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CHAPTER 11

Financial Matters

ARTICLE 1

General Provisions

**SECTION 57‑11‑10.** “Accident claims” and “gasoline user fee” defined.

 As used in this article:

 (1) “Accident claims” means all claims against the department as provided for by law, except contractual claims;

 (2) “Gasoline user fee” includes taxes for the privilege of selling, consigning, using, shipping, or distributing gasoline or any substitutes or combination of them, usable in internal combustion engines for the generation of power.

HISTORY: 1962 Code Section 33‑281; 1952 Code Section 33‑281; 1951 (47) 457; 1992 Act No. 501, Part II Section 41B.

**SECTION 57‑11‑20.** State highway fund; federal aid highway fund; role of comptroller general; department not considered lump sum agency.

 (A) All state revenues and state monies dedicated by statute to the operation of the department must be deposited into either the “State Highway Fund” or the “State Non‑Federal Aid Highway Fund”. Both funds must be held and managed by the State Treasurer separate and distinct from the general fund, except as to monies utilized by the State Treasurer for the payment of principal or interest on state highway bonds as provided by law. Interest income from the State Highway Fund must be deposited to the credit of the State Highway Fund. Interest income from the Non‑Federal Aid Highway Fund must be deposited to the credit of the Non‑Federal Aid Highway Fund. The commission may commit up to the maximum annual debt service provided in Article X, Section 13 of the South Carolina Constitution into a special fund to be used for the sole purpose of paying the principal and interest, as it comes due, on bonds issued for the construction or maintenance of state highways, or both. This special account will be designated as the State Highway Construction Debt Service Fund.

 (B) Beginning July 1, 1993, the department must process all payment for goods and services, including right‑of‑way acquisitions through the office of the Comptroller General.

 (C) Beginning January 1, 1994, the department shall process the payment for all personnel services through the office of the Comptroller General.

 (D) For all capital improvement and permanent improvement projects beginning on or after July 1, 1994, the department shall enter detailed project numbers on all transactions submitted to the Comptroller General.

 (E) The Comptroller General may continue to make deductions from the compensation of employees for the payment of premiums for life, hospital, and other types of insurance plans that are in force on July 1, 1992.

 (F) Beginning July 1, 1993, the department is not considered a lump sum agency.

HISTORY: 1962 Code Section 33‑282; 1952 Code Section 33‑282; 1951 (47) 457; 1972 (57) 3088; 1992 Act No. 501, Part II Section 41B; 1995 Act No. 145, Part II, Section 49A; 1996 Act No. 461, Section 6; 2005 Act No. 176, Section 14, eff June 14, 2005.

Effect of Amendment

The 2005 amendment, in subsection (A), in the first sentence substituted “into either the ‘State Highway Fund’ or the ‘State Non‑Federal Aid Highway Fund’ “ for “into one fund to be known as the ‘state highway fund, and all federal revenues and federal monies must be deposited into the ‘federal highway fund’ “ and added the fourth sentence relating to interest income from the Non‑Federal Aid Highway Fund and made conforming changes throughout.

**SECTION 57‑11‑80.** Department to adopt budget in accordance with Chapters 9 and 11 of Title 11.

 The department shall adopt a budget in accordance with the provisions of Chapters 9 and 11 of Title 11.

HISTORY: 1962 Code Section 33‑292; 1952 Code Section 33‑292; 1951 (47) 457; 1992 Act No. 501, Part II Section 41B.

ARTICLE 3

State Highway Bonds

**SECTION 57‑11‑210.** Definitions.

 The terms defined herein shall have the meanings hereinafter set forth:

 (1) “Fiscal year” means the fiscal year upon which the affairs of the State of South Carolina are then being conducted. As of the date of this enactment it is that which begins on July first and ends on June thirtieth of the succeeding calendar year.

 (2) “Fuel oil user fee” means the user fee levied pursuant to Chapter 28, Title 12.

 (3) “Gasoline user fee” means the per gallon user fee imposed upon gasoline, components thereof or substitutes therefor, pursuant to the provisions of Chapter 28 of Title 12.

 (4) “Commission” means that agency of government now composed in accordance with the provisions of Article 3 of Chapter 1, Title 57, and any other commission or agency of government hereafter exercising the powers granted to the commission pursuant to the provisions of Chapter 1, Title 57.

 (5) “Highway transportation purposes” means the construction of roads and bridges now or hereafter made a part of the state highway system, or the reconstruction and improvement of highways and bridges now or hereafter made a part of the state highway system and to provide state funds to obtain matching federal highway funds.

 (6) “Motor vehicle license tax” means the annual tax imposed upon a corporation, an individual, and an owner of a motor and other vehicle pursuant to the provisions of Title 56 and Title 57.

 (7) “Road tax” means the road tax imposed on motor carriers pursuant to Chapter 11, Title 56.

 (8) “Sources of revenue” means the gasoline user fee, the fuel oil user fee, the road tax, and the motor vehicle license tax.

 (9) “Authority” means the State Fiscal Accountability Authority of South Carolina.

 (10) “State highway bonds” means all general obligation bonds of the State of South Carolina designated as state highway bonds, which are now outstanding and which may hereafter be issued pursuant to the authorizations of this article.

HISTORY: 1962 Code Section 33‑271; 1972 (57) 3088; 1973 (58) 36; 1977 Act No. 141 Section 13; 1979 Act No. 197 Section 12; 1993 Act No. 181, Section 1524.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 57‑11‑220.** Request by commission for issuance of state highway bonds; requirements.

 Whenever it shall become necessary that monies be raised for highway transportation purposes, or construction and equipment of headquarters administrative facilities, including monies to be used to refund any state highway bonds then outstanding, the commission may make a request to the State Fiscal Accountability Authority for the issuance of state highway bonds pursuant to this article. Such request may be in the form of a resolution adopted at any regular or special meeting of the commission. Such request shall set forth on the face thereof or by schedules attached thereto:

 (1) the amount then required for highway transportation purposes;

 (2) a tentative time schedule setting forth the period of time during which the sum requested will be expended;

 (3) a debt service table showing the annual principal and interest requirements for all state highway bonds then outstanding;

 (4) the amount of revenues derived from each of the sources of revenue during the preceding fiscal year; and

 (5) the amount as estimated by the commission which will be derived from the sources of revenue during the then current and the next ensuing fiscal years during which it is expected that the state highway bonds then sought to be issued will be outstanding, but in estimating the amount to be derived from the sources of revenue the commission shall not assume that the revenues for the then current fiscal year or any future fiscal year will be more than five percent in excess of the actual sums derived from the sources of revenue in the preceding fiscal year, nor that in the sixth or subsequent years there will be any increase over the estimated revenues for the fifth fiscal year following the last completed fiscal year.

HISTORY: 1962 Code Section 33‑272; 1972 (57) 3088; 1973 (58) 36; 1974 (58) 2273; 1993 Act No. 181, Section 15; 1995 Act No. 33, Section 4.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 57‑11‑235.** Issuance of highway bonds.

 Following the receipt of any request pursuant to Section 57‑11‑220, the State Fiscal Accountability Authority or the Department of Administration, as applicable, shall review the same and to the extent that it shall approve such request, it shall be empowered, by resolution duly adopted, to effect the issuance of state highway bonds, or pending the issuance thereof, effect the issuance of bond anticipation notes pursuant to Chapter 17 of Title 11.

HISTORY: 1995 Act No. 33, Section 5.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 57‑11‑240.** Limitation on maximum annual debt service; authority to issue state highway bonds.

