DISCLAIMER

The South Carolina Legislative Council is offering access to the unannotated South Carolina Code of Laws on the Internet as a service to the public. The unannotated South Carolina Code on the General Assembly's website is now current through the 2010 session. The unannotated South Carolina Code, consisting only of Code text and numbering, may be copied from this website at the reader's expense and effort without need for permission.

The Legislative Council is unable to assist users of this service with legal questions. Also, legislative staff cannot respond to requests for legal advice or the application of the law to specific facts. Therefore, to understand and protect your legal rights, you should consult your own private lawyer regarding all legal questions.

While every effort was made to ensure the accuracy and completeness of the unannotated South Carolina Code available on the South Carolina General Assembly's website, the unannotated South Carolina Code is not official, and the state agencies preparing this website and the General Assembly are not responsible for any errors or omissions which may occur in these files. Only the current published volumes of the South Carolina Code of Laws Annotated and any pertinent acts and joint resolutions contain the official version.

Please note that the Legislative Council is not able to respond to individual inquiries regarding research or the features, format, or use of this website. However, you may notify Legislative Printing, Information and Technology Systems at LPITS@scstatehouse.gov regarding any apparent errors or omissions in content of Code sections on this website, in which case LPITS will relay the information to appropriate staff members of the South Carolina Legislative Council for investigation.

CHAPTER 11.

 COUNTY OFFICERS

**SECTION 4‑11‑10.** Time for commencement of terms of county officers.

The time for the commencement of the terms of office of the various county officers is the first Tuesday in January next after their election, except that the terms of the county auditors and county treasurers shall commence the first day of July next following their election. Nothing in this section applies to those officers who are appointed by the Governor. This section does not apply to elections held for an unexpired term of office.

**SECTION 4‑11‑20.** Filling vacancies in county offices; term of office of appointees; duties and liabilities.

In the event of a vacancy at any time in any of the offices of any county of the State the Governor may appoint some suitable person, who shall be an elector of the county, and, upon duly qualifying according to law, he shall be entitled to enter upon and hold the office to which he has been appointed:

(1) If it be an elective office, until the next general election for such office if the term of such office be fixed by the State Constitution or until the next general election if the term be not so fixed, in which latter case an election shall then be held to fill the unexpired term and in either such event such person shall hold office until his successor shall qualify; and

(2) If it be an office which was filled originally by appointment, until the adjournment of the General Assembly at the regular session next after such appointment.

Any officer so appointed shall be subject to all the duties and liabilities incident to his office during the term of his service therein. Any officer elected to fill an unexpired term under the provisions of this section shall hold office for such term and until his successor shall qualify.

**SECTION 4‑11‑30.** Recommendation of certain legislative delegations as to appointment; procedures.

In all cases in which the Governor is required to appoint any person to any position created by statute in any county of this State having a population of between 101,060 and 117,000, as shown by the United States census of 1930, upon the recommendation of a certain number or proportion of the county legislative delegation from such county or by a certain proportion of the House delegation and the Senator of such county, as the case may be, the Governor shall make such appointments within ten days from the date of the filing in his office of such recommendation signed by the requisite number of members of the House and Senate as may be required under the terms of the particular statute relating to that particular position. Upon the failure of the Governor to make any such appointment and certify the same immediately to the Secretary of State within the time limit herein provided, such recommendation so signed and filed in the office of the Governor shall of itself, automatically as a matter of law, immediately operate as an effectual appointment of the person so recommended, having the same legal force and effect as though the Governor himself had made the appointment, and thereupon the Secretary of State shall immediately, upon the expiration of said ten‑day period, issue to the person so appointed a commission in the usual form showing such appointment and deliver it to the appointee, who shall upon production thereof be entitled to take over the office or other position to which he has been appointed, and any person in possession thereof shall forthwith surrender the same to him, together with all records and property relating thereto.

**SECTION 4‑11‑40.** Removing county officer; filling vacancy.

Any county officer who is guilty of misconduct or persistent neglect of duty in office or any person who persists in holding any county office to which he has been appointed or elected but the duties of which he has not the capacity to properly discharge shall, upon indictment and true bill after warrant or after presentment of a grand jury and indictment and true bill thereon, be tried as for misdemeanor in office, and upon his conviction the office shall be declared vacant, and the sentence shall be removal of defendant from office. The vacancy shall be filled as when a vacancy occurs by death or resignation.

