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CHAPTER 71.

 SCHOOL BONDS

ARTICLE 1.

 SCHOOL BOND ACT

**SECTION 59‑71‑10.** Short title.

This article may be cited as the “School Bond Act.”

**SECTION 59‑71‑20.** Definitions.

As used in this article:

(1) The word “authorities” shall mean the board of trustees or the commission vested by law with the duty of operating the public schools in any particular district, unit or county of the State;

(2) The term “operating school unit” shall mean any type of school district, whether it be located in its entirety in one county or located partly in more than one county or, in case the schools of any county be operated by the county unit plan, the county;

(3) The term “capital improvements” shall mean the constructing, improving, equipping, renovating and repairing of school buildings or other school facilities or the cost of the acquisition of land whereon to construct or establish such school facilities; and

(4) The term “county board” shall mean the county board of education of the county wherein the operating school unit is located, except that when an operating school unit is located partly in one county and partly in another county such term shall in such instances relate to the county boards of education of the counties wherein the operating school unit is located.

**SECTION 59‑71‑30.** Authorities of operating school units authorized to issue general obligation bonds.

The authorities of any operating school unit may issue general obligation bonds of such operating school unit for the purpose of defraying the cost of capital improvements to any amount not exceeding the constitutional debt limitation applicable to such operating school unit, if:

(1) The election required by this article as a condition precedent to the issuance of bonds results favorably thereto;

(2) The bonds are issued within three years following the holding of the election; and

(3) The county board wherein such operating school unit is located, if there is such, shall give its approval to the issuance of such bonds.

**SECTION 59‑71‑40.** Election.

The election hereby required shall be ordered by the authorities, who shall fix the date thereof and prescribe the form of the notice of the holding of the election. Advices of the action thus taken by the authorities shall be transmitted to the commissioners of election for the county, or counties, wherein the election is to be held. It shall thereupon become the duty of the commissioners of election to conduct the election so ordered. To that end, the commissioners of election shall prescribe the form of ballot, arrange for voting places in each precinct, or any part of a precinct, constituting all or a portion of the operating school unit, appoint managers, and receive the returns of the election. After duly canvassing the returns, the commissioners of election shall declare the results thereof and certify such results to the authorities.

**SECTION 59‑71‑50.** Notice of election.

Notice of the holding of such an election shall be given by publication thereof, in some newspaper published in the county wherein the operating school unit is located, at least once not less than fifteen days prior to the occasion set for the holding of such election. If the operating school unit lies partly in one county and partly in another the publication required by this section shall be made in both counties. Such notice shall state:

(1) The occasion of the holding of the election;

(2) The location of the several polling places;

(3) The qualifications imposed upon persons desirous of voting;

(4) The amount of bonds to be issued; and

(5) A brief description of the purpose for which the proceeds of the bonds shall be applied.

**SECTION 59‑71‑60.** Declaration of result of election; declaration conclusive unless contested within thirty days.

Upon the receipt of the returns of the election the authorities shall by resolution declare the results thereof and may provide for the filing of a certified copy of such resolution declaring the results of the election in the office of the clerk of the court for each county wherein the operating school unit is located. In such event the results of the election, as declared by resolution of the authorities so certified and filed, shall not be open to question except by a suit or proceeding instituted within thirty days from the date of the filing thereof.

**SECTION 59‑71‑70.** Maturity of bonds.

Such bonds shall mature in such annual series or installments as the authorities shall provide, except that:

(1) The first maturing bonds shall mature within three years from the date as of which they may be issued;

(2) Not less than three per cent of the aggregate of the issue shall mature in any year; and

(3) No bond shall mature later than twenty‑five years from the date as of which it may be issued.

The provisions of this section shall not prevent the authorities from issuing the aggregate of the bonds authorized by the election on one or more occasions as two or more issues.

**SECTION 59‑71‑80.** Provision for redemption.

Any bond may be issued with a provision for its redemption prior to its stated maturity at par and accrued interest, plus such redemption premium as may be prescribed by the authorities, but no bond shall be redeemable before maturity unless it contains a statement to that effect. In the proceedings authorizing the issuance of such bonds, provision shall be made specifying the manner of call and the notice thereof that must be given.

**SECTION 59‑71‑90.** Negotiability and registration.

The bonds issued pursuant to this article shall be in the form of negotiable coupon bonds, payable to bearer, with the privilege to the holder of having them registered as to principal on the books of the treasurer of the county wherein the operating school unit is located, in whole or in part, and the principal thus made payable to the registered holder (unless the last registered transfer shall have been to bearer) upon such conditions as the authorities may prescribe. Unless registered such bonds shall have all the qualities of negotiable instruments under the law merchant and the Uniform Commercial Code.

**SECTION 59‑71‑100.** Place of payment.

The bonds issued pursuant to this article shall be made payable at such places, within or without the State, as the authorities shall provide.

**SECTION 59‑71‑110.** Interest rate.

Such bonds shall bear interest at rates to be named by the authorities.

**SECTION 59‑71‑120.** Execution of bonds.

Such bonds and the coupons annexed thereto shall be executed in the manner provided for by the authorities.

**SECTION 59‑71‑130.** Sale of bonds.

The bonds shall be sold at public sale, after advertisement of such sale in a newspaper having general circulation in the State or in a financial publication published in the city of New York or, in the discretion of the authorities, in both such publications. Such advertisement shall appear not less than ten days prior to the occasion set for such sale. The bonds may be disposed of at private sale if there are no bids received or if all bids are rejected. The provisions of this section shall not prevent a sale at private sale to the United States of America or any agency thereof.

**SECTION 59‑71‑140.** Minimum sales price.

All such bonds must be sold at a price of not less than par and accrued interest to the date of delivery.

**SECTION 59‑71‑150.** Credit pledged for payment; tax therefor.

For the payment of the principal and interest on such bonds as they respectively mature and for the creation of such sinking fund as may be necessary therefor the full faith, credit and resources of the operating school unit are irrevocably pledged and there shall be levied annually by the auditor of each county wherein such operating school unit is located, and collected by the treasurer of such county in the same manner as county taxes are levied and collected, a tax, without limit, on all taxable property in such operating school unit sufficient to pay the principal and interest of such bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

**SECTION 59‑71‑155.** General obligation bonds; transfers from state general fund to make payments on bonded indebtedness of school districts; maximum amount allowed for transfers.

(A) This section applies to existing and future general obligation bonds issued by an operating school unit. For purposes of this section, general obligation bonds are obligations expressly secured by the full faith, credit, and taxing power of the operating school unit that issues the bonds.

(B) The county treasurer of a county in which any operating school unit has outstanding general obligation bonds shall notify the State Treasurer on the fifteenth day prior to the due date of any payment of principal or interest on the bonds if the county treasurer does not have on deposit, or there is not on deposit with a paying agent, the sum required to make that payment. If the county treasurer or paying agent does not have on deposit the sum required to make that payment on the third business day prior to the due date, the State Treasurer shall transfer to the county treasurer from the general fund of the State the sum necessary to enable the county treasurer or paying agent to make payment of principal and interest then coming due. However, the total amount to be advanced to operating school units for this purpose in any fiscal year may not exceed the amount appropriated in that year under the Education Finance Act. Immediately upon receipt of the sum from the State Treasurer on a bond for which a paying agent other than the county treasurer has been appointed, the county treasurer shall transfer to the paying agent all amounts required to effect punctual payment of the sum due. The State Treasurer shall withhold from the operating school unit from the next and subsequent distributions of any revenue to that operating school unit sufficient monies necessary to reimburse the general fund of the State for the sums applied to pay the principal and interest on the bonds and for the investment earnings that would have been received on the monies advanced from the general fund. In addition, the State Treasurer may direct the county treasurer to apply to the payment due on the bonds any monies being held by the county treasurer in any fund, other than the sinking fund, derived from state revenue for the operating school unit.

(C) The amounts forwarded to any county treasurer by the State Treasurer under subsection (B) must be applied by the county treasurer or paying agent solely to the payment of the principal of or interest on the bonds. The State Treasurer shall notify the State Department of Education, the county auditor, and the superintendent of the operating school unit of payments made and sums withheld pursuant to this section.

(D) Whenever the State Treasurer makes a payment to a county treasurer pursuant to subsection (B) and withholds sums from revenue to the operating school unit pursuant to this section, or directs a county treasurer to apply monies for this purpose, the county treasurer shall pay to the operating school unit all collections of property taxes levied for the payment of the operating school unit’s general obligation bonds until the sums so withheld or applied have been paid by the county treasurer to the operating school unit from such tax levies.

(E) A county auditor in any county in which the provisions of subsection (B) have been implemented for the payment of principal and interest on the general obligation bonds of an operating school unit shall adjust the millage levied for the payment of those bonds in the next fiscal year to the level necessary to provide for the punctual payment of all sums due during that year and shall file a report with the State Treasurer demonstrating compliance with this subsection not later than five business days after setting the millage for this fiscal year.

**SECTION 59‑71‑160.** Exemption of bonds from taxes.

Bonds issued under this article shall be exempt from all State, county, municipal, school district and other taxes or assessments, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

**SECTION 59‑71‑170.** Bonds as legal investments.

It shall be lawful for all executors, administrators, guardians, committees and other fiduciaries and all sinking fund commissions to invest any moneys in their hands in bonds issued under this article.

**SECTION 59‑71‑180.** Deposit and use of proceeds.

The proceeds derived from the sale of the bonds must be deposited with the treasurer of the county in which the operating school unit is located, in whole or in part, in a special fund to the credit of the operating school unit and must be applied solely to the purposes for which the bonds were issued, except that the accrued interest, if any, must be used to discharge in part the first interest to become due on the bonds.

**SECTION 59‑71‑190.** Investment of sinking funds in defense securities.

The county treasurers of the various counties of the State may invest the sinking funds of the school districts of their respective counties in United States Defense Bonds and Defense Securities upon the written request of the county superintendent of education and a majority of the trustees of the school district whose funds are to be invested.

ARTICLE 3.

 BONDS IN DEFAULT

**SECTION 59‑71‑310.** Resolution of school district concerning bonds in default.

The district board of any school district authorized to issue general obligation bonds of the school district is hereby authorized to provide by resolution duly adopted that if the principal or interest of any general obligation bonds issued by the school district are not paid when they become due, the holder of the bonds and coupons may present them to the State Treasurer of South Carolina who, to the extent that moneys shall be available to the school district for any purpose and from any source, shall effect payment of them and charge such payments to the account of the school district and diminish the payments otherwise to be made to the extent thereof; provided, that no such resolution shall be effective unless it has been approved by the State Treasurer as provided in Section 59‑71‑320.

**SECTION 59‑71‑320.** Duties of State Treasurer.

Upon adoption of the resolution, a copy shall be transmitted to the State Treasurer together with a concise statement showing the principal and estimated interest payments to become due on the bonds to be issued. If the State Treasurer determines

(a) that sufficient funds can reasonably be expected to accrue to the school district from State revenues otherwise applicable to the school district for other purposes to provide debt service on the bonds,

(b) that the resolution provides adequate assurance that ad valorem taxes will be levied annually on all taxable property within the school district sufficient to pay the principal and interest on the bonds as they become due and

(c) that an interest savings can be expected to result from his approval of the resolution, the State Treasurer shall approve the resolution by signing it. It is not the intent of this section to give the State Treasurer authority to approve or disapprove a local bond issue.

**SECTION 59‑71‑330.** Rules and regulations.

The State Treasurer is hereby authorized to prescribe rules and regulations

(a) requiring the filing of such information as he deems pertinent with respect to bonds to be sold with the provision authorized by Section 1 of 1973 Act No. 378,

(b) requiring school districts issuing bonds to provide him with an analysis of each annual tax levy to be made therein before it is imposed,

(c) providing for the immediate withholding of any funds due to a school district which fails to impose adequate millage for debt service, or which fails to perform any of the terms and provisions contained in any such resolution or to comply with any such rules and regulations.

**SECTION 59‑71‑340.** Levy of additional tax.

The State Comptroller is directed in any year to levy and the State Treasurer is directed to collect in any school district which does not levy adequate millage for that year, to provide debt service to become due on bonds sold with the provision authorized by Section 1 of 1973 Act No. 378, an ad valorem tax on all taxable property in the school district without limit as to rate or amount sufficient to pay the principal of and interest on the bonds as they become due, including all bonds and coupons paid by him pursuant to Section 2 of 1973 Act No 378. A notice of such tax levy shall be provided to the district board by March first.

ARTICLE 5.

 STATE SCHOOL BONDS

**SECTION 59‑71‑410.** Authority to issue State school bonds.

For the purpose of enabling the State Board of Education to raise funds for capital improvements and other purposes in addition to those funds provided by Article 3 of Chapter 21 of this Title, for the purpose of enabling the Board to raise funds necessary to acquire the school bus equipment authorized to be acquired by the provisions of Article 3 of Chapter 67 of this Title and for the purpose of permitting the Board to raise funds to refinance the short‑term indebtedness incurred in connection with the acquisition of school bus equipment, the Governor and the State Treasurer may issue State schools bonds under the conditions prescribed by this article.

**SECTION 59‑71‑420.** Limits on aggregates of indebtedness; maturity date.

The aggregate outstanding principal indebtedness on account of bonds issued for capital improvements and other purposes, after deducting that part of any sinking fund applicable to the retirement of bonds issued for such purposes, shall never exceed one hundred thirty‑seven million, five hundred thousand dollars.

The aggregate outstanding principal indebtedness on account of bonds issued to acquire the school bus equipment authorized by the provisions of Article 3 of Chapter 67 of this Title, after deducting that part of any sinking fund applicable to the retirement of bonds issued for such purpose, shall never exceed nine million dollars.

Within such limits, State school bonds may be issued from time to time under the conditions prescribed by this article, but in no event to mature later than July 1, 1991.

**SECTION 59‑71‑430.** Request for issuance of bonds.

Before any State school bonds are issued, the State Board of Education shall transmit to the Governor and to the State Treasurer a request for the issuance thereof and shall embody in such request:

(a) A schedule showing the aggregate of bonds issued pursuant to previous requests, the purposes for which they were issued, the annual payments required to retire such bonds, the interest thereon and the amount of sinking fund applicable to the retirement of such outstanding bonds, apportioned in accordance with the requirement of Section 59‑71‑570;

(b) the amount of bonds sought to be issued;

(c) a schedule showing future annual principal requirements and estimated annual interest requirements on the bonds requested to be issued;

(d) a schedule showing

(i) the estimated total funds required to cover applications for capital improvements and other purposes to be approved by the Board in that fiscal year;

(ii) the amount of funds then available to apply on such applications and;

(iii) the remaining amount required to cover such applications, being the amount for which it is proposed that State school bonds be issued.

**SECTION 59‑71‑440.** Conditions warranting issuance of bonds.

If the following shall appear to the satisfaction of the Governor and the State Treasurer from the foregoing request:

(a) That the amount of revenues derived from the retail sales tax received during the next preceding fiscal year will, if received annually thereafter, be sufficient to pay as they fall due the principal and interest on such proposed State school bonds and all other State school bonds theretofore issued;

(b) that the amount of revenues estimated by the State Board of Education to be received during the term for which such proposed State school bonds will be outstanding will be sufficient to pay, as the same respectively mature, the principal and interest of such bonds and of all other State school bonds theretofore issued;

(c) that the estimate by the State Board of Education of its needs as shown pursuant to Section 59‑71‑430 requires bonds to be issued in the amount requested;

(d) that the issue will be within the limitations prescribed by Section 59‑71‑420; it shall be the duty of the Governor and the State Treasurer to issue State school bonds in accordance with such request.

**SECTION 59‑71‑450.** Form of bonds; time, place and medium of payment.

The State school bonds shall be issued in such form and with such provisions as to time, place or places and medium of payment as may be determined by the Governor and the State Treasurer, subject to the provisions of this article.

**SECTION 59‑71‑460.** Denomination of bonds.

State school bonds shall each be in the denomination of one thousand dollars or some multiple thereof.

**SECTION 59‑71‑470.** Form of bonds; registration.

State school bonds issued pursuant to this article may be in the form of negotiable coupon bonds, payable to bearer, with the privilege to the holder of having them registered in his name on the books of the State Treasurer as to principal only, or as to both principal and interest, and such principal, or both principal and interest, as the case may be, thus made payable to the registered holder, subject to such conditions as the State Treasurer may prescribe. State school bonds so registered as to principal in the name of the holder may thereafter be registered as payable to bearer and made payable accordingly.

State school bonds may also 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 Treasurer may prescribe. Such fully registered bonds may, if the proceedings authorizing their issuance so provide, be convertible into negotiable coupon bonds with the attributes set forth in the first paragraph of this section.

**SECTION 59‑71‑480.** Interest; maturities; redemption.

State school bonds shall bear interest, payable semiannually, at a rate or rates not exceeding the maximum interest rate specified in the Board’s request for the issuance thereof. Each issue of State school bonds shall mature in annual series or installments, the first of which annual series or installments shall mature not more than ten years after the date of the bonds and the last not more than twenty‑four years after such date. The installments or series may be equal or unequal in amount. State school bonds may, in the discretion of the Board, 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 specify in its request for the issuance of such bonds. State school bonds shall not be redeemable before maturity unless they contain a statement to that effect.

**SECTION 59‑71‑490.** Exemption of bonds from taxes.

All State school bonds issued under this article, and the income therefrom, shall be exempt from all State, county, municipal, school district and other taxes or assessments, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

**SECTION 59‑71‑510.** Pledge of credit and revenues for payment of bonds.

For the payment of the principal and interest on all State school bonds at any time issued and outstanding pursuant to this article as now constituted or hereafter amended, there shall be pledged the full faith, credit and taxing power of the State and, in addition thereto, but subject to the provisions of Section 59‑71‑520, the entire amount of revenue derived from the retail sales tax levied by Chapter 35 of Title 12. The revenues derived from such retail sales tax during each fiscal year shall be discharged from the foregoing pledge when payment or provision for payment has been made for the principal and interest of all State school bonds maturing in such fiscal year and when the requirements of Section 59‑71‑570 as to payments into the sinking fund have been met.

**SECTION 59‑71‑520.** Revision of retail sales tax not precluded by pledge.

The pledge of such revenue derived from such retail sales tax shall not preclude the revision of such retail sales tax as to rate or as to the item taxed, either or both, if the State Auditor shall certify that his estimate of the revenue to be derived annually from the tax as thus revised will not be less than one hundred and fifty per cent of that sum which is equal to the maximum annual principal and interest requirements on all State school bonds outstanding or then requested to be issued on the date such certificate bears. Such certificate shall be appended to the enrolled act reducing such tax and be presented to the joint assembly of the General Assembly on the occasion such act is presented for ratification.

**SECTION 59‑71‑530.** Sale of bonds.

State school bonds whose proceeds are to be applied exclusively to the purchase of school bus equipment may be privately placed, if the terms and conditions of such disposition shall be approved by resolution duly adopted by the State Budget and Control Board.

All other State school 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 ten 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 highest bidder at a price not less than 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.

For the purpose of bringing about successful sales of such bonds, the Board 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.

**SECTION 59‑71‑540.** Bonds as lawful investments.

It shall be lawful for all executors, administrators, guardians and other fiduciaries and all sinking fund commissions to invest any moneys in their hands in State school bonds.

**SECTION 59‑71‑550.** Disposition of proceeds of sale.

The proceeds of the sale of State school bonds shall be received by the State Treasurer and placed by him to the credit of the State Board of Education, except that the premium, if any, shall be placed in the sinking fund established by Section 59‑71‑570 and the accrued interest, if any, shall be used to discharge in part the first interest to become due on such bonds. On the occasion that he receives the proceeds of State school bonds from the purchasers, the State Treasurer shall segregate that part of the proceeds which are intended for allocation to school districts for capital improvements and other purposes from that portion intended for the purchase of school bus equipment, but the purchasers of such bonds shall in no wise be liable for the proper application of the proceeds to the purposes for which they are intended.

The State Board of Education shall in turn credit each of the several school districts with its proportionate share of the proceeds of the bonds applicable to capital improvements and other purposes, each district’s share being determined in the ratio of its public school enrollment to the enrollment of the State as a whole.

**SECTION 59‑71‑560.** Use of proceeds; segregation for different uses.

The proceeds derived from the sale of State school bonds shall be applied by the Board only to the purposes for which the bonds are issued, and, if it shall be provided that a part of the proceeds of an issue of bonds shall be allocated to school districts for capital improvements and other purposes and another part be applied to defray the cost of school bus equipment, the State Treasurer shall, upon the receipt of the proceeds of such bonds, segregate such proceeds in accordance with the provisions of the request made to the Governor and the State Treasurer pursuant to the provisions of Section 59‑71‑430.

**SECTION 59‑71‑570.** Sinking fund payments.

If the annual principal payment on account of outstanding bonds be less than five per cent of the aggregate of all bonds outstanding, there shall be placed in the sinking fund hereby established for the retirement of State school bonds such sum as is the difference between five per cent of the outstanding State school bonds and the amount retired by way of principal of such outstanding bonds during such year. The sinking fund shall be duly apportioned between debt existing by reason of borrowings for advances to the school districts or operating units of the several counties and debt existing by reason of borrowings to defray the cost of acquiring school bus equipment, in the proportion that each bears to the total of State school bonds outstanding.

Notwithstanding the preceding paragraph, the remaining balance in the Sinking Fund as of July first, 1981, shall be remitted to the General Fund of the State.

**SECTION 59‑71‑580.** Retail sales tax provisions as part of contract with bondholders.

The provisions of Chapter 35 of Title 12 levying the retail sales tax and of this article pledging the proceeds thereof to the payment of the principal and interest of State school bonds and to the sinking fund to be established for the retirement of the outstanding principal of the bonds shall be deemed to partake of the obligation of the contract between the State and the holders of the State school bonds.