CHAPTER 21

Financial Matters Generally

ARTICLE 1

General Provisions

**SECTION 5‑21‑10.** Prerequisites to creating debts or endorsing or guaranteeing notes and the like in cities over 45,000.

 No city council of any city of over forty‑five thousand inhabitants shall create any debt beyond the municipal income of the current year or endorse or guarantee the notes, bonds or obligations or accept the drafts of any person for any purpose whatsoever, unless the following terms and conditions be first observed and complied with:

 (1) A resolution declaring the intention of the city council to create such indebtedness or incur such liability and specifying the amount thereof shall first have been passed at a regular meeting of the city council by a vote of two thirds of the whole body;

 (2) The proposition, after being adopted in such manner by the city council, shall have been submitted to the qualified voters of the city at an election held under resolution of the city council after ninety days’ notice thereof and two thirds of the number of qualified voters voting at such election shall have voted affirmatively; and

 (3) The proposition shall have been submitted to the General Assembly for approval and approved by the General Assembly.

HISTORY: 1962 Code Section 47‑802; 1952 Code Section 47‑802; 1942 Code Section 7552; 1932 Code Section 7530; Civ. C. ‘22 Section 4644; Civ. C. ‘12 Section 2959; Civ. C. ‘02 Section 1993; 1899 (23) 51.

CROSS REFERENCES

Authorization of Authority to cooperate in handling finances of State subdivisions, see Section 1‑11‑130.

Bonds of political subdivisions, see Section 11‑15‑10 et seq.

Finance, taxation, and one‑bonded debt, generally, see SC Const Art. X, Section 1 et seq.

Revenue bond act for utilities, see Section 6‑21‑10 et seq.

Revenue Bond Refinancing Act of 1937, see Section 6‑17‑10 et seq.

Special election for bonding municipality, see SC Const Art. XVII, Section 7B.

Tax exempt status of government bonds, notes and certificates of indebtedness, see Section 12‑2‑50.

LIBRARY REFERENCES

Municipal Corporations 72, 866, 867.

Westlaw Key Number Searches: 268k72; 268k866; 268k867.

C.J.S. Municipal Corporations Sections 189, 1595 to 1597.

LAW REVIEW AND JOURNAL COMMENTARIES

Municipal Corporations—Industrial Revenue Bond—South Carolina’s Enabling Act Declared Constitutional. 20 S.C. L. Rev. 106.

NOTES OF DECISIONS

In general 1

1. In general

Constitutionality. Duncan v. City of Charleston (S.C. 1901) 60 S.C. 532, 39 S.E. 265.

**SECTION 5‑21‑20.** Exceptions to 5‑21‑10.

 Nothing in Section 5‑21‑10 contained shall apply to any debt contracted or to any note, bond, draft or obligation executed, indorsed or guaranteed by the city council of such city and approved and confirmed by a two‑thirds vote of the whole of such city council, at a regular meeting thereof, for the purpose of (a) the establishment of a sewage system, (b) securing a supply of water or light for its public use, by contract or (c) the lease, purchase, construction or operation by the city council of any plant for waterworks or lighting purposes, one or both. For any of such purposes the city council may create debts and incur liabilities beyond the municipal income of the current year, upon the same being approved and confirmed by a two‑thirds vote of the whole of the city council at a regular meeting thereof. But no purchase or construction of any such plant for waterworks or lighting purposes shall be made by the city council except upon a majority vote of the electors in such city who are qualified to vote on the bonded indebtedness of the city.

HISTORY: 1962 Code Section 47‑803; 1952 Code Section 47‑803; 1942 Code Section 7552; 1932 Code Section 7530; Civ. C. ‘22 Section 4644; Civ. C. ‘12 Section 2959; Civ. C. ‘02 Section 1993; 1899 (23) 51.

CROSS REFERENCES

Municipal public works generally, see Sections 5‑29‑10 et seq., 5‑31‑10 et seq., 5‑35‑10 et seq., 6‑11‑1210 et seq., 6‑15‑10 et seq., and 6‑21‑10 et seq.

Requirement of consent of city or town council prior to the incurring of indebtedness by the boards of commissioners of public works, see Section 5‑31‑260.

LIBRARY REFERENCES

Municipal Corporations 864(3), 867.

Westlaw Key Number Searches: 268k864(3); 268k867.

C.J.S. Municipal Corporations Sections 1589, 1597.

**SECTION 5‑21‑30.** Municipal officers prohibited from contracting with municipality; exceptions.

 (A) It is unlawful for a municipal officer to take a contract to perform work or furnish material for the municipal corporation of which he is an officer or receive compensation on any contract except that:

 (1) in cities of over thirty thousand inhabitants such contracts may be allowed by the unanimous vote of the city council upon each specific contract, the vote to be taken by yeas and nays and entered upon the council’s journal; and

 (2) a municipal officer may enter into a contract whenever the contract is awarded to him as low bidder after a public call for bids and the contract is allowed by the unanimous vote of the city or town council upon each particular contract, the vote to be taken by yeas and nays and entered upon the council’s minutes.