 The maximum annual debt service on general obligation bonds issued or outstanding as state highway bonds shall not exceed the debt service limits established in Article X, Section 13 of the South Carolina Constitution. Within such limitations, state highway bonds may be issued for state highway transportation purposes or to refund state highway bonds from time to time under the conditions prescribed by this article.

HISTORY: 1962 Code Section 33‑274; 1972 (57) 3088; 1974 (58) 2273; 1975 (59) 312; 1993 Act No. 181, Section 1524; 1995 Act No. 33, Section 6.

**SECTION 57‑11‑250.** Pledge for payment of bonds.

 For the payment of the principal of and interest on all state highway bonds (whether now outstanding or hereafter issued), as the same shall come due, there shall be pledged the full faith, credit, and taxing power of the State of South Carolina and, in addition thereto, all of the monies derived from all sources of revenue which may be forthwith used by the State Treasurer, without further action of the commission, for the payment of the principal and interest of state highway bonds, as the same respectively mature.

HISTORY: 1962 Code Section 33‑275; 1972 (57) 3088; 1993 Act No. 181, Section 1524.

**SECTION 57‑11‑270.** Revision of taxes included in sources of revenue.

 The pledge of monies derived from the sources of revenue shall not preclude the General Assembly from revising the quantum of any tax included in the sources of revenue except that, so long as any state highway bonds shall be outstanding, the sources of revenue shall be not less than the amount needed to fund the general operations budget of the department and debt service requirements for annual principal and interest payments on state highway bonds.

HISTORY: 1962 Code Section 33‑277; 1972 (57) 3088; 1973 (58) 36; 1993 Act No. 181, Section 1524.

**SECTION 57‑11‑280.** Bond resolution.

 The commission is authorized to request the State Fiscal Accountability Authority to issue state highway bonds. In order to effect the issuance of bonds pursuant to this article, the State Fiscal Accountability Authority may adopt a resolution providing for the issuance of state highway bonds, upon written request by the commission, and may transmit a certified copy thereof to the Governor and to the State Treasurer, with the request that they issue and deliver state highway bonds in accordance with the terms and conditions of such resolution. Such resolution shall set forth the:

 (1) the amount, denomination, and numbering of state highway bonds to be issued;

 (2) the date as of which the same shall be issued;

 (3) the maturity schedule for the retirement of such state highway bonds;

 (4) the redemption provisions, if any, applicable to such bonds;

 (5) the maximum rate or rates of interest the bonds shall bear;

 (6) the purposes for which the bonds are to be issued;

 (7) the occasion on which bids shall be received for the sale of such bonds;

 (8) the form of advertisement of sale;

 (9) the form of the bonds of the particular issue; and

 (10) such other matters as may be deemed necessary in order to effect the sale, issuance, and delivery thereof.

 Such resolution shall further set forth a finding on the part of the State Fiscal Accountability Authority that the actual receipts, for the preceding fiscal year, from the sources of revenue equaled or exceeded the maximum annual debt service requirements for all state highway bonds then outstanding and state highway bonds then proposed to be issued.

HISTORY: 1962 Code Section 33‑278; 1972 (57) 3088; 1973 (58) 36; 1993 Act No. 181, Section 1524.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 57‑11‑290.** Issuance of bonds by Governor and State Treasurer.

 Following receipt of a certified copy of the resolution of the state board the Governor and State Treasurer shall issue state highway bonds in accordance with the provisions of the resolution of the State Fiscal Accountability Authority.

HISTORY: 1962 Code Section 33‑279; 1972 (57) 3088; 1993 Act No. 181, Section 1524.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 57‑11‑300.** Form of bonds; time, place and medium of payment.

 State highway bonds shall be issued in such form, in such denominations, and with such provisions as to time, place, or places and medium of payment as may be determined by the State Fiscal Accountability Authority, subject to the provisions of this article.

HISTORY: 1962 Code Section 33‑280; 1972 (57) 3088; 1993 Act No. 181, Section 1524.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 57‑11‑320.** State highway bonds to be issued as fully registered bonds; transfer.