**SECTION 4‑11‑50.** Each county shall have farm and home demonstration agents.

The extension service of Clemson University shall place at least one farm and one home demonstration agent in each county in this State, subject to confirmation by a majority of the county delegation, such agents to be employed as at present and payment of their salaries to be made through the treasurer of the extension service as provided for the payment of that portion of the salaries of such agents contributed by the State and Federal governments.

In Berkeley County, appointments made pursuant to this section are governed by the provisions of Act 159 of 1995.

In Dorchester County, appointments made pursuant to this section are governed by the provisions of Act 512 of 1996.

**SECTION 4‑11‑60.** County officers shall keep records of moneys received or due as pay for services; violations.

Each county officer shall be required to purchase and keep in his office, open to public inspection during office hours, a book in which shall be kept an itemized account of all moneys received by or due him, whether received by him or due to him as salary, fees or costs or in any other manner, as pay for him for his services by virtue of his office; provided, that nothing herein contained shall be construed to require any officer to demand the payment of his fees and costs in advance. Any county officer neglecting or refusing to comply with any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty nor more than two hundred dollars or imprisoned in the county jail not less than two nor more than six months, either or both at the discretion of the court.

**SECTION 4‑11‑65.** Purchase of fidelity bond for certain officials.

(A) When bonding of county officials or employees is statutorily required, the governing body of a county may purchase a fidelity bond to cover all or a portion of the county officials and employees. A fidelity bond may be used instead of specific statutory bond requirements including, but not limited to, those found in Sections 12‑39‑10, 12‑45‑10, 14‑17‑40, 14‑17‑60, 14‑17‑350, 14‑23‑1050, 17‑5‑20, 17‑5‑70, 22‑1‑150, 22‑1‑160, 23‑11‑30, and 23‑13‑20. Any officials or employees not covered by a fidelity bond must be bonded as required by statute.

(B) The purchase of a fidelity bond as provided in subsection (A) or the replacement of an existing bond with a fidelity bond covering one or more county officials or employees must be evidenced by passage of a resolution by the county’s governing body. A fidelity bond must meet or exceed the minimum value of the bond required by the statute or statutes for the covered officials or employees.

**SECTION 4‑11‑70.** County officers shall transmit copies of financial records to certain persons.

At the close of each fiscal year, when so required by the Senator from such county or a majority of the members of the House of Representatives from the county, each county officer shall transmit an itemized copy of such account, under oath, to the office of the county supervisor or to the members of the governing body in any county where there is no county supervisor, and shall transmit a copy thereof to the Senator and each member of the House of Representatives from the county on or before the tenth day of January next ensuing.

**SECTION 4‑11‑80.** County supervisor shall keep account of county officers’ financial records.

The county supervisor, in addition to other books kept in his office, shall keep a separate book in which he shall enter the total amount of each account so furnished, opposite the name of the officer furnishing the account, and shall file the account in his office, as other county records are kept.

**SECTION 4‑11‑90.** Repealed by 1992 Act No. 264, Section 2, eff February 19, 1992.

**SECTION 4‑11‑100.** Transfer and disposition of certain unclaimed funds which have been invested or loaned out.

Any of such funds which may be invested or loaned out for the benefit of those who cannot be ascertained shall be paid over to the county treasurer as soon as they are collected. Such funds shall be by such treasurers credited to their respective general funds.

**SECTION 4‑11‑110.** Subsequent claim of transferred funds by owner.

In the event any owner shall establish his right to any of such fund and the same has been accredited by the county treasurer, such fund shall be paid to such owner or claimant by the order of the court of common pleas from the general fund of the county.

**SECTION 4‑11‑120.** County officers shall keep accounts of transferred funds.

Such officers shall keep accounts of all such funds so paid by each of them respectively to such county treasurers. Such accounts shall show the dates of such payments, the titles of cases or sources from which such funds are derived and the amount so paid over to the said treasurer. Each county treasurer shall open and keep a separate account with each officer paying such funds to him of all funds so received by him from such officers. Such accounts shall show the dates of such payments and the titles of cases or sources from which funds are derived. The accounts shall be open to public inspection at any time during officer hours.

**SECTION 4‑11‑130.** Disbursing officers shall not exceed or transfer appropriations; violations; suspension by Governor.