 (B) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years.

HISTORY: 1962 Code Section 47‑804; 1952 Code Section 47‑804; 1942 Code Sections 1516, 7242; 1932 Code Sections 1516, 7242; Civ. C. ‘22 Section 4397; Cr. C. ‘22 Section 464; Civ. C. ‘12 Section 2999; Cr. C. ‘12 Section 304; Civ. C. ‘02 Section 2002; Cr. C. ‘02 Section 224; 1900 (23) 455; 1946 (44) 1418; 1993 Act No. 184, Section 130.

CROSS REFERENCES

Conflict of interests of municipal officers or employees, see Section 5‑7‑130.

LIBRARY REFERENCES

Municipal Corporations 174, 231.

Westlaw Key Number Searches: 268k174; 268k231.

C.J.S. Municipal Corporations Sections 411 to 415, 906.

Attorney General’s Opinions

With respect to the employment of the Mayor by a law firm that serves as general obligation bond counsel for the City, regardless of whether Section 5‑21‑30 has been superseded, compliance with Sections 5‑7‑130 and 8‑13‑700 is still necessary. Pursuant to section 5‑7‑130, the Mayor must disclose his/her financial interests in the law firm and refrain from participating in any matter in his capacity as Mayor which involves services the law firm provides for the City. S.C. Op.Atty.Gen. (May 30, 2012) 2012 WL 2168288.

NOTES OF DECISIONS

In general 1

1. In general

Quoted in Town of Myrtle Beach v. Suber (S.C. 1954) 225 S.C. 201, 81 S.E.2d 352.

Cited in Gilbert v. McLeod Infirmary (S.C. 1951) 219 S.C. 174, 64 S.E.2d 524, 24 A.L.R.2d 60.

**SECTION 5‑21‑40.** Officers required to account to municipality for interest collected on deposits.

 A municipal officer depositing funds at interest in a bank or other depository shall account to the municipality for all interest collected on the deposits. A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years.

HISTORY: 1962 Code Section 47‑805; 1952 Code Section 47‑805; 1942 Code Section 1577; 1932 Code Section 1577; Cr. C. ‘22 Section 530; 1915 (29) 56; 1993 Act No. 184, Section 131.

CROSS REFERENCES

Requirement that State, county and municipal officer account for interest, see Section 11‑1‑20.

LIBRARY REFERENCES

Municipal Corporations 174, 885.

Westlaw Key Number Searches: 268k174; 268k885.

C.J.S. Municipal Corporations Sections 411 to 415, 1628 to 1629.

**SECTION 5‑21‑50.** Towns over 200 required to publish financial statements.

 All towns in this State of more than two hundred population shall keep an itemized account of all receipts and disbursements and shall publish quarterly statements of such accounts in some newspaper in the county in which such town is situated or shall post such quarterly statements at some conspicuous place or places in the town.

HISTORY: 1962 Code Section 47‑807; 1952 Code Section 47‑807; 1942 Code Section 7243; 1932 Code Section 7243; Civ. C. ‘22 Section 4398; 1912 (27) 817; 1933 (38) 163.

CROSS REFERENCES

Requirement of an annual audit, see Section 5‑7‑240.

LIBRARY REFERENCES

Municipal Corporations 885.

Westlaw Key Number Search: 268k885.

C.J.S. Municipal Corporations Sections 1628 to 1629.

**SECTION 5‑21‑60.** Prorating of municipal business license taxes on business establishments annexed into municipalities.

 Notwithstanding any other provision of law, when any business establishment is annexed into the corporate limits of a municipality which has a business license tax, the tax for the business concerned for the year in which the annexation became effective shall be prorated so that the amount payable shall be one‑twelfth of the annual tax multiplied by the number of full months of the tax year the business was located within the corporate limits. The provisions of this section shall apply to the year 1976 and each year thereafter.

HISTORY: 1977 Act No. 126.

LIBRARY REFERENCES

Licenses 29.

Westlaw Key Number Search: 238k29.

C.J.S. Licenses Section 66.

ARTICLE 3

Taxation Generally

**SECTION 5‑21‑110.** Property subject to municipal taxes.

 All municipal taxes levied by cities and towns in this State shall be levied on all property, real and personal, not exempt by law from taxation, situate within the limits of such cities and towns.

 All clauses of charters of cities or towns restricting taxation in such cities or towns to real estate only are hereby repealed.

HISTORY: 1962 Code Section 47‑821; 1952 Code Section 47‑821; 1942 Code Section 7265; 1932 Code Section 7265; Civ. C. ‘22 Section 4420; Civ. C. ‘12 Section 3011; Civ. C. ‘02 Section 2006; 1897 (22) 409.

CROSS REFERENCES

Apportionment of municipal taxes, see Section 12‑45‑170.

Authority for municipal authorities to copy assessments from county auditor’s books, see Section 12‑37‑40.

Requirement that municipal taxes be levied on the same assessment as that for State taxes, see Section 12‑37‑30, SC Const Art. X, Section 4.

Taxable property and exemptions from taxation, see Section 12‑37‑210 et seq.

LIBRARY REFERENCES

Municipal Corporations 966.

Westlaw Key Number Search: 268k966.

C.J.S. Municipal Corporations Sections 1749 to 1751.

Attorney General’s Opinions

Trucks used by a business located in Greeleyville, although garaged elsewhere, have a situs within the Town of Greeleyville and are therefore taxable by the Town. 1976‑77 Op Atty Gen, No 77‑115, p 100.

Taxation of shopping center. A municipality has no statutory or constitutional authority to exempt a shopping center from ad valorem taxation or to reduce the rate of taxation thereon. 1967‑68 Op Atty Gen, No 2521, p 211.

NOTES OF DECISIONS

In general 1

1. In general

This section [Code 1962 Section 47‑821] is intended to secure uniformity in taxation of property. Florida Cent. & P.R. Co. v. City of Columbia (S.C. 1899) 54 S.C. 266, 32 S.E. 408.

**SECTION 5‑21‑120.** Cities and towns authorized to collect taxes in installments.

 The cities and towns of this State may collect the taxes of such cities or towns in such installments as the municipal authorities thereof may by ordinance prescribe.

HISTORY: 1962 Code Section 47‑822; 1952 Code Section 47‑822; 1942 Code Section 7266; 1932 Code Section 7266; Civ. C. ‘22 Section 4421; Civ. C. ‘12 Section 3012; Civ. C. ‘02 Section 2007; 1898 (22) 728.

LIBRARY REFERENCES

Municipal Corporations 978(1).

Westlaw Key Number Search: 268k978(1).

C.J.S. Municipal Corporations Sections 1821 to 1822.

**SECTION 5‑21‑130.** Unlawful for proceeds of tax specially levied to be applied for other purposes.

 Whenever a municipal corporation shall levy and collect a tax for any specific purpose, it shall be unlawful for the officers or agents of such municipal corporation to apply any of the proceeds of such tax levy to any other purpose than that for which it was collected, until such purpose shall have been discharged, fulfilled or abandoned. Any municipal officer or agent violating the provisions of this section shall be fined in a sum of not less than five hundred dollars or imprisoned not less than six months, or both, in the discretion of the judge.

HISTORY: 1962 Code Section 47‑823; 1952 Code Section 47‑823; 1942 Code Section 1509; 1932 Code Section 1509; Cr. C. ‘22 Section 458; Cr. C. ‘12 Section 533; 1909 (26) 124.

LIBRARY REFERENCES

Municipal Corporations 986.

Westlaw Key Number Search: 268k986.

C.J.S. Municipal Corporations Section 1886.

**SECTION 5‑21‑140.** Authority of municipalities to grant special property tax assessments to rehabilitated historic properties and low and moderate income rental properties.

 The powers and authorities conferred upon county governing bodies by Section 4‑9‑195 are also conferred upon municipal governing bodies, mutatis mutandi.

HISTORY: 1990 Act No. 474, Section 2.

LIBRARY REFERENCES

Municipal Corporations 966(1).

Westlaw Key Number Search: 268k966(1).

C.J.S. Municipal Corporations Sections 1749 to 1751.

Attorney General’s Opinions

Discussion of the constitutional validity of the Bailey Bill and special assessments. S.C. Op.Atty.Gen. (January 4, 2017) 2017 WL 456088.

ARTICLE 5

General Obligation Bonds

**SECTION 5‑21‑210.** Short title.

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

HISTORY: 1962 Code Section 47‑831; 1952 Code Section 47‑831; 1951 (47) 771.

CROSS REFERENCES

Bonds of political subdivisions generally, see Sections 11‑15‑10 et seq.

LAW REVIEW AND JOURNAL COMMENTARIES

Municipal Corporations—Industrial Revenue Bonds—South Carolina’s Enabling Act Declared Constitutional. 20 S.C. L. Rev. 106.

NOTES OF DECISIONS

In general 1

1. In general

Applied in Sadler v. Lyle (S.C. 1970) 254 S.C. 535, 176 S.E.2d 290.

**SECTION 5‑21‑220.** Definitions.

 As used in this article:

 (1) The word “municipality” shall mean an incorporated city or town, irrespective of its population;

 (2) The term “municipal council” shall mean the governing body of any incorporated city or town;

 (3) The term “corporate purpose” shall denote any public purpose, necessary or convenient to the welfare of the municipality and shall include the funding of existing indebtedness, evidenced otherwise than by bonds of the municipality; and

 (4) The word “commissioners” shall mean the commissioners of public works or the board of public works or other body established by law and given the power of operating any waterworks system, electric light system, sewage system or other municipal utility.

HISTORY: 1962 Code Section 47‑832; 1952 Code Section 47‑832; 1951 (47) 771.

**SECTION 5‑21‑230.** Declaration of purpose.

 This article is designed to authorize the issuance of general obligation bonds by the several incorporated cities and towns of this State and to provide the procedure for the issuance and the method for the payment of such bonds for all corporate purposes for which the municipal corporations shall be empowered to issue bonds, except:

 (1) Bonds issued to refund other bonds; and

 (2) Bonds issued in anticipation of the collection of unpaid paving assessments due such municipalities.

HISTORY: 1962 Code Section 47‑833; 1952 Code Section 47‑833; 1951 (47) 771.

CROSS REFERENCES

Advanced refunding of bonds of public agencies, see Sections 11‑21‑10 et seq.

Refunding of general obligation bonds, see Sections 11‑15‑410 et seq.

LIBRARY REFERENCES

Municipal Corporations 906.

Westlaw Key Number Search: 268k906.

C.J.S. Municipal Corporations Sections 1645 to 1646, 1702.

**SECTION 5‑21‑240.** Municipal councils authorized to issue bonds; extent of issue.

 The municipal council of any municipality may issue general obligation bonds of such municipality for any corporate purpose of such municipality to any amount not exceeding the constitutional debt limitation applicable, if such there be, under the conditions prescribed by this article.

HISTORY: 1962 Code Section 47‑834; 1952 Code Section 47‑834; 1951 (47) 771.

CROSS REFERENCES

Bonds of political subdivisions generally, see Sections 11‑15‑10 et seq.

Constitutional limit on bonded debt, see SC Const, Art 10, Section 13.

LIBRARY REFERENCES

Municipal Corporations 909, 914.

Westlaw Key Number Searches: 268k909; 268k914.

C.J.S. Municipal Corporations Sections 1647 to 1648, 1654, 1656 to 1657.

Attorney General’s Opinions

County could issue general obligation bonds for road improvements and use alternate “revenue stream” to repay indebtedness to avoid imposition of taxes for such repayment insofar as possible. Issuance of general obligation bonds could be accomplished pursuant to referendum, so that bonds would not count against constitutionally imposed debt limit of Article X, Section 14(7)(a). If revenue stream is insufficient or not available in given year, county must be prepared to levy taxes to repay indebtedness. If “C” funds constitute anticipated source of revenue for such repayment, Section 12‑27‑400 should be amended to provide expressly for use of such funds for such purpose. 1991 Op Atty Gen, No 91‑6, p 32.

South Carolina municipalities may not issue general obligation bonds in connection with the GREAT TOWN PROGRAM. 1975‑76 Op Atty Gen, No 4544, p 414.

NOTES OF DECISIONS

Application of former statutes 2

In general; validity 1

1. In general; validity

Cited in Bethea v Dillon, 91 SC 413, 74 SE 983 (1912). Simons v Charleston, 181 SC 353, 187 SE 545 (1936).

Applied in Harby v Jennings, 112 SC 479, 101 SE 649 (1919). Dillingham v Spartanburg, 75 SC 549, 56 SE 381 (1907).

For additional related cases, as to effect of constitutional amendment of 1901 to SC Const, Art 8, Section 7, see Bray v Florence, 62 SC 57, 39 SE 810 (1901). Paris Mt. Water Co. v Greenville, 105 SC 180, 89 SE 669 (1916). Paris Mt. Water Co. v Greenville, 110 SC 36, 96 SE 545 (1918). McWhirter v Newberry, 47 SC 418, 25 SE 216 (1896).

A general obligation bond is the only type of bond authorized, and the only type of bond which would be marketable. Ramsey v. Cameron (S.C. 1965) 245 S.C. 189, 139 S.E.2d 765. Municipal Corporations 906

Only the excess will be declared invalid where the total amount of bonds authorized exceeds the constitutional debt limitation, but a portion of same is within such limit. Ramsey v. Cameron (S.C. 1965) 245 S.C. 189, 139 S.E.2d 765.

Bonds are void if not authorized by election. Renewal note of town under seal and in form of bond, pledging full faith and credit of town for payment thereof as well as current taxes, held “bonded debt” rather than “tax anticipation note,” and hence void where not authorized by election. Tarver v. