. Stilwell said he feels this is the critical part. Mr. Flynn spoke more about the value of the conveyance systems, and Mr. Stilwell added that the deferred maintenance cost needs to be factored in as well. Mr. Flynn said he feels the only way this is going to work is if the systems are granted over to the OJRSA at no cost with a determination of what improvements need to be made for all those systems. This is way beyond the scope of this committee's work.

Mr. Jones said this committee needs to wrap up its work, and the recommendation should include a determination of who will continue the work of this recommendation. The easy stuff is about to be completed, but the hard work to come is the implementation. Someone must take the lead to make it happen, and there must be a reason to make it happen. Mr. Bentley agreed that the committee is about at a point of recommending the path forward and making sure the playing field is set for that with legislation, but some of these issues are beyond this committee's scope. The sooner this gets started, the quicker it goes. Mr. Jones thinks determining the value of the systems should be one of the starting points. Ms. Brock said it is also about figuring out if it's financially feasible for the Member Cities to make the move.

Mr. Eleazer summarized what he understood the discussion to be by saying they were taking the value of the conveyance and adding in the deferred maintenance costs, which sounds like the Member Cities could have to pay someone else to take their systems. During some laughter, Mr. Jones said that it is not viable, Ms. Brock replied that was not happening, and Ms. Myers joked that Mr. Eleazer might have just killed this plan. Mr. Eleazer said it sounded like there was no value to the system or even a negative value due to the deferred maintenance, and he said he wanted to understand if he was getting this correct. Mr. Bentley said in theory yes, but no one is going to see it like that. Mr. Jones said from the start you plan on what you must spend to create and maintain

a sewer system. He added that everyone must come forward in good faith to come up with the best solution, and if it all comes down to economics, you won't get anywhere.

Mr. Parris said that, in most circumstances, sewer is subsidized by water and electric revenue. He asked if taking the sewer off the books actually improve the comfort of the bondholders as that liability is gone. Mr. Flynn said that would be the case, but that is why someone has to do the analysis. Ms. Myers said that Walhalla spoke to the bond counsel already, and it would have to be voted on by the bondholders, and it would be up to them to decide whether they want to do it or not. It may not be left up to the Member City.

- 2. Discuss Final Recommendations for Steps Forward Towards Reorganization, Consolidation, and Other Matters Relevant to This Committee** – Mr. Jones asked if everyone agreed that consolidation will be part of the recommendation; everyone agreed. Mr. Jones added any major hurdles or obstacles that can be seen should also be included in the recommendation.

Mr. Bentley said next month it can be looked into: who moves this forward, who is responsible, and what the timeline is. Mr. Jones suggested that the committee recommend some type of transitional process that would help ensure this moves forward and is completed; everyone agreed with this.

Mr. Willett said looking over Mr. Flynn's recommendations, it spoke about pre-authorized/pre-approved projects. He said his personal experience with pre-approved projects that are written into a contract and turned over to the new organization can be a "death sentence." He said the cleaner the handoff to a future board to allow them to make fiduciary decisions that are best for the system at that time, the better it is.

Mr. Jones asked the committee to think on recommendations, how to pursue implementation, discuss a change in governance, and discuss the transitional process (framework). He said the committee should come back with a draft form of the recommendation at the May meeting.

Mr. Jones also asked what the OJRSA board expected from this (a written recommendation or a presentation). Ms. Brock suggested a joint meeting. Ms. Myers said it probably wasn't a bad idea to have a joint meeting. Mr. Jones replied they should give an option for a joint meeting. Mr. Bentley suggested doing a presentation at a minimum. Mr. Eleazer said the guidance for this committee as stated in the Feasibility Study Report was just to report back to the OJRSA and Oconee County, and there wasn't anything more requested.

Mr. Flynn spoke about defining an elector for clarification. Ms. Myers suggested that each committee member individually note what they would support out of the six (6) choices in the memo. Mr. Jones and Ms. Amidon suggested an electronic document be shared where everyone could put their ideas in notes that could be viewed by everyone on the committee.

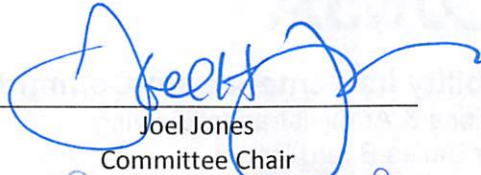
- E. Public Comment Following Committee Discussion and Action Items** – Mr. Adams stated there was a comment made in the meeting that really shocked him about making money on sewer by jacking up the rates. Mr. Adams stated that this was not customer-friendly and added that the OJRSA could make money on sewer by adding customers, especially industrial customers.

F. Upcoming Meetings

- 1. Executive Committee** – Thursday, April 10, 2025 at 11:15 a.m. *(called meeting)*
- 2. Operations & Planning Committee** – Wednesday, April 16, 2025 at 8:30 a.m.
- 3. Finance & Administration Committee** – Tuesday, April 22, 2025 at 9:00 a.m.
- 4. Board of Commissioners** – Monday, May 5, 2025 at 4:00 p.m.
- 5. Sewer Feasibility Implementation Ad Hoc Committee** – Thursday, May 8, 2025 at 9:00 a.m.

- G. Adjourn** - The meeting adjourned at 10:34 a.m.

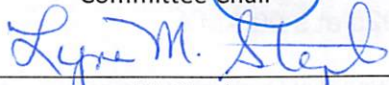
Approved By:


Joel Jones
Committee Chair

Date Approved:

5/8/25

Approved By:


Lynn M. Stephens
OJRSA Secretary/Treasurer

Notification of the meeting was distributed on March 7, 2025 to *Upstate Today*, *Anderson Independent-Mail*, *Westminster News*, *Keowee Courier*, *WGOG Radio*, *WSNW Radio*, *City of Seneca Council*, *City of Walhalla Council*, *City of Westminster Council*, *Oconee County Council*, *SC DHEC*, www.ojrsa.org, and posted at the OJRSA Administration Building.



Ad Hoc Sewer Feasibility Implementation Committee

OJRSA Operations & Administration Building

Lamar Bailes Board Room

April 10, 2025 at 9:00 AM

This advisory committee was established by the OJRSA Board of Commissioners at its November 4, 2024 meeting to consider recommendations and report to the OJRSA Board and Oconee County as identified in the [Regional Feasibility Planning Study](#) as adopted by the OJRSA on September 9, 2024. The committee can neither create policy nor make decisions on behalf of the OJRSA or other wastewater service providers within the area. See the study at www.ojrsa.org/info for more information.

OJRSA commission and committee meetings may be attended in person at the address listed above. The OJRSA will also broadcast meetings live on its YouTube channel at www.youtube.com/@OconeeJRSA (if there is a technical issue preventing the livestreaming of the meeting, then a recording will be published on the channel as soon as possible). For those not able to attend in person, then the OJRSA Board or Committee Chair will accept public comments by mail (623 Return Church Rd, Seneca, SC 29678) or at info@ojrsa.org. Comments must comply with the public session instructions as stated on the meeting agenda and will be received up until one hour prior to the scheduled meeting. If there is not a public session scheduled for a meeting, then comments shall not be accepted.

Agenda

- A. Call to Order** – Joel Jones, Committee Chair
- B. Public Comment** – Receive comments relating to topics that may or may not be on this agenda. Session is limited to a maximum of 30 minutes with no more than 5 minutes per speaker.
- C. Approval of Minutes**
 - Ad Hoc Sewer Feasibility Implementation Committee Meeting of March 13, 2025
- D. Committee Discussion and Action Items**
 - 1. Review summary of reconstitution memo and discuss next steps – Joel Jones, Committee Chair
 - 2. Discuss final recommendations for steps forward towards reorganization, consolidation, and other matters relevant to this committee – Joel Jones, Committee Chair
- E. Public Comment Following Committee Discussion and Action Items** – Session is limited to a maximum of 30 minutes with no more than 5 minutes per speaker.
- F. Upcoming Meetings** *All meetings to be held in the Lamar Bailes Board Room unless noted otherwise.*
 - 1. Executive Committee – April 10, 2025 at 11:15 AM **Called Meeting**
 - 2. Operations & Planning Committee – April 16, 2025 at 8:30 AM
 - 3. Finance & Administration Committee – April 22, 2025 at 9:00 AM
 - 4. Board of Commissioners – May 5, 2025 at 4:00 PM
 - 5. Ad Hoc Sewer Feasibility Implementation Committee – May 8, 2025 at 9:00 AM
- G. Adjourn**



Meeting Sign-in Sheet

Date: 4/10/25 Time: 9am Location: WWTP Board Room

ORGANIZATION

Chris

Rewa

5 LFW

Westminster

Westminster

Осори

ACOG

Bulhan J Mark

Bulhan J Mark



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PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

MEMORANDUM

To: Oconee Joint Regional Sewer Authority, South Carolina

From: Pope Flynn, LLC

Re: Consolidated Reconstitution

Date: March 31, 2025

Oconee Joint Regional Sewer Authority, South Carolina (the “**Authority**” or “**Joint Authority**”) is a body politic and corporate, and a joint authority sewer system organized under Title 6, Chapter 25 of the Code of Laws of South Carolina 1976, as amended (the “**Joint Authority Act**”). The Authority was created in 2007 under the provisions of the Joint Authority Act by its three-member municipalities (collectively, the “**Members**”)¹: the City of Seneca, South Carolina (“**Seneca**”), the City of Walhalla, South Carolina (“**Walhalla**”), and the City of Westminster, South Carolina (“**Westminster**”).

Based on funding from the South Carolina Rural Infrastructure Authority, the Joint Authority engaged a team comprised of W.K. Dickson & Co., Inc., Willdan Financial Services, and Bolton & Menk, Inc. to prepare a regional feasibility planning study, which was formally adopted by the Oconee Joint Regional Sewer Authority Commission, as the governing body of the Authority, on September 9, 2024 (the “**Study**”). The purpose of the Study was to determine long-term sewer service options within Oconee County, South Carolina (the “**County**”). Contemporaneously with the Study, the Joint Authority also undertook its “Oconee County and Western Anderson County Sewer Master Plan” (the “**Master Plan**”). Major infrastructure recommendations in the Master Plan include: developing plans to expand the Coneross Creek Wastewater Reclamation Facility (the “**Coneross WRF**”); updating the regulatory checkbook to gain permitted capacity at Coneross WRF; reducing pump station infrastructure and wastewater travel time; and working with Members to improve collection infrastructure.

