



# State of South Carolina

## Office of the Governor

MARK SANFORD  
GOVERNOR

POST OFFICE BOX 12267  
COLUMBIA 29211

May 27, 2005

The Honorable David H. Wilkins  
Speaker of the House of Representatives  
Post Office Box 11867  
Columbia, South Carolina 29211

Mr. Speaker and Members of the House:

I am hereby returning without my approval H. 3870, R-109, a bill which increases the membership of the Startex-Jackson-Wellford-Duncan ("SJWD") Water District in Spartanburg County from five to seven members and allows one of the seven members to reside within the service area but outside the district.

My veto is based on my belief that this bill is unconstitutional on at least two fronts. First, this bill is unconstitutional because it allows for the appointment of a commissioner living *outside the district* to represent residents living *inside the district*. This violates Article 17, Section 1 of the South Carolina Constitution which provides that "[n]o person shall be elected or appointed to any office in this State unless he possess the qualifications of an elector. . . ." A commissioner residing outside the district is clearly not a qualified elector of the district. The SJWD Water District's primary responsibility is to provide services to the residents inside its district. Allowing a commissioner who does not reside in the district to make decisions affecting district residents is similar to allowing a city councilman who lives outside the city to represent city residents. This is not only unconstitutional but it is unfair to district residents who expect a representative form of government.

Furthermore, the district also levies taxes only on residents inside the district to pay off general obligation debt for capital projects. This tax is not levied on residents in the service area outside the district boundaries. For a commissioner to have the authority to spend tax dollars that he does not have to pay himself rises to the level of non-representative government and "taxation without representation" in violation of the state constitution.

Second, I believe this bill plainly violates the home rule provisions of the South Carolina Constitution. House Bill 3870 affects only Spartanburg County and is, therefore, clearly an act

The Honorable David H. Wilkins

May 27, 2005

Page 2

for a specific county. Such acts are in violation of Article 8, Section 7 of the Constitution of the State of South Carolina, which provides that "[n]o laws for a specific county shall be enacted." Acts similar to H. 3870 have been struck down by the South Carolina Supreme Court as violative of Article VIII, Section 7.

Based on the constitutional reasons I have stated above, I am vetoing H. 3870, R-109.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Sanford", with a stylized flourish extending to the right.

Mark Sanford