 State highway bonds shall be issued as fully registered bonds with both principal and interest thereof made payable only to the registered holder. Such fully registered bonds shall be subject to transfer under such conditions as the State Fiscal Accountability Authority shall prescribe.

HISTORY: 1962 Code Section 33‑280.2; 1972 (57) 3088; 1993 Act No. 181, Section 1524.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 57‑11‑330.** Interest on bonds; maturity.

 State highway bonds shall bear interest, payable on such occasions as shall be prescribed by the State Fiscal Accountability Authority. Each issue of state highway bonds shall mature in annual series or installments, which shall mature not more than twenty‑five years after such date. Such installments or series may be equal or unequal in amount. State highway bonds may, in the discretion of the State Fiscal Accountability Authority, be made subject to redemption at par and accrued interest, plus such redemption premium as it shall approve and on such occasions as it may prescribe. State highway bonds shall not be redeemable before maturity unless they contain a statement to that effect.

HISTORY: 1962 Code Section 33‑280.3; 1972 (57) 3088; 1993 Act No. 181, Section 1524.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 57‑11‑340.** Exemption of bonds from taxation.

 All state highway bonds issued under this article, and the interest thereon, shall be exempt from all state, county, municipal, school district, and other taxes or assessments, direct or indirect, general or special, imposed by the State of South Carolina, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate, or transfer taxes.

HISTORY: 1962 Code Section 33‑280.4; 1972 (57) 3088; 1993 Act No. 181, Section 1524.

**SECTION 57‑11‑360.** Sale of bonds.

 State highway bonds shall be sold by the Governor and the State Treasurer upon sealed proposals, after publication of notice of such sale one or more times at least seven days before such sale, in a newspaper of general circulation in the State and also in a financial paper published in New York City which regularly publishes notices of sale of state or municipal bonds. The bonds shall be awarded to the bidder offering to purchase the state highways bonds at the lowest net interest cost to the State at a price of not less than ninety‑nine percent of par and accrued interest to the date of delivery, but the right shall be reserved to reject all bids and to readvertise the bonds for sale and to waive technicalities in the bidding.

 For the purpose of bringing about successful sales of such bonds, the State Fiscal Accountability Authority may do all things ordinarily and customarily done in connection with the sale of state or municipal bonds. All expenses incident to the sales of such bonds shall be paid from the proceeds of the sale of such bonds.

HISTORY: 1962 Code Section 33‑280.6; 1972 (57) 3088; 1993 Act No. 181, Section 1524.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 57‑11‑370.** Bonds constitute legal investments.

 It shall be lawful for all executors, administrators, guardians, and other fiduciaries and all sinking fund commissions, including the State Fiscal Accountability Authority of South Carolina as manager and administrator of other state sinking funds, to invest any monies in their hands in state highway bonds.

HISTORY: 1962 Code Section 33‑280.7; 1972 (57) 3088; 1993 Act No. 181, Section 1524.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 57‑11‑380.** Disposition of proceeds of sale of bonds.

 The proceeds of the sale of state highway bonds must be received by the State Treasurer and applied by the State Treasurer to the purposes for which issued, except that the accrued interest, if any, must be used to discharge in part the first interest to become due on the bonds, but the purchasers of the bonds are not liable for the proper application of the proceeds to the purposes for which they are intended.

HISTORY: 1962 Code Section 33‑280.8; 1972 (57) 3088; 1993 Act No. 181, Section 1524; 2004 Act No. 184, Section 5.

**SECTION 57‑11‑390.** Application of proceeds to purposes for which bonds issued.

 The proceeds derived from the sale of state highway bonds shall be applied only to the purposes set forth in the resolution of the State Fiscal Accountability Authority pursuant to which the bonds are issued.

HISTORY: 1962 Code Section 33‑280.9; 1972 (57) 3088; 1993 Act No. 181, Section 1524.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.