Based on the terms of the Study and the Master Plan, Pope Flynn, LLC previously prepared and presented two memoranda, one dated November 26, 2024, which described options for the reorganization of the Joint Authority, and another dated February 25, 2025, which summarized the steps for reconstitution of the Joint Authority.

¹ For purposes of the reconstituted Joint Authority, such term would also include the County (as defined herein) once or if it is added as a Member.

Subsequent to the release of the memos, the *ad hoc* committee studying the Joint Authority recommended that the satellite sewer systems owned and maintained by Seneca, Walhalla, Westminster, and any other contributing public satellite sewer system (collectively, the “*Existing Systems*”) be conveyed to the Authority such that all sewer treatment and collection services in the County would be performed exclusively by the Joint Authority. As a result, a summary of procedures to acquire the Existing Systems and reconstitute the Joint Authority are separately described below.

Acquisition of Existing Systems

The acquisition of the Existing Systems by the Joint Authority has a number of legal, practical and logical obstacles that must be considered and addressed prior to the reconstitution of the Authority. While the conveyance procedure for the Existing Systems could be done simultaneously with the reconstitution, it is advisable that such conveyance be implemented and finalized before the reconstitution occurs. By implementing such a procedure in advance of reconstitution, any attendant delays, failures to act, disagreements on value and other matters associated with the planned conveyance can be addressed and finalized prior to reconstitution such that any of the foregoing matters will not be an impairment to the reconstitution process. A summary of the matters necessary to implement the acquisition of the Existing Systems by the Joint Authority is provided below:

- Conveyance of Existing Systems to be conducted by ordinance of each respective Member. No referendum is required as a result of the Supreme Court’s determination in *Sojourner v. St. George*, 383 S.C. 679 S.E.2d 182 (2009).
- Review of outstanding utility debt obligations of each Member is required, and consideration must be made as to limitations for sale of system components secured by revenues of sewer systems, respectively:
 - Walhalla (combined water and sewer)²
 - \$17,945,000 principal amount still outstanding on originally issued \$20,620,000 Water and Sewer System Revenue Bonds, Series 2018.
 - Various capital leases secured by utility system assets.
 - Seneca (combined water, sewer and electric)³
 - \$890,000 principal amount still outstanding on originally issued \$8,350,000 Combined Utility System Refunding Revenue Bonds, Series 2012.
 - \$460,015 principal amount still outstanding on originally issued \$3,762,930 Combined Utility System Refunding Revenue Bonds, Series 2020.
 - \$537,729 principal amount still outstanding on originally issued \$1,993,633 Combined Utility System Revenue Bond, Series 2007 (South Carolina Drinking Water Revolving Loan Fund).
 - \$6,943,035 principal amount still outstanding on originally issued \$11,528,750 Combined Utility System Revenue Bond, Series 2014 (South Carolina Drinking Water Revolving Loan Fund).

² Source: 2023 Audited Financial Statements

³ Source: 2024 Annual Comprehensive Financial Report

- \$4,791,937 principal amount still outstanding on originally issued \$6,031,455 Combined Utility System Revenue Bond, Series 2007 (South Carolina Water Pollution Control Revolving Fund).
- Potential capital leases secured by combined utility system assets.
- Westminster (combined water, sewer and electric)⁴
 - \$8,260,000 principal amount still outstanding on originally issued \$8,260,000 Combined Utility System Revenue Bond Anticipation Note, Series 2023⁵.
 - Originally issued \$369,947 Combined Utility System Revenue Bond, Series 2022 (ConserFund Loan).
 - Various capital leases secured by combined utility system assets.
- The terms and conditions of acquisition, including valuation, financial considerations, and transfer processes shall be reviewed and considered.

Reconstitution of the Joint Authority

Once the Joint Authority acquires the Existing Systems, it is recommended that the Joint Authority be reconstituted to address governance, operations, voting, debt and regulatory matters that currently plague the Joint Authority as currently constituted. A summary of items to be addressed and considered during the reconstitution process are described in summary fashion below.

1. Governance Structure

- The Authority shall be reconstituted to include the County as a Member.
- Reconstitution shall provide that the Authority shall have the power to provide retail sewer services within its service area.
- The governing body of the Authority shall be a five-member commission (the “*New Commission*”). Draft legislation has been proposed to amend the Joint Authority Act to permit new methods for appointing or electing commissions. The draft legislation permits a variety of options, including:
 - *Status quo* appointment of commissioners by Members, with authorization to add a fifth, seventh, ninth or eleventh member appointed by the Governor upon the recommendation of the legislative delegation from Oconee County;
 - Full appointment of the New Commission by the Governor, upon the recommendation of the legislative delegation from Oconee County based upon an appointive index of total customers; or
 - Election of the New Commission in a duly called election to be held within the service boundaries of the Authority.

2. Operating Agreement

- A new operating agreement shall be executed with a minimum term of 40 years.
- The agreement shall define governance, financial obligations, operational responsibilities, and dispute resolution mechanisms.

⁴ Source: 2024 Audited Financial Statements

⁵ To be taken out by long-term financing with United States Department of Agriculture, Rural Development.

- This expressly includes the authorization to provide retail sewer services within its service area.
- 3. **Voting Mechanism**
 - General matters shall be determined by per capita voting.
 - Option for weighted voting for finance-related matters shall be subject to a voting mechanism that assigns voting rights based on an agreed-upon formula. Note, this may not be necessary if the Members are not appointing the Commissioners.
- 4. **Expansion & Debt Parameters**
 - A framework shall be established for funding system growth, including capital improvements and infrastructure expansions.
 - Preapproval mechanisms shall be established for financing certain projects.
 - Member approval requirements shall be clearly defined for all other debt issuances, or alternatively, if the New Commission is elected, the draft legislation contemplates that separate approval of the Members will not be required.
- 5. **Addition of New Members**
 - The Authority shall establish clear parameters and a defined mechanism for admitting new members.
- 6. **Rate Structure**
 - An equitable rate structure shall be developed, ensuring fairness among all Members and customers.

Next Steps

As the *ad hoc* committee works to complete its mission of reviewing the Joint Authority and considering the entity's future options, it has definitively determined that acquisition of the Existing Systems by the Joint Authority and reconstitution of the organization are required. Next steps to ensure that such recommendations are timely fulfilled, include the following:

- Make arrangements to file proposed amendments to the Joint Authority Act.
- Engage necessary professionals (engineers, rate consultants, lawyers, and financial advisors) to develop engineering models, financial models and legal framework for completing the asset transfers and redeeming or restructuring the debt associated with the Existing Systems.
 - Commitments must be secured by each Member as to its willingness and agreement to conveyance of their respective sewer systems to the Joint Agency, eschewing continued operations of the same.
 - Deadlines shall be imposed for deliverables from professional consultants, and the necessary commitments from the Members.
- Contingent on successful enactment of draft legislation, (i) finalize governance details and plans for New Commission; and (ii) create a timeline for implementation of the reconstitution.

TO AMEND CERTAIN PROVISIONS OF TITLE 6, CHAPTER 25 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO AUTHORIZE CERTAIN CLARYIFYING AMENDMENTS REGARDING COMMISSIONERS, RECONSTITUTION, BOND APPROVAL AND DURATION.

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

SECTION 1. Section 6-25-20 shall be amended to add the following defined terms:

§ 6-25-20. Definitions.

(14) "Legislative Delegation" means all members of the South Carolina Senate and South Carolina House representing any county where a joint system is located.

(15) "Governor" means the Governor of the State of South Carolina.

SECTION 2. 6-25-50 shall be amended and restated as follows:

SECTION 6-25-50. ~~Agreement as to number of commissioners each member may appoint;~~
Application filed with Secretary of State; corporate certificate.

(A) The governing bodies of the members of a joint system shall form an agreement specifying the number of commissioners ~~each member may appoint to a commission created to govern the joint system pursuant to Section 6-25-60.~~

(B) ~~Two or more commissioners~~ The proposed members of a joint system shall jointly file an application with the Secretary of State ~~an application signed by the commissioner or each proposed member setting forth:~~

(1) ~~the names of~~ number of proposed members of the joint system, the number of proposed commissioners, and ~~their respective appointed commissioners~~ the method of appointment or election of commissioners pursuant to Section 6-25-60(B);

(2) ~~(a) the a~~ a certified copy of a resolution of each member determining it is in its best interest to participate in the proposed joint system; and

~~(b) the resolution appointing the member's commissioner;~~

(3) the desire that the joint system be organized as a public body corporate and politic under this chapter;

(4) the name which is proposed for the joint system; and

(5) the purpose for creation of the joint system.

The Secretary of State shall file the application if after examining it and determining that it complies with the requirements in this section and that the proposed name of the joint system is not identical with that of any other corporation of the State or any agency or instrumentality or so nearly similar as to lead to confusion and uncertainty.

After the application has been filed, the Secretary of State shall issue a corporate certificate that must be filed with the application, and the joint system then must be constituted a public body corporate and politic under the name proposed in the application. The corporate certificate shall set forth ~~the names of all voting member and~~ the name of the joint system. There also must be stated upon the corporate certificate the purpose for which it has been created, as set forth in the application. Notice of the issuance of such corporate certificate must be given to all members of the joint system by the Secretary of State.

In any suit, action, or proceeding involving the validity or enforcement of, or relating to, contract of a joint system, the joint system in the absence of establishing fraud shall be conclusively considered to have been established in accordance with the provisions of this chapter upon proof

of the issuance of the certificate by the Secretary of State. A copy of the certificate, duly certified by the Secretary of State, is admissible in evidence in any suit, action, or proceeding and is conclusive proof of the filing and contents.

SECTION 3. 6-25-60 shall be amended and restated as follows:

§ 6-25-60. Joint system to be managed and controlled by commission; ~~appointment of commissioners; oath; records; seal; quorum; vacancies; expenses.~~

(A) The management and control of a joint system is vested in a commission that may consist of no fewer than five members and no more than eleven members. A commissioner has one vote and may have additional votes as a majority of the members of the joint system determines.

(B) As contemplated by the initial application to the Secretary of State, commissioners serving on the commission may be appointed or elected under one of the following procedures:

(1) Appointment by member. The governing body of each voting member of a joint system shall appoint a commissioner, pursuant to Section 6-25-50(A), to serve as a commissioner of the joint system. ~~A commissioner has one vote and may have additional votes as a majority of the members of the joint system determines.~~ A commissioner serves at the pleasure of the governing body by which he was appointed. A commissioner, before entering upon his duties, shall take and subscribe to an oath before a person authorized by law to administer oaths to execute the duties of his office faithfully and impartially, and a record of each oath must be filed with the governing body of the appointing authority.

Notwithstanding the provisions of this subsection requiring the commission managing a joint system to have no fewer than five members and no more than eleven members, a joint system in existence on this section's effective date and having fewer than five members or more than eleven members on this section's effective date may continue to maintain the number of members serving on the section's effective date and may add additional members as its commissioners determine. Further, and notwithstanding the appointment requirements above, in the event there are an even number of members of a joint system (i.e. 4, 6, 8, 10), the project contract, bylaws or other similar agreement for the joint system may authorize one additional member of the commission; such additional member of the commission shall be recommended by the legislative delegation from each county where the joint system is located, and upon receipt of such recommendation, appointed by the governor. Any gubernatorial appointment shall be for a term of four years and shall serve until a duly appointed successor is appointed and qualified. Any vacancy of such member must be filled for the remainder of the unexpired term in the same manner as the original appointment. If a new member of a joint system is added under the provisions hereof such that there becomes an odd number of members of a joint system, any gubernatorial appointed commissioner shall be deemed to automatically vacate his position as a commissioner as of the date of the admission of such new member of a joint system and their respective appointment of a new commissioner.

(2) Appointment by Governor. The commissioners may be appointed by the Governor in accordance with the following procedures:

(a) The total number of customers served by the joint system (including customers served by members of the joint system) must be divided by the total number of commission seats, the result being an apportionate average;

(b) The respective number of customers of each member of the joint system must be divided by the apportionate average to determine an appointive index.

(c) The Governor, based upon the recommendation of the legislative delegation from each county that the joint system operates, shall appoint a number of commissioners to the commission from each member of the joint system equal to the whole number

indicated by its appointive index. If by this method there are insufficient members appointed to complete the commission, an appointive index closest to the next highest whole number shall be authorized to have an additional commissioner. Further, and notwithstanding the appointive index, there shall be at least one commissioner appointed for the service area of each member of the joint system.

(d) Excepting the initial appointments as necessary to create a staggered commission which may be two or four years, respectively, each commissioner must be appointed and serve for a term of four years and until his successor is appointed and qualifies, provided that the terms of the commissioners must be staggered such that approximately one-half of the total members appointed by the Governor must be appointed or reappointed every two years. A vacancy must be filled for the remainder of the unexpired term in the manner of the original appointment.

(3) Election. The commissioners may be elected on an at-large basis in accordance with the following procedures:

(a) After the application is filed with the Secretary of State, at the next general election or on the date of a special election as requested by the members of the joint system upon request to the applicable county election agency, an election shall be held for commissioners to serve on the commission.

(b) At the initial election to establish the commission, the electors shall vote for commissioners to serve on the commission. The persons necessary to create a quorum of the commission (if fully convened as contemplated by subsection (D) hereinbelow) and receiving the highest number of votes in the initial election shall serve for a term of four years. After the persons sufficient to create a quorum of the commission have been determined, the remaining persons receiving the next highest number of votes in the initial election shall serve for a term of two years. Notwithstanding the foregoing, if the initial election is held on a special election date that is not a general election date within the county or counties of the joint system, the term of all initial commissioners may be reduced as necessary to ensure subsequent elections are held on a general election date.

(c) All successor commissioners must be elected in the regular election for commission members for terms of office of four years. All commissioners shall serve until their successors are elected and qualify. Vacancies in any new positions must be filled in the same manner as other vacancies on the board of commissioners of public works are filled.

~~(B)~~ (C) The commissioners of the joint system shall annually, or biennially, if provided in the bylaws of the joint system, elect, with each commissioner having one vote, one of the commissioners as chairman, another as vice chairman, and other persons who may, but need not be commissioners, as treasurer, secretary and, if desired, assistant secretary. The office of treasurer may be held by the secretary or assistant secretary. The commission may also appoint such additional officers as it deems necessary. The secretary or assistant secretary of the joint system shall keep a record of the proceedings of the joint system, and the secretary must be the custodian of all books, records, documents, and papers filed with the joint system, the minute book or journal of the joint system, and its official seal.

~~(G)~~ (D) A majority of the commissioners of the joint system shall constitute a quorum. A vacancy on the commission of the joint system shall not impair the right of a quorum to exercise all rights and perform all the duties of a joint system. Any action taken by the joint system under the provisions of this chapter may be authorized by resolution at any regular or special meeting held pursuant to notice in accordance with bylaws of the joint system, and each resolution shall take effect immediately and need not be published or posted. Except as is otherwise provided in this chapter or in the bylaws of the joint system, a majority of the votes which the commissioners present are entitled to cast, with a quorum present, shall be necessary and sufficient to take any

action or to pass any resolution. No commissioner of a joint system shall receive any compensation solely for the performance of duties as a commissioner, but each commissioner may be paid per diem, mileage, and subsistence expenses, as provided by law for state boards, committees, and commissions, incurred while engaged in the performance of such duties.

(E) All commissioners shall hold the qualifications of an elector. In the case of a gubernatorial appointment, such appointee must be a qualified elector residing within the area served by the joint system.

(F) Commissioners appointed under subsection (B)(2) or elected under subsection (B)(3) above may not be an officer or employee of a member of a joint system, and no commissioner shall be permitted to service on an ex officio basis. Separately, for commissioners appointed under subsection (B)(1) above, the members of the joint system may include a restriction in the project contract, bylaws or other agreement for the joint system that no commissioner may be an officer or employee of a member of a joint system, and no commissioner shall be permitted to service on an ex officio basis.

(G) Any commissioner appointed hereunder shall be deemed to forfeit his respective position if he (1) lacks at any time during his term of office any qualifications for the office prescribed by general law and the Constitution, or (2) is convicted of any crime, other than civil infractions or misdemeanors for which no imprisonment is imposed.

SECTION 4. 6-25-70 shall be amended and restated as follows:

SECTION 6-25-70. Change in membership of joint system.

(A) After the creation of a joint system, any other authority may become a member of the joint system upon:

(1) adoption of a resolution or ordinance by the governing body complying with the requirements of Section 6-25-40 including publication of notice;

(2) submission of an application to the joint system; and

(3) approval of the application by resolution of the governing body of each member of the joint system except in the case of a joint system organized for the purpose of creating a financing pool, in which case the application must be approved by resolution of the commission.

(B) A member may withdraw from a joint system by resolution or ordinance of its governing body. A contractual right acquired or contractual obligation incurred by a member while it was a member remains in full force and effect after the member's withdrawal.

(C) Notice of a change in membership must be filed in the Office of the Secretary of State. No change is final until this filing occurs. The filing is not required if a joint system is organized only for the purpose of creating a financing pool.

(D) If a new member of the joint system is added hereunder, the approval documentation required under subsection (A)(3) above shall determine whether any new commissioners shall be added to the commission as necessary to support such new member of the joint system. If a new commissioner is added, appointed commissioners, either by the member of the joint system or the Governor, as applicable, shall be appointed immediately. If the commission is elected, the new commissioner shall not be added until the next occurring general election.

SECTION 5. 6-25-80 shall be amended and restated as follows:

§ 6-25-80. Dissolution of system.

Whenever the commission of a joint system and the governing body of each of its members shall by resolution or ordinance determine that the purposes for which the joint system was formed have been substantially fulfilled and that all bonds issued and all other obligations incurred by the joint system have been fully paid or satisfied, the commission and members may declare the joint system

to be dissolved. On the effective date of the resolution or ordinance, the title to all funds and other income and property owned by the joint system at the time of dissolution must be disbursed to the voting members of the joint system according to its bylaws.

In the discretion of the members of a joint system for the proper and efficient operation of any joint system, an existing joint system may be reconstituted by following the procedures for the creation of a new joint system, mutatis mutandis.

SECTION 6. 6-25-110 shall be amended and restated as follows:

§ 6-25-110. Authorization to incur debt and issue bonds.

A joint system may incur debt for any of its purposes and may issue bonds pledging to the payment as to both principal and interest the revenues, or any portion, derived or to be derived from all or any of its projects and any additions and betterments or extensions or contributions or advances from its members or other sources of funds available to it. A joint system may not undertake a project required to be financed, in whole or in part, with the proceeds of bonds without the approval of the governing bodies of each member which is obligated or to be obligated under any contract for the payment of amounts to be pledged as security therefore and a favorable vote of two-thirds of all commissioners. *Notwithstanding the foregoing, when commission is elected under Section 6-25-60(B)(3), no separate approval of the governing bodies of each member shall be required for the issuance of any bonds, and such bonds shall be authorized and approved by a simple majority of the commissioners. Any project may be preauthorized, preapproved or otherwise permitted under the terms of the project contract for the joint system, and such authority, approval or permission shall constitute all necessary approval of the respective governing bodies of each member herein.* A joint system formed only for the purpose of creating a financing pool may issue notes in anticipation of the issuance of bonds by its members to the government.

SECTION 7. Section 6-25-128 shall be amended and restated as follows:

§6-25-128. Contracts between authority and joint system; duration.

An authority may contract to buy from the joint system water required for its present or future requirements, including the capacity and output, or a portion or share of one or more specified projects. An authority also may contract for the collection or treatment of wastewater, including present or future capacity, or a portion or share of another project. The creation of a joint system is an alternative method whereby an authority may obtain the benefits and assume the responsibilities of ownership in a project, so a contract may provide that the authority forming the contract is obligated to make a payment required by the contract whether or not a project is completed, operable, or operating notwithstanding the suspension, interruption, interference, reduction, or curtailment of the output of a project or the water contracted for, and that the payments under the contract are not subject to reduction, whether by offset or otherwise, and are not conditioned upon the performance or nonperformance of the joint system or any other member of the joint system under the contract or any other instrument. A contract with respect to the sale or purchase of capacity or output, or a portion or share of them, of a project entered into between a joint system and its member authorities also may provide that if an authority or authorities default in the payment of its or their obligations with respect to the purchase of the capacity or output, or a portion or share of them, in that event the remaining member authorities which are purchasing capacity and output under the contract are required to accept and pay for and are entitled proportionately to and may use or otherwise dispose of the capacity or output which was to be purchased by the defaulting authority.

A contract concerning the sale or purchase of capacity and output from a project may extend for a period not exceeding fifty years from the date of the contract and may be renewable and extended upon terms as the parties may agree for not exceeding an additional fifty years; and the execution and effectiveness is not subject to any authorizations or approvals by the State or any agency, commission, or instrumentality or political subdivision of them. To the extent any bonds or other indebtedness of the joint system exceeds the term of an initial or existing contract between or among the joint system and the respective members of the joint system, the duration of the joint system and the obligations of the members of the joint system shall automatically extend and continue unabated for so long as any bonds or other indebtedness are outstanding.

Payments by an authority under a contract for the purchase of capacity and output from a joint system may be made from the revenues derived from the ownership and operation of the water system of the authority or from such other sources of funds as may be available, including any amounts received as payments in lieu of taxes. An authority may not pledge its full faith, credit, and taxing power to secure its obligations to the joint system or the bonds of the joint system. An authority is obligated to fix, charge, and collect rents, rates, fees, and charges for water or sewer services, facilities, and commodities sold, furnished, or supplied through its water or sewer system sufficient to provide revenues adequate to meet its obligations under any contract and to pay any and all other amounts payable from or constituting a charge and lien upon the revenues, including amounts sufficient to pay the principal of and interest on general obligation bonds, if any, heretofore or hereafter issued by the authority for purposes related to its water or sewer system.

An authority that is a member of a joint system may furnish the joint system with money derived from the ownership and operation of its water or sewer system or facilities and provide the joint system with personnel, equipment, and property, both real and personal, and from any other sources legally available to it for such purposes. An authority also may provide services to a joint system.

A member of a joint system may contract for, advance, or contribute funds derived from the ownership and operation of its water or sewer system or facilities or from another legal source to a joint system as agreed upon by the joint system and the member, and the joint system shall repay the advances or contributions from the proceeds of bonds, operating revenue, or other funds of the joint system, together with interest as agreed upon by the member and the joint system.

SECTION 8. This act takes effect upon approval by the Governor.

CHAPTER 25
Joint Authority Water and Sewer Systems Act

Editor's Note

2007 Act No. 59, Section 1, changed the title of this chapter which was formerly "Joint Municipal Water Systems".

SECTION 6-25-5. Legislative findings.

The General Assembly finds that:

(1) The availability of water and sewer services to assist economic development and to provide for the health, safety, and welfare of its people is a very critical matter for this State.

(2) It is appropriate to make it possible for a member of a joint authority water system to utilize certain sources of revenues available to them, including payments in lieu of taxes, to assist in the development of additional water and sewer treatment capacity and the provision of collection and distribution lines.

(3) It is desirable to facilitate a joint authority water and sewer system in accommodating the desires of its members in projects and financings that affect only those members.

HISTORY: 1997 Act No. 74, Section 1; 2007 Act No. 59, Section 1, eff June 6, 2007.

Code Commissioner's Note

This section was classified at the direction of the Code Commissioner.

Effect of Amendment

The 2007 amendment, in item (2), substituted "authority" for "municipal"; and, in item (3), substituted "joint authority water and sewer system" for "joint water system".

SECTION 6-25-10. Short title.

This chapter may be cited as the "Joint Authority Water and Sewer Systems Act".

HISTORY: 1983 Act No. 82, Section 2; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment substituted "Joint Authority Water and Sewer" for "Joint Municipal Water".

SECTION 6-25-20. Definitions.

For purposes of this chapter:

(1) "Joint Authority Water and Sewer System" or "joint system" means a government entity organized under this chapter to undertake or acquire a water or sewer project.

(2) "State" means the State of South Carolina.

(3) "Project" means a project undertaken by a joint authority water and sewer system to:

(a) impound, produce, treat, transmit, distribute, sell, and service water to a member, or to an authority that is not a member but who is engaged in providing water or sewer service, or to any other person or entity if water service is not otherwise available from any other source when approved by the governing body of each member; and

(b) collect, transport, process, treat, dispose, and control municipal, domestic, industrial, or communal waste, flood water, or storm water, whether in fluid, solid, or composite state, including specifically the control, abatement, or reduction of pollution for a member, or for an authority that is not a member and is engaged in waste and wastewater collection, treatment, and disposal, or to any other person or entity if sewer service is not otherwise available from any other source when approved by the governing body of each member.

(4) "Cost" or "cost of a project" means, but is not limited to, the cost of acquisition, construction, reconstruction, improvement, enlargement, or extension of any project, including the cost of studies, plans, specifications, surveys, and estimates of costs and revenues relating to the project; the cost of land, land rights, rights-of-way and easements, water rights, fees, permits, approvals, licenses, certificates, franchises, and the preparation of applications for and security for them; administrative, legal, professional,

engineering, and inspection expenses; financing fees, expenses, and costs; working capital; insurance; interest on the bonds during the period of construction and for a reasonable period after construction as may be determined by the commission of the joint system; establishment of reserves; and all other expenditures of the joint system incidental, necessary, or convenient to the acquisition, construction, reconstruction, improvement, enlargement, or extension of any project and the placing of the project in operation.

(5) "Governing body" means with respect to an authority; the board, commission, council, or other entity charged by law with governing the authority.

(6) "Authority" includes:

- (a) a county or municipality incorporated under the laws of this State;
- (b) a consolidated political subdivision of this State;
- (c) a commission of public works; and
- (d) an agency or public body created under the laws of this State and authorized by legislation to be engaged in the sale and service of water for industrial and domestic purposes, or the collection for treatment of wastewater.

(7) "Revenue bonds" and "bonds" mean bonds, notes, certificates, or other obligations of a joint system issued pursuant to the provisions of this chapter and include a refinancing or refunding of bonds, notes, certificates, or other obligations, but which must be paid solely from the revenue or another source of funds available to a joint system.

(8) "Member of a joint system" means an authority that has taken the actions necessary to form or join the joint system.

(9) "Construction note" or "note" means a note of a joint system issued to provide funding for the creation of a financing pool and the costs associated with it.

(10) "Financing agreement" means an agreement entered into by a joint system organized to create a financing pool and a member of it in connection with the lending of the proceeds of construction notes or portion thereof by the joint system to the member so as to provide for the repayment of amounts loaned and interest on it by the member to the joint system.

(11) "Financing pool" means a fund of money, obtained through the issuance of a construction note of a joint authority water and sewer system, which may be loaned to the members of it by way of interim financing. A joint system may not lend more than five percent of the principal amount of a financing pool to a not-for-profit corporation established pursuant to Chapter 35 of Title 33.

(12) "Government" means the United States of America, acting through the United States Department of Agriculture, or its successor, and the agencies and divisions of it.

(13) "Interim financing" means bond anticipation notes issued pursuant to the provisions of Sections 11-17-10 to 11-17-120 in anticipation of the issuance of bonds of an authority to be sold to the government.

(14) "Legislative Delegation" means all members of the South Carolina Senate and South Carolina House representing any county where a joint system is located.

(15) "Governor" means the Governor of the State of South Carolina.

HISTORY: 1983 Act No. 82, Section 2; 1986 Act No. 312, Section 1; 1986 Act No. 456, Sections 1-4; 1997 Act No. 74, Section 2; 1999 Act No. 113, Sections 4, 5; 2001 Act No. 78, Section 3; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment redesignated items (a) to (m) as items (1) to (13); and rewrote items (1), (3), (5), (6), (7), (8), (11) and (13).

SECTION 6-25-25. Authority to purchase, construct, etc., facilities.

In addition to all other project purposes, the joint system formed under the Joint Authority Water and Sewer Systems Act is authorized to purchase, construct, acquire, own, operate, maintain, repair, and improve any and all works, improvements, facilities, plants, equipment, transportation lines, pump stations, sewage treatment plants, apparatus, and appliances incidental, helpful, or necessary to its members upon request and approval of its members in accordance with the bylaws of the joint system.

HISTORY: 1986 Act No. 312, Section 2; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment substituted "Joint Authority Water and Sewer" for "Joint Municipal Water", and added "transportation lines, pump stations, sewage treatment plants, apparatus,".

SECTION 6-25-30. Creation of joint systems.

(A) The governing body of an authority may join another authority to form a joint system after ascertaining by resolution that a joint system best serves the interests of the authority, its citizens, and its customers.

(B) A joint system may be formed:

(1) to plan, finance, develop, construct, acquire, improve, enlarge, sell, lease, maintain, and operate a project to service the needs of its service area;

(2) to create a finance pool; or

(3) both.

(C) A governing body of a member of a joint system may plan and enter a contract in connection with a project of the joint system consistent with the terms of this chapter.

(D) An authority may conduct a study to assess the necessity and feasibility of a project.

HISTORY: 1983 Act No. 82, Section 2; 1999 Act No. 113, Section 6; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment rewrote this section.

SECTION 6-25-35. Extension of provisions applicable to water.

A reference to the purpose of a project in this chapter pertaining specifically to water includes all the purposes as provided in Sections 6-25-20(3) and 6-25-25 and a power or authority provided for in this chapter to a joint system or a member of a joint system may be exercised with respect to any project or purpose of the joint system.

HISTORY: 1986 Act No. 312, Section 3; 1995 Act No. 145, Part II, Section 91A; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment made nonsubstantive and conforming changes.

SECTION 6-25-40. Notice of ordinance or resolution creating system; objections; exception.

An authority adopting a resolution to create a joint system shall publish notice of the adoption of the resolution in a newspaper of general circulation within the county in which the governing body is located. The publication must be made once a week for two consecutive weeks following the adoption of the resolution. A person affected by the adoption of the resolution may institute an action in the circuit court for the county in which the governing body is located within twenty days following the last publication of the notice prescribed challenging the action of the governing body and not thereafter.

HISTORY: 1983 Act No. 82, Section 2; 1999 Act No. 113, Section 7; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment rewrote this section.

SECTION 6-25-50. ~~Agreement as to number of commissioners each member may appoint; a~~ Application filed with Secretary of State; corporate certificate.

(A) The governing bodies of the members of a joint system shall form an agreement specifying the number of commissioners ~~each member may appoint to a commission created~~ to govern the joint system pursuant to Section 6-25-60.

(B) ~~Two or more commissioners~~ The proposed members of a joint system shall jointly file an application with the Secretary of State ~~an application signed by the commissioner of each proposed member~~ setting forth:

(1) ~~the names of all~~ number of proposed members of the joint system, the number of proposed commissioners, and their respective appointed commissioner the method of appointment or election of commissioners pursuant to Section 6-25-60(B);

(2) a certified copy of:

~~(a) the a~~ resolution of each member determining it is in its best interest to participate in the proposed joint system; ~~and~~

~~(b) the resolution appointing the member's commissioner;~~

(3) the desire that the joint system be organized as a public body corporate and politic under this chapter;

(4) the name which is proposed for the joint system; and

(5) the purpose for creation of the joint system.

The Secretary of State shall file the application if after examining it and determining that it complies with the requirements in this section and that the proposed name of the joint system is not identical with that of any other corporation of the State or any agency or instrumentality or so nearly similar as to lead to confusion and uncertainty.

After the application has been filed, the Secretary of State shall issue a corporate certificate that must be filed with the application, and the joint system then must be constituted a public body corporate and politic under the name proposed in the application. The corporate certificate shall set forth ~~the names of all voting members and of~~ the name of the joint system. There also must be stated upon the corporate certificate the purpose for which it has been created, as set forth in the application. Notice of the issuance of such corporate certificate must be given to all members of the joint system by the Secretary of State.

In any suit, action, or proceeding involving the validity or enforcement of, or relating to, contract of a joint system, the joint system in the absence of establishing fraud shall be conclusively considered to have been established in accordance with the provisions of this chapter upon proof of the issuance of the certificate by the Secretary of State. A copy of the certificate, duly certified by the Secretary of State, is admissible in evidence in any suit, action, or proceeding and is conclusive proof of the filing and contents.

HISTORY: 1983 Act No. 82 Section 2; 1999 Act No. 113, Section 8; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment designated the first sentence as subsection (A) and rewrote it; designated the second sentence and items (a) to (e) as subsection (B), redesignated items (a) to (e) as paragraphs (1) to (5) and substituted "commissioner" for "representative" throughout; and made nonsubstantive changes in the second and third undesignated paragraphs.

SECTION 6-25-60. Joint system to be managed and controlled by commission; ~~appointment of commissioners; oath;~~ records; seal; quorum; vacancies; expenses.

(A) The management and control of a joint system is vested in a commission that may consist of no fewer than five members and no more than eleven members. A commissioner has one vote and may have additional votes as a majority of the members of the joint system determines.

(B) As contemplated by the initial application to the Secretary of State, commissioners serving on the commission may be appointed or elected under one of the following procedures:

(1) Appointment by member. The governing body of each voting member of a joint system shall appoint a commissioner, pursuant to Section 6-25-50(A), to serve as a commissioner of the joint system. ~~A~~

~~commissioner has one vote and may have additional votes as a majority of the members of the joint system determines.~~ A commissioner serves at the pleasure of the governing body by which he was appointed. A commissioner, before entering upon his duties, shall take and subscribe to an oath before a person authorized by law to administer oaths to execute the duties of his office faithfully and impartially, and a record of each oath must be filed with the governing body of the appointing authority.

Notwithstanding the provisions of this subsection requiring the commission managing a joint system to have no fewer than five members and no more than eleven members, a joint system in existence on this section's effective date and having fewer than five members or more than eleven members on this section's effective date may continue to maintain the number of members serving on the section's effective date and may add additional members as its commissioners determine. Further, and notwithstanding the appointment requirements above, in the event there are an even number of members of a joint system (i.e. 4, 6, 8, 10), the project contract, bylaws or other similar agreement for the joint system may authorize one additional member of the commission; such additional member of the commission shall be recommended by the legislative delegation from each county where the joint system is located, and upon receipt of such recommendation, appointed by the governor. Any gubernatorial appointment shall be for a term of four years and shall serve until a duly appointed successor is appointed and qualified. Any vacancy of such member must be filled for the remainder of the unexpired term in the same manner as the original appointment. If a new member of a joint system is added under the provisions hereof such that there becomes an odd number of members of a joint system, any gubernatorial appointed commissioner shall be deemed to automatically vacate his position as a commissioner as of the date of the admission of such new member of a joint system and their respective appointment of a new commissioner.

(2) Appointment by Governor. The commissioners may be appointed by the Governor in accordance with the following procedures:

(a) The total number of customers served by the joint system (including customers served by members of the joint system) must be divided by the total number of commission seats, the result being an apportionate average;

(b) The respective number of customers of each member of the joint system must be divided by the apportionate average to determine an appointive index.

(c) The Governor, based upon the recommendation of the legislative delegation from each county that the joint system operates, shall appoint a number of commissioners to the commission from each member of the joint system equal to the whole number indicated by its appointive index. If by this method there are insufficient members appointed to complete the commission, an appointive index closest to the next highest whole number shall be authorized to have an additional commissioner. Further, and notwithstanding the appointive index, there shall be at least one commissioner appointed for the service area of each member of the joint system.

(d) Excepting the initial appointments as necessary to create a staggered commission which may be two or four years, respectively, each commissioner must be appointed for a term of four years and serve until his successor is appointed and qualifies, provided that the terms of the commissioners must be staggered such that approximately one-half of the total members appointed by the Governor must be appointed or reappointed every two years. A vacancy must be filled for the remainder of the unexpired term in the manner of the original appointment.

(3) Election. The commissioners may be elected on an at-large basis in accordance with the following procedures:

(a) After the application is filed with the Secretary of State, at the next general election or on the date of a special election as requested by the members of the joint system upon request to the applicable county election agency, an election shall be held for commissioners to serve on the commission.

(b) At the initial election to establish the commission, the electors shall vote for commissioners to serve on the commission. The persons necessary to create a quorum of the commission (if fully convened as contemplated by subsection (D) hereinbelow) and receiving the highest number of votes in the initial election shall serve for a term of four years. After the persons

sufficient to create a quorum of the commission have been determined, the remaining persons receiving the next highest number of votes in the initial election shall serve for a term of two years. Notwithstanding the foregoing, if the initial election is held on a special election date that is not a general election date within the county or counties of the joint system, the term of all initial commissioners may be reduced as necessary to ensure subsequent elections are held on a general election date.

(c) All successor commissioners must be elected in the regular election for commission members for terms of office of four years. All commissioners shall serve until their successors are elected and qualify. Vacancies in any new positions must be filled in the same manner as other vacancies on the board of commissioners of public works are filled.

(CB) The commissioners of the joint system shall annually, or biennially, if provided in the bylaws of the joint system, elect, with each commissioner having one vote, one of the commissioners as chairman, another as vice chairman, and other persons who may, but need not be commissioners, as treasurer, secretary and, if desired, assistant secretary. The office of treasurer may be held by the secretary or assistant secretary. The commission may also appoint such additional officers as it deems necessary. The secretary or assistant secretary of the joint system shall keep a record of the proceedings of the joint system, and the secretary must be the custodian of all books, records, documents, and papers filed with the joint system, the minute book or journal of the joint system, and its official seal.

(DE) A majority of the commissioners of the joint system shall constitute a quorum. A vacancy on the commission of the joint system shall not impair the right of a quorum to exercise all rights and perform all the duties of a joint system. Any action taken by the joint system under the provisions of this chapter may be authorized by resolution at any regular or special meeting held pursuant to notice in accordance with bylaws of the joint system, and each resolution shall take effect immediately and need not be published or posted. Except as is otherwise provided in this chapter or in the bylaws of the joint system, a majority of the votes which the commissioners present are entitled to cast, with a quorum present, shall be necessary and sufficient to take any action or to pass any resolution. No commissioner of a joint system shall receive any compensation solely for the performance of duties as a commissioner, but each commissioner may be paid per diem, mileage, and subsistence expenses, as provided by law for state boards, committees, and commissions, incurred while engaged in the performance of such duties.

(E) All commissioners shall hold the qualifications of an elector. In the case of a gubernatorial appointment, such appointee must be a qualified elector residing within the area served by the joint system.

(F) Commissioners appointed under subsection (B)(2) or elected under subsection (B)(3) above may not be an officer or employee of a member of a joint system, and no commissioner shall be permitted to service on an ex officio basis. Separately, for commissioners appointed under subsection (B)(1) above, the members of the joint system may include a restriction in the project contract, bylaws or other agreement for the joint system that no commissioner may be an officer or employee of a member of a joint system, and no commissioner shall be permitted to service on an ex officio basis.

(G) Any commissioner appointed hereunder shall be deemed to forfeit his respective position if he (1) lacks at any time during his term of office any qualifications for the office prescribed by general law and the Constitution, or (2) is convicted of any crime, other than civil infractions or misdemeanors for which no imprisonment is imposed.

HISTORY: 1983 Act No. 82, Section 2; 1988 Act No. 569; 1999 Act No. 113, Section 9; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment redesignated subsections (a) to (c) as subsections (A) to (C); in subsection (A), in the first paragraph in the first sentence added "that may consist of no fewer than five members and no more than eleven members", in the second sentence substituted "commissioner, pursuant to Section 6-25-50(A), to serve as" for "representative who must be", deleted the third sentence which provided "The representative may be an officer or employee of the member and may also serve ex officio as a member of the

commission", and made nonsubstantive changes in the remaining sentences; and rewrote the second undesignated paragraph which related to appointment of additional representatives.

SECTION 6-25-70. Change in membership of joint system.

(A) After the creation of a joint system, any other authority may become a member of the joint system upon:

(1) adoption of a resolution or ordinance by the governing body complying with the requirements of Section 6-25-40 including publication of notice;

(2) submission of an application to the joint system; and

(3) approval of the application by resolution of the governing body of each member of the joint system except in the case of a joint system organized for the purpose of creating a financing pool, in which case the application must be approved by resolution of the commission.

(B) A member may withdraw from a joint system by resolution or ordinance of its governing body. A contractual right acquired or contractual obligation incurred by a member while it was a member remains in full force and effect after the member's withdrawal.

(C) Notice of a change in membership must be filed in the Office of the Secretary of State. No change is final until this filing occurs. The filing is not required if a joint system is organized only for the purpose of creating a financing pool.

(D) If a new member of the joint system is added hereunder, the approval documentation required under subsection (A)(3) above shall determine whether any new commissioners shall be added to the commission as necessary to support such new member of the joint system. If a new commissioner is added, appointed commissioners, either by the member of the joint system or the Governor, as applicable, shall be appointed immediately. If the commission is elected, the new commissioner shall not be added until the next occurring general election.

HISTORY: 1983 Act No. 82, Section 2; 1999 Act No. 113, Section 10; 2000 Act No. 404, Section 10; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment designated subsections (A) to (C) and redesignated items (a) to (c) as paragraphs (A)(1) to (A)(3); in subsection (A), substituted "authority" for "municipality"; in subsection (B), made nonsubstantive changes and added "after the member's withdrawal"; and, in subsection (C), made nonsubstantive changes.

SECTION 6-25-80. Dissolution of system.

Whenever the commission of a joint system and the governing body of each of its members shall by resolution or ordinance determine that the purposes for which the joint system was formed have been substantially fulfilled and that all bonds issued and all other obligations incurred by the joint system have been fully paid or satisfied, the commission and members may declare the joint system to be dissolved. On the effective date of the resolution or ordinance, the title to all funds and other income and property owned by the joint system at the time of dissolution must be disbursed to the voting members of the joint system according to its bylaws.

In the discretion of the members of a joint system for the proper and efficient operation of any joint system, an existing joint system may be reconstituted by following the procedures for the creation of a new joint system, *mutatis mutandis*.

HISTORY: 1983 Act No. 82, Section 2; 1999 Act No. 113, Section 11; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment reprinted this section with no apparent change.

SECTION 6-25-90. Executive committee; composition; powers; terms of office; vacancies; filing notice of change with Secretary of State.

The commission of a joint system may create an executive committee, the composition of which must be set forth in the bylaws of the joint system. The composition of the executive committee shall afford a fair representation of the members. The executive committee may exercise such powers during intervals between the commission's meetings as provided by the commission. The terms of office of the members of the executive committee and the method of filling vacancies must be fixed by the bylaws of the joint system. A change in membership of a joint system is not final until notice of the change is filed with the Secretary of State, except where a joint system is organized to create a financing pool.

HISTORY: 1983 Act No. 82, Section 2; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment added the fifth sentence relating to filing membership changes with the Secretary of State.

SECTION 6-25-100. Powers of joint system.

A joint system shall have all the rights and powers of a public body politic and corporate of this State, necessary or convenient to carry out the provisions of this chapter, including, without limitation, the power or right to:

- (1) have perpetual succession;
- (2) sue and be sued;
- (3) adopt, use, and alter a corporate seal;
- (4) maintain a principal office;
- (5) make bylaws for the management and regulation of its affairs;
- (6) receive, administer, and comply with the conditions and requirements respecting any gift, grant, or donation of any property or money;
- (7) purchase, build, construct, maintain, rent, lease, and operate ditches, tunnels, culverts, equipment, flumes, conduits, mains, pipes, dykes, dams, reservoirs, water treatment facilities, and any facilities to impound, treat, produce, transmit, distribute, operate, service, or sell water or to collect and treat wastewater in connection with the project;
- (8) acquire and operate machines, appliances, or appurtenances necessary or useful to construct, operate, or maintain the system;
- (9) enter contracts to purchase or sell water or provide sewer service;
- (10) prescribe rates or regulations under which water is sold;
- (11) make contracts and execute instruments or documents necessary or convenient to carry on the business of the joint system;
- (12) sell, lease, exchange, transfer, or otherwise dispose of or to grant an option concerning an interest in property in conformity with state law;
- (13) acquire by purchase, lease, gift, or otherwise, or to obtain an option for the acquisition of property, real or personal, improved or unimproved, including an interest in land less than the fee in conformity with state law;
- (14) borrow money and issue revenue bonds or notes of the joint system, to loan the proceeds of any borrowing to any member of the joint system to be paid solely from revenues of the system, the loan repayments of members, and such other funds as may be available therefor with a favorable vote of two-thirds of the commissioners. A bond or note may not be issued, the payment for which depends upon a contract or agreement with a member except with the approval of the governing body of such member, by resolution of the governing body of the member. The requirements of this item are satisfied and no further action is required with respect to a bond or note issued to finance a project that has been approved by the governing body of the member as provided in Section 6-25-110. The approval of a note or bond under this chapter shall include an issuance in one or more series and any refunding or refinancing of them so that only the original issuance of the debt must be approved. The members of a joint system may

prescribe additional procedures and requirements as they determine appropriate to issue a note or bond in the bylaws of a joint system;

(15) pledge or assign money, rents, charges, or other revenue and proceeds derived by the joint system from the sale of property, insurance, or a condemnation award;

(16) authorize the construction, operation, or maintenance of a project by a person, firm, or corporation, including a political subdivision and agency of a state of the United States;

(17) apply to the appropriate agencies of the State, the United States or another state, and to another proper agency to obtain a permit, license, certificate, or approval as necessary; and to construct, maintain, and operate the project in accordance with such a license, permit, certificate, or approval;

(18) 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;

(19) employ engineers, architects, attorneys, appraisers, financial advisors, or other consultants or employees required, and to fix and pay their compensation from funds available to the joint system;

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

(21) exercise the power of eminent domain as provided by the laws of this State;

(22) before, and in connection with the acquisition of a project, study, plan, finance, own, operate, and maintain the project, and after the acquisition, to study, plan, finance, acquire, construct, reconstruct, improve, enlarge, extend, own, operate, and maintain an additional project;

(23) acquire by negotiated purchase or lease an existing project, a project under construction, or other property, either individually or jointly, with another authority in this State or another state owning a water or sewer facility or with a political division or agency of another state, or another joint system created pursuant to this chapter;

(24) dispose of by negotiated sale or lease, an existing project, a project under construction, or other property, either individually or jointly, with one or more authority in this State or another state owning a water or sewer facility or with a political subdivision or agency of another state or with another joint system created pursuant to this chapter;

(25) fix, charge, and collect rents, rates, fees, and charges for water or sewage services, and commodities sold, furnished, or supplied through a project; and

(26) acquire and operate a water treatment system, water distribution system, or sewer system, including the system of a member if its consent is first obtained and referendum approval is obtained in those instances where required by law.

Provided, that the provisions of (7), (8), (9), (11), (17), (18), (21), (22), (23), (24), (25), and (26) do not apply to a joint system organized solely for the purpose of creating a financing pool.

HISTORY: 1983 Act No. 82, Section 2; 1986 Act No. 456, Section 5; 1995 Act No. 145, Part II, Section 91B; 1997 Act No. 74, Section 3; 1999 Act No. 113, Sections 12, 13; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment redesignated items (a) et seq. as items (1) et seq.; deleted items (i) relating to contracts to sell water to member and nonmember municipalities, (z) relating to contracts with joint systems and municipalities, and (bb) relating to sale of water at retail and wholesale; and made conforming amendments throughout.

SECTION 6-25-110. Authorization to incur debt and issue bonds.

A joint system may incur debt for any of its purposes and may issue bonds pledging to the payment as to both principal and interest the revenues, or any portion, derived or to be derived from all or any of its projects and any additions and betterments or extensions or contributions or advances from its members or other sources of funds available to it. A joint system may not undertake a project required to be financed, in whole or in part, with the proceeds of bonds without the approval of the governing bodies of each member

which is obligated or to be obligated under any contract for the payment of amounts to be pledged as security therefore and a favorable vote of two-thirds of all commissioners. Notwithstanding the foregoing, when commission is elected under Section 6-25-60(B)(3), no separate approval of the governing bodies of each member shall be required for the issuance of any bonds, and such bonds shall be authorized and approved by a simple majority of the commissioners. Further, any project may be preauthorized, preapproved or otherwise permitted under the terms of the project contract for the joint system, and such authority, approval or permission shall constitute all necessary approval of the respective governing bodies of each member herein. A joint system formed only for the purpose of creating a financing pool may issue notes in anticipation of the issuance of bonds by its members to the government.

HISTORY: 1983 Act No. 82, Section 2; 1997 Act No. 74, Section 4; 1999 Act No. 113, Section 14; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment made nonsubstantive changes.

SECTION 6-25-111. Issuance, sale, and execution of bonds; use of proceeds; issuance of temporary bonds; replacement of bonds.

(A) A joint system may issue bonds for the purpose of paying all or any part of the cost of any of the purposes authorized in this chapter. The principal of, premium, if any, and the interest on the bonds are payable solely from the respective funds provided for such payment by this chapter. The bonds of each issue may be sold at public or private sale. The bonds may be sold at a price, and must bear interest at a rate, as may be determined by the commission of the joint system. The bonds of each issue must be dated and must mature in amounts and at times not exceeding fifty years from their respective dates, as may be determined by the commission of the joint system, and may be made redeemable before maturity at a price and under terms and conditions as may be fixed by the commission of the joint system before the issuance of the bonds. The commission of the joint system shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached to them, and shall fix the denomination of the bonds and the place of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be an officer before the delivery of the bonds, the signature of the facsimile is nevertheless valid and sufficient for all purposes the same as if he had remained in office until the delivery. The commission of the joint system also may provide for the authentication of the bonds by a trustee or fiscal agent. The bonds may be issued in coupon or in fully registered form, or both, as the commission of the joint system may determine, and provisions may be made for the registration of any coupon bonds as to the principal alone and also as to both principal and interest; and for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds.

(B) The proceeds of the bonds of each issue may be used solely for the purposes for which the bonds are issued, and must be disbursed in a manner and under restrictions, if any, as the commission of the joint system may provide in the resolution authorizing the issuance of the bonds or in any trust agreement securing them. The joint system may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The joint system also may provide for the replacement of any bonds which have become mutilated or have been destroyed or lost.

(C) Bonds may be issued under provisions of this chapter without obtaining the consent or approval of the State or any political subdivision or any agency, commission, or instrumentality of them, but no joint system shall undertake any project required to be financed, in whole or in part, with the proceeds of bonds without the approval of the governing bodies of members as prescribed in Section 6-25-110.

HISTORY: 1986 Act No. 456, Section 6; 1997 Act No. 74, Section 5; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment, in subsection (A), in the first sentence deleted "at one time or from time to time its" preceding "bonds".

SECTION 6-25-112. Trust agreements or resolutions providing for issuance of bonds.

In the discretion of the commission of the joint system, any bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the joint system and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The trust agreement or the resolution providing for the issuance of the bonds may contain provisions for protecting and enforcing the rights and remedies of the bondholders and of the trustees as may be reasonable and proper and not in violation of law, and may restrict the individual right of action by bondholders. The trust agreement or the resolution providing for the issuance of the bonds may contain covenants including, but not limited to, the following:

- (1) the pledge of the revenue derived from the project to be financed by the bonds or from the water system or facilities of a joint system;
- (2) the rents, rates, fees, and charges to be established, maintained, and collected, and the use and disposal of revenues, gifts, grants, and funds received or to be received by the joint system;
- (3) the setting aside of reserves and the investment, regulation, and disposition of the reserves;
- (4) the custody, collection, securing, investment, and payment of any monies held for the payment of bonds;
- (5) limitations or restrictions on the purposes to which the proceeds of sale of bonds then or thereafter issued may be applied;
- (6) limitations or restrictions on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; or the refunding of outstanding or other bonds;
- (7) the procedure to amend the terms of a contract with bondholders, the percentage of bonds the bondholders of which must consent thereto, and the manner in which the consent may be given;
- (8) events of default and the rights and liabilities arising on default, the terms and conditions upon which a bond issued under this chapter becomes or may be declared due before maturity, and the terms and conditions upon which the declaration and its consequences may be waived;
- (9) the preparation and maintenance of a budget;
- (10) the retention or employment of engineers, independent auditors, and other technical consultants;
- (11) limitations on or the prohibition of free service to any public or private person;
- (12) the acquisition and disposal of property, but no project or part of a project may be mortgaged by the trust agreement or resolution;
- (13) provisions for insurance and for accounting reports and the inspection and audit of them;
- (14) the continuing operation and maintenance of the project; or
- (15) conditions under which the bonds may be defeased.

HISTORY: 1986 Act No. 456, Section 6; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment redesignated items (a) to (o) as items (1) to (15) and made nonsubstantive changes.

SECTION 6-25-113. Revenues from which bonds payable; statement of restriction.

The bonds are special obligations of the joint system issuing them. The principal of, premium, if any, and interest on the bonds are not payable from the general funds of the joint system, nor do they constitute a legal or equitable pledge, charge, lien, or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except the funds which are pledged under the resolution authorizing the bonds or the trust agreement securing the bonds. Neither the faith and credit nor the taxing power of the State or an authority is, or may be, pledged for the payment of the principal of or interest on the bonds, and no holder of the bonds has the right to compel the exercise of the taxing power by the State or an authority or the forfeiture of any of its property in connection with any default. However, the provisions of this section do

not affect the ability of any member county or authority from providing a pledge of all or part of any revenues derived as payments in lieu of taxes with respect to a project. Every bond must recite in substance that the principal of and interest on the bond is payable solely from the revenues and other funds pledged to its payment and that the joint system is not obligated to pay the principal or interest except from such revenues and funds so pledged.

HISTORY: 1986 Act No. 456, Section 6; 1997 Act No. 74, Section 6; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment substituted "authority" for "municipality" throughout.

SECTION 6-25-114. Issuance of refunding bonds.

A joint system may provide by resolution for the issuance of refunding bonds of the joint system for the purpose of refunding outstanding bonds that have been issued under the provisions of this chapter, including the payment of any redemption premium and interest accrued or to accrue to the date of redemption of the bond. The issuance of the bonds, their maturities, and other details, the rights of their holders, and the rights, duties, and obligations of the joint system in respect to the bonds are governed by the provisions of this chapter that relate to the issuance of bonds.

HISTORY: 1986 Act No. 456, Section 6; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment made nonsubstantive changes.

SECTION 6-25-115. Financing pools and construction notes.

(A) A joint system organized only for the purpose of creating a financing pool may issue from time to time its construction notes for the purpose of creating a financing pool and providing funds to defray the cost of administration of the financing pool and the costs of issuance of the construction notes. The principal, applicable premium, and interest on an issue of construction notes must be payable solely from the proceeds of the construction notes, earnings on the proceeds, the proceeds of bonds issued to the government by members of the joint system, financing agreements between the joint system and its members, and such funds and accounts of the joint system as provided by the resolution of the commission authorizing the issuance of such issue of construction notes or a trust agreement securing the issue of construction notes. Each issue of construction notes may be sold at public or private sale. The construction notes may be sold at a price, and must bear interest at a rate, as may be determined by the commission of the joint system. The construction notes of each issue must be dated and must mature in amounts and at times not exceeding two years from their respective dates, as may be determined by the commission of the joint system, and may be made redeemable before maturity at a price and under terms and conditions as may be fixed by the commission of the joint system before the issuance of the construction notes. The commission of the joint system shall determine the form and the manner of execution of the construction notes, including any interest coupons to be attached to them, and shall fix the denomination of the construction notes and the place of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature appears on any construction note or coupons ceases to be an officer before the delivery of the construction notes, the signature of the facsimile is nevertheless valid and sufficient for all purposes the same as if he had remained in office until the delivery. The commission of the joint system also may provide for the authentication of the construction notes by a trustee or fiscal agent. The construction notes may be issued in bearer or in fully registered form, or both, as the commission of the joint system may determine.

(B) The proceeds of the construction notes of each issue may be used solely for the purposes for which the construction notes are issued, and must be disbursed in a manner and under restrictions, if any, as the commission of the joint system may provide in the resolution authorizing the issuance of the construction

notes or in any trust agreement securing them. The joint system also may provide for the replacement of any construction notes which have become mutilated or have been destroyed or lost.

(C) The proceeds of the construction notes must be applied solely to the costs of issuance thereof, the cost of administration of the joint system, to capitalized interest on the notes, and to create a financing pool.

(D) Money in a financing pool may be loaned to members of the joint system upon such terms and conditions as are set forth by the resolution of the commission authorizing construction notes issued to provide funds for the financing pool or a trust agreement securing the issue of construction notes, provided, however, that the loan made from the financing pool may be only made upon the delivery by the borrower of such funds of a letter of commitment from the government to provide permanent financing for the capital project to be initially financed by the loan.

(E) A construction note must be a special obligation of the joint system that issued the note, and the full faith, credit, and the taxing power of this State and its political subdivisions may not be pledged for these notes. All construction notes shall include a legend substantially similar to the following:

THIS NOTE IS A SPECIAL AND LIMITED OBLIGATION OF (NAME OF JOINT SYSTEM), A BODY CORPORATE AND POLITIC OF THE STATE OF SOUTH CAROLINA. THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THIS NOTE IS NOT PAYABLE FROM THE GENERAL FUNDS OF THE (NAME OF JOINT SYSTEM), NOR DOES IT CONSTITUTE A LEGAL OR EQUITABLE PLEDGE, CHARGE, LIEN, OR ENCUMBRANCE UPON ANY OF ITS PROPERTY OR UPON ANY OF ITS INCOME, RECEIPTS, OR REVENUES, EXCEPT THE FUNDS WHICH ARE PLEDGED UNDER THE RESOLUTION AUTHORIZING THE ISSUANCE OF THIS NOTE OR THE TRUST AGREEMENT SECURING THIS NOTE. THIS NOTE DOES NOT CONSTITUTE A DEBT, LIABILITY, OR OTHER OBLIGATION OF THE STATE OF SOUTH CAROLINA, OR ANY POLITICAL SUBDIVISION OF IT. THE (NAME OF JOINT SYSTEM) IS NOT OBLIGATED TO PAY THIS NOTE OR THE INTEREST HEREON EXCEPT FROM THE REVENUES, FUNDS, AND ASSETS PLEDGED THEREFORE, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF SOUTH CAROLINA. THE (NAME OF JOINT SYSTEM) OR ITS MEMBER ENTITIES IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THIS NOTE. NO HOLDER OF THIS NOTE HAS THE RIGHT TO COMPEL THE EXERCISE OF THE TAXING POWER BY THE STATE OR ANY POLITICAL SUBDIVISION OF IT OR THE FORFEITURE OF ANY OF ITS PROPERTY IN CONNECTION WITH ANY DEFAULT.

(F) A construction note may be issued pursuant to this chapter without obtaining the consent or approval of this State or its political subdivision, or an agency, commission, or instrumentality of this State, but such a construction note may not be issued without the prior approval of a majority of the commissioners of the joint system present and voting at a duly called meeting of it. A member is not liable for a payment in respect of a construction note issued by a joint system except with the approval of the governing body of the member, by resolution or ordinance of the governing body of the member.

(G) In the discretion of the commission of the joint system, any construction notes issued under the provisions of this chapter may be secured by a trust agreement by and between the joint system and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The trust agreement or the resolution providing for the issuance of the construction notes may contain provisions for protecting and enforcing the rights and remedies of the holders of the construction notes and of the trustees as may be reasonable and proper and not in violation of law, and may restrict the individual right of action by holders of construction notes. The trust agreement or the resolution providing for the issuance of the construction notes may contain covenants including, but not limited to, the following:

- (1) the pledge of the proceeds of the construction notes, earnings on the proceeds, the proceeds of bonds issued to the government by members of the joint system, agreements between the joint system and its members, and the funds and accounts of the joint system;

- (2) the terms and conditions of loans to be made from the financing pool;

- (3) the setting aside of reserves and the investment, regulation, and disposition of the reserves;

(4) the custody, collection, securing, investment, and payment of any monies held for the payment of construction notes;

(5) limitations or restrictions on the purposes to which the proceeds of sale of construction notes then or thereafter issued may be applied;

(6) limitations or restrictions on the issuance of additional construction notes, the terms upon which additional construction notes may be issued and secured, or the refunding of outstanding or other construction notes;

(7) the procedure by which the terms of any contract with holders of construction notes may be amended, the percentage of construction notes the holders of which must consent to, and the manner in which the consent may be given;

(8) events of default and the rights and liabilities arising on default, the terms and conditions upon which construction notes issued under this chapter become or may be declared due before maturity, and the terms and conditions upon which the declaration and its consequences may be waived;

(9) the retention or employment of financial advisors, attorneys, independent auditors, and other technical consultants;

(10) provisions for insurance and for accounting reports and the inspection and audit of them; or

(11) conditions under which the construction notes may be defeased or redeemed.

HISTORY: 1999 Act No. 113, Section 1; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment made nonsubstantive changes.

SECTION 6-25-120. Repayment of notes, obligations, or bonds.

A joint system may not pledge the full faith, credit, or taxing power of its members when borrowing money or issuing a bond, note, or other obligation. Only revenues and other funds available to the joint system may be used to pay or pledged to the repayment of any notes, obligations, or bonds.

HISTORY: 1983 Act No. 82, Section 2; 1997 Act No. 74, Section 7; 1999 Act No. 113, Section 15; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment rewrote this section.

SECTION 6-25-125. Charges for services; pledges.

A joint system may fix, charge, and collect rents, rates, fees, and charges for its services. For so long as any bonds of a joint system are outstanding and unpaid, the rents, rates, fees, and charges must be fixed to provide revenues at least sufficient, together with other available funds, to pay all costs of and charges and expenses in connection with the proper operation and maintenance of its projects, and all necessary repairs, replacements, or renewals; to pay when due the principal of, premium, if any, and interest on all bonds payable from the revenues; to create and maintain reserves and comply with covenants as may be required by any resolution or trust agreement authorizing and securing bonds; and to pay any and all amounts which the joint system may be obligated to pay from the revenues by law or contract.

A pledge made by a joint system pursuant to this chapter is valid and binding from the date the pledge is made. The revenues, securities, and other monies so pledged and then held or thereafter received by the joint system or any fiduciary is immediately subject to the lien of the pledge without any physical delivery or further act, and the lien of the pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority or joint system without regard to whether the parties have notice.

HISTORY: 1986 Act No. 456, Section 7; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment, in the first undesignated paragraph, in the first sentence substituted "its services" for "water and other services, related to the impounding, production, treatment, transmission, distribution, sale, and service of water"; and, in the second undesignated paragraph, in the second sentence substituted "authority" for "municipality".

SECTION 6-25-126. Temporary investment of funds pending disbursements.

The resolution authorizing the bonds or construction notes of any issue or the trust agreement securing the bonds or construction notes may provide that any of the monies may be temporarily invested and reinvested pending disbursements and the securities and other investments provided in the resolution or trust agreement, and must provide that any bank or trust company with which the monies are deposited shall act as trustee of the monies and shall hold and apply them for the purposes of this chapter, subject to regulation as this chapter and the resolution or trust agreement may provide.

HISTORY: 1986 Act No. 456, Section 7; 1999 Act No. 113, Section 16; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment reprinted this section with no apparent change.

SECTION 6-25-127. Enforcement of bondholder and construction note holder rights.

Any holder of bond or construction notes issued under the provisions of this chapter or any of the coupons appertaining to them, and the trustee under any trust agreement, except to the extent the rights given by this chapter may be restricted by the trust agreement or the resolution authorizing the issuance of the bonds or construction notes, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of the State or granted under this chapter, or, to the extent permitted by law, under the trust agreement or resolution authorizing the issuance of the bonds or under any agreement or other contract executed by the joint system pursuant to this chapter, and may enforce and compel the performance of all duties required by this chapter or by the trust agreement or resolution to be performed by any joint system or authority or by their officers, including the fixing, charging, and collecting of rents, fees, and charges.

HISTORY: 1986 Act No. 456, Section 7; 1999 Act No. 113, Section 17; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment substituted "authority" for "municipality".

SECTION 6-25-128. Contracts between authority and joint system; duration.

An authority may contract to buy from the joint system water required for its present or future requirements, including the capacity and output, or a portion or share of one or more specified projects. An authority also may contract for the collection or treatment of wastewater, including present or future capacity, or a portion or share of another project. The creation of a joint system is an alternative method whereby an authority may obtain the benefits and assume the responsibilities of ownership in a project, so a contract may provide that the authority forming the contract is obligated to make a payment required by the contract whether or not a project is completed, operable, or operating notwithstanding the suspension, interruption, interference, reduction, or curtailment of the output of a project or the water contracted for, and that the payments under the contract are not subject to reduction, whether by offset or otherwise, and are not conditioned upon the performance or nonperformance of the joint system or any other member of the joint system under the contract or any other instrument. A contract with respect to the sale or purchase of capacity or output, or a portion or share of them, of a project entered into between a joint system and its member authorities also may provide that if an authority or authorities default in the payment of its or their obligations with respect to the purchase of the capacity or output, or a portion or share of them, in that event the remaining member authorities which are purchasing capacity and output under the contract are required

to accept and pay for and are entitled proportionately to and may use or otherwise dispose of the capacity or output which was to be purchased by the defaulting authority.

A contract concerning the sale or purchase of capacity and output from a project may extend for a period not exceeding fifty years from the date of the contract and may be renewable and extended upon terms as the parties may agree for not exceeding an additional fifty years; and the execution and effectiveness is not subject to any authorizations or approvals by the State or any agency, commission, or instrumentality or political subdivision of them. To the extent any bonds or other indebtedness of the joint system exceeds the term of an initial or existing contract between or among the joint system and the respective members of the joint system, the duration of the joint system and the obligations of the members of the joint system shall automatically extend and continue unabated for so long as any bonds or other indebtedness are outstanding.

Payments by an authority under a contract for the purchase of capacity and output from a joint system may be made from the revenues derived from the ownership and operation of the water system of the authority or from such other sources of funds as may be available, including any amounts received as payments in lieu of taxes. An authority may not pledge its full faith, credit, and taxing power to secure its obligations to the joint system or the bonds of the joint system. An authority is obligated to fix, charge, and collect rents, rates, fees, and charges for water or sewer services, facilities, and commodities sold, furnished, or supplied through its water or sewer system sufficient to provide revenues adequate to meet its obligations under any contract and to pay any and all other amounts payable from or constituting a charge and lien upon the revenues, including amounts sufficient to pay the principal of and interest on general obligation bonds, if any, heretofore or hereafter issued by the authority for purposes related to its water or sewer system.

An authority that is a member of a joint system may furnish the joint system with money derived from the ownership and operation of its water or sewer system or facilities and provide the joint system with personnel, equipment, and property, both real and personal, and from any other sources legally available to it for such purposes. An authority also may provide services to a joint system.

A member of a joint system may contract for, advance, or contribute funds derived from the ownership and operation of its water or sewer system or facilities or from another legal source to a joint system as agreed upon by the joint system and the member, and the joint system shall repay the advances or contributions from the proceeds of bonds, operating revenue, or other funds of the joint system, together with interest as agreed upon by the member and the joint system.

HISTORY: 1986 Act No. 456, Section 7; 1997 Act No. 74, Section 8; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment, in the first undesignated paragraph, added the second sentence relating to wastewater; in the third undesignated paragraph, in the third sentence added "or sewer" in two places; and substituted "authority" for "municipality" and made nonsubstantive changes throughout.

SECTION 6-25-129. Governmental functions; state tax exemption.

A joint system is an instrumentality of local government, and is authorized by this chapter exclusively for the performance of governmental functions, and the income of a joint system is exempt from state taxes.

HISTORY: 1999 Act No. 113, Section 2; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment reprinted this section with no apparent change.

SECTION 6-25-130. Employment or appointment of personnel; rights, privileges, and benefits.

Personnel employed or appointed by a member to work for a joint system shall have the same authority, rights, privileges, and immunities including coverage under the Workers' Compensation laws which the officers, agents, and employees of the appointing member enjoy within the territory of that member whether

within or without the territory of the appointing member when they are acting within the scope of their authority or in the course of their employment.

Personnel employed or appointed directly by a joint system shall be qualified for participation in the South Carolina Retirement System with the same rights, privileges, obligations, and responsibilities as they would have if they were employees of an authority, if they are residents of this State.

HISTORY: 1983 Act No. 82, Section 2; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment, in the second undesignated paragraph, substituted "an authority" for "a municipality".

SECTION 6-25-131. Restriction as to who may benefit from joint system income, profit or assets; exception.

The income, profit, or assets of a joint system may not inure to the benefit of an individual or private entity, except for a joint authority water and sewer system created under this chapter.

HISTORY: 1999 Act No. 113, Section 3; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment added ", except for a joint authority water and sewer system created under this chapter", and made nonsubstantive changes.

SECTION 6-25-140. Annual system audit; reports.

There shall be an annual audit of each joint system and reports given to the governing body of each of the members. The costs shall be considered as part of the construction costs or part of expenses of administration.

HISTORY: 1983 Act No. 82, Section 2; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment reprinted this section with no apparent change.

SECTION 6-25-145. Investment by fiduciaries in bonds and construction notes.

It is lawful for any executor, administrator, guardian, committee, or other fiduciary to invest any monies in his hand in bonds and construction notes issued under the provisions of this chapter.

HISTORY: 1986 Act No. 456, Section 8; 1999 Act No. 113, Section 18; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment reprinted this section with no apparent change.

SECTION 6-25-150. Contracts with federal and state government and agencies.

The commission of any joint system may make application for grants and enter into contracts for and accept grants in aid and loans from the federal and state governments and their agencies in connection with the planning, acquiring, constructing, expanding, maintaining, and operating any project, or participating in any research or development program in connection therewith. The commission may agree to comply with any reasonable conditions which are imposed upon such grants, loans, or aids, and may accept such without a contract.

HISTORY: 1983 Act No. 82, Section 2; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment reprinted this section with no apparent change.

SECTION 6-25-155. Bonds, interest coupons and construction notes as investment securities.

Whether or not the bonds and interest coupons appertaining to them and construction notes are of a form and character as to be investment securities under Chapter 8 of Title 36, all bonds and interest coupons appertaining to them and construction notes issued under this chapter are hereby made investment securities within the meaning of and for all the purposes of Chapter 8 of Title 36, subject only to the provisions of the bonds and construction notes pertaining to registration.

HISTORY: 1986 Act No. 456, Section 9; 1999 Act No. 113, Section 19; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment reprinted this section with no apparent change.

SECTION 6-25-160. Tax status of evidences of indebtedness issued by joint system.

The principal and interest on the bonds, notes, construction notes, or other evidences of indebtedness issued pursuant to this chapter have the tax-exempt status prescribed by Section 12-2-50.

HISTORY: 1983 Act No. 82, Section 2; 1999 Act No. 113, Section 20; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment reprinted this section with no apparent change.

SECTION 6-25-170. Construction of chapter.

The provisions of this chapter must be liberally construed.

HISTORY: 1983 Act No. 82, Section 2; 2007 Act No. 59, Section 1, eff June 6, 2007.

Effect of Amendment

The 2007 amendment reprinted this section with no apparent change.