It is unlawful for an officer, clerk, or other person charged with disbursements of county funds appropriated by the General Assembly to exceed the amounts and purposes stated in the appropriation or to change or shift appropriations from one item to another. Transfers may be authorized by the General Assembly in any county appropriation act. An officer, clerk, or other person violating the provisions of this section is guilty of malfeasance in office, and the Governor may suspend the officer and shall investigate his conduct. Upon conviction, the person is guilty of a misdemeanor and must be fined in the discretion of the court or imprisoned not more than three years.

**SECTION 4‑11‑140.** Intermingling official funds with private funds prohibited; violations; intent of section.

It shall be unlawful for any county official to deposit public or trust funds with individual or private funds in any bank or other depository in this State or for any such officer to withdraw any such public or trust funds or any part thereof for any purpose other than that for which they were received and deposited. Any county official violating this provision of law shall be subject to a fine or imprisonment at the discretion of the court and in addition shall be subject to removal from office for malfeasance in office. This section is intended to require all county officers to carry a county fund not required to be deposited by them in the State Treasury under the provisions of Section 11‑13‑110 in a separate account to be known as public or trust funds without allowing any private funds to be deposited in such account.

**SECTION 4‑11‑150.** Consequences of failure to remit funds.

Any county officer who neglects or fails to remit to the State Treasurer as required by law shall become responsible on his official bond for any loss the State may sustain by reason of such neglect or failure to remit.

**SECTION 4‑11‑160.** Charging off of losses in county offices with approval of county council.

Whenever there shall occur in any county office in this State a loss of public funds arising through defalcation, bank deposits, theft or otherwise, the county treasurer or other officer having custody of the records in which such loss appears may charge off such loss with the approval of the county council, but, in the case of bank losses, only if the bank shall have been liquidated and the receiver or other agent discharged and, in the case of any other loss, only if the sums recoverable by bond or otherwise shall have been applied against the loss and the remaining sum definitely ascertained to be irrecoverable.

**SECTION 4‑11‑170.** Extra allowance to salaried officers forbidden.

No member of the governing body of any county shall vote for an extra allowance to any person who is paid by salary, nor shall the treasurer of any county knowingly pay to any such person any extra allowance.

**SECTION 4‑11‑265.** Budget authority of governing body of special purpose district; referenda.

(A) The legislative delegation of any county, including the Senator, may, by majority vote at a duly called meeting, initiate a referendum in that county to determine the wishes of the registered electors residing in the geographical areas of all special purpose and public service districts (districts) with regard to budgetary powers and election of the governing bodies of the districts.

(B) The referendum must be conducted only at the time of a general election. Ballots must be printed with the following questions printed on them:

[ ] Shall the governing body of (insert name) district be

 elected and have fiscal autonomy to approve a budget

 and instruct the local auditor to fix a millage sufficient to

 raise the budget amount?

[ ] Shall the governing body of (insert name) district be

 appointed by and have its annual budget subject to final

 approval of the governing body of the county in which it

 is located? Mark one.

(C) The county election commission shall count the ballots and certify the results to the county legislative delegation.

(D)(1) In those districts in which the registered electors vote to have elected governing bodies, the governing body of each district shall hold an election at the time of the next general election after certification of the results of the referendum by the county election commission. Notice of the election must be published in a newspaper of general circulation in the district which shall contain detailed information concerning the election. The notice must be published not less than five nor more than fifteen days before the date of the election. All members of the governing bodies must be elected in nonpartisan elections for four‑year terms, except of those initially elected one‑half minus one in the case of odd‑numbered governing bodies and one‑half in the case of even‑numbered governing bodies must be elected for terms of two years. At the expiration of the two‑year terms, members elected for those terms must be elected for terms of four years.

(2) Any governing body of a special purpose district may decide that its members may be elected from the district at large, at large with residency requirement, or from single member election districts.

(3) To place the name of a candidate on the ballot, qualified electors of the district shall file with the county election commission, not less than sixty days before the date of the election, a petition which shall contain the names of qualified electors of a number equal to not less than five hundred qualified electors of the district or five percent of the total number of electors of the district, whichever is the lesser.

(4) The number of members elected under the provisions of this subsection must be the same number as provided by law for the number of members for each district.

(E) In those districts in which the registered electors vote to have appointed district governing bodies, the governing body of the county in which the district is located is vested with power to appoint the governing body of that district and shall exercise the budgetary approval process over the budget of the district.

(F) The provisions of this section apply only to districts existing prior to March 7, 1973, but not to any district whose governing body is elected by the qualified electors and which governing body has the authority to levy taxes.

**SECTION 4‑11‑290.** Dissolution of special purpose districts; procedures; disposition of assets.

(A) For purposes of this section, “special purpose district” or “district” means any district created by or pursuant to an act of the General Assembly before March 7, 1973, and to which has been committed before March 7, 1973, any governmental function, and includes those districts created by special legislation as well as those districts created by virtue of referenda held pursuant to general legislation.

(B) No special purpose district may be dissolved pursuant to this section if any one or more of the following conditions exists:

(1) the district is presently providing a governmental service within its boundaries;

(2) the district has outstanding general obligation indebtedness;

(3) the district has outstanding indebtedness payable from revenues derived from the provision of one or more governmental services and neither (i) the indebtedness has been assumed, with the consent of the holder of the indebtedness, by a political subdivision of the State of South Carolina that is authorized by law to provide the governmental services and that has agreed to take title to all necessary assets of the system from which revenues are derived, nor (ii) provision for payment or defeasance of the indebtedness has been made;

(4) a receiver has been appointed to manage the affairs of the district or application has been made for the appointment of a receiver;

(5) the district has provided a governmental service within two years of the date of the petition and has formally budgeted funds to resume the provision of a governmental service within the present or succeeding fiscal year; or

(6) the governing body of a county in which the district is located objects to the dissolution of the district.

(C) An individual residing or owning property within the boundaries of a special purpose district may petition the Secretary of State to dissolve the district through the issuance of an order of dissolution.

(D) A petition for dissolution of a special purpose district must contain the following items:

(1) a description of the governmental services which the district is authorized by law to provide;

(2) a statement that the district is not presently providing any authorized governmental service;

(3) identification of the special legislation or the general legislation pursuant to which the district was created. If the district was created pursuant to general legislation, the petition must state the date upon which the approving referendum was held;

(4) a general description of the boundaries of the district. If the boundaries of the district have at any time been enlarged or diminished pursuant to general laws, the date or dates of the action must be stated;

(5) a statement of the reason or reasons for which dissolution of the district is sought;

(6) if indebtedness is to be assumed and assets transferred to another political subdivision of the State of South Carolina as provided for in subsection (B)(3), evidence of official action by the governing body of the political subdivision authorizing the assumption of indebtedness and acceptance of assets;

(7) if provision for the payment or defeasance of indebtedness is to be made as provided for in subsection (B)(3), evidence of the provision for the payment or defeasance of indebtedness.

(E) The petition must be filed with the clerk of court of each county in which the district is located, and a certified copy of the petition shall within ten days after that time be filed with the Secretary of State.

(F) The Secretary of State shall, upon receipt of a petition, commence proceedings as set forth in this subsection for the purpose of investigating the matters set forth in the petition and determining whether a district must be dissolved.

(1) Within twenty days of the receipt of a petition, the Secretary of State shall serve upon the Governor, the State Treasurer, and the governing bodies of the county or counties in which the district is located a copy of the petition, together with a copy of the notice of review authorized by subsection (F)(2). The Governor, the State Treasurer, and the county governing bodies may comment upon the petition, or in the case of county governing bodies, interpose an objection to dissolution of the district, by serving a return to the petition setting forth the comments or grounds for the objection within forty days of the service of the petition.

(2) Within twenty days of the receipt of a petition, the Secretary of State must have published in a newspaper of general circulation in each county in which the district is located once a week for three successive weeks a notice of review which must state:

(a) the name of the district and the boundaries of it;

(b) the statutory authorization for the existence of the district and a brief description of the governmental powers granted by the authorization;

(c) the date upon which the petition was received by the Secretary of State;

(d) that the petition is available for inspection at the office of the clerks of court in each county in which the district is located;

(e) that the Secretary of State is reviewing the matters set forth in the petition and may undertake to dissolve the district if the matters are found to be true;

(f) the names of the persons shown in the records of the Secretary of State, or, in the case of a district with an elected governing body, the county election commission, who constitute the most recently appointed or elected governing body of the district. In the case of an appointed governing body, there also must be identified the official or officials charged with appointing the members of the governing body; and

(g) that persons wishing to comment upon the dissolution of the district may file a return to the petition within twenty days of the last publication of the notice.

(3) A copy of the petition and the notice of review must be served, in the manner provided by law for service of process upon individuals, upon the persons identified as members of the governing body of the district in subsection (F)(2)(f) and mailed to the last known address, if any, of the office of the governing body.

(G) Upon the expiration of the time periods set forth in subsections (F)(1) and (2), the filing of a return to the petition, the Secretary of State shall determine whether the district must be dissolved. The district must be dissolved if the procedures established by this section have been met and if none of the conditions set forth in subsection (B) are found by the Secretary of State to exist. The findings of the Secretary of State must be published in an order of dissolution. The order of dissolution must state:

(1) the name of the district and the boundaries of it;

(2) the statutory authorization for the existence of the district and a brief description of the governmental powers granted by such authorization;

(3) the date upon which the petition was received by the Secretary of State;

(4) that the petition has been served upon the Governor, the State Treasurer, and the governing bodies of each county in which the district is located;

(5) that the notice of review provided for by subsection (F)(2) was published once a week for three successive weeks in a newspaper of general circulation in each county in which the district is located;

(6) that the persons shown in the records of the Secretary of State, or, in the case of a district with an elected governing body, the county election commission, who constitute the most recently appointed or elected governing body of the district, were served with a copy of the petition and the notice of review; and

(7) that the Secretary of State has caused investigation to be made and has determined that the district must be dissolved pursuant to this act.

(H)(1) The order of dissolution must be filed in the office of the clerk of court in each county in which the district is located. The Secretary of State shall have published once a week for three successive weeks in a newspaper of general circulation in each county in which the district is located a notice of dissolution, which must state:

(a) the date of the filing of the petition;

(b) the statutory authorization for the existence of the district and a brief description of the governmental powers granted by the authorization and the boundaries of the district;

(c) that the Secretary of State has determined that the district must be dissolved pursuant to this section;

(d) that the order of dissolution is available for inspection in the office of the clerk of court of each county in which the district is located; and

(e) that the order of dissolution will become final on the twenty‑first day following the final publication of the notice of dissolution.

(2) The notice of dissolution also must be served upon the Governor and the State Treasurer in the manner provided by law for service of process upon individuals, upon the persons identified as members of the governing body of the district in subsection (F)(2)(f) and be mailed to the last known address, if any, of the office of such governing body.

(3) Any resident or landowner of the district, the Governor, the State Treasurer, or a county governing body may, by action de novo instituted in the court of common pleas in a county in which the district is located, within twenty days following the publication of the notice of dissolution, but not afterwards, challenge the action of the Secretary of State. The scope of any action must be limited to the authorization of the Secretary of State to issue the order of dissolution in accordance with the requirements of this chapter or of the Constitution of this State.

(I) In the event a district is located in more than one county and the Secretary of State declines to issue an order of dissolution solely on the grounds that the governing bodies of one or more of such counties object to dissolution, the governing body of any county which does not object to dissolution is authorized to diminish the boundaries of the district so that it no longer includes any portion of that county. In diminishing the boundaries of a district, the governing body shall utilize the procedure set forth in Article 3, Chapter 11, Title 6. No consent or action by the governing bodies of other counties in which the district is located is required.

(J) In the event the district being dissolved has title to real or personal assets, those assets shall be disposed of as provided in this subsection.

(1) To the extent that the district is authorized by the act creating or establishing the district to provide services and one or more of those services are as of the date of dissolution provided by another political subdivision of the State of South Carolina, the Secretary of State:

(a) must convey to such political subdivision:

(i) any and all assets of the district necessary, useful, or otherwise related to the provision of the service or services by the political subdivision; and

(ii) any assets then being used by the political subdivision to provide the service or services to the political subdivision; and

(b) must execute and deliver any deeds, bills of sale, or other evidence of conveyance of the property as may be required by law to make the asset conveyance effective.

(2) In the event that a political subdivision has assumed indebtedness of the district being dissolved as provided in subsection (B)(3), all assets securing such indebtedness must be conveyed to the political subdivision in accordance with this subsection. The Secretary of State is authorized to convey by his signature title to any and all assets as provided in this subsection, and his signature on any deed, bill of sale, or other instrument of conveyance shall be effective and binding for that purpose.

(3) All other assets of the district shall escheat to the State and shall be disposed of in accordance with Chapter 27 of Title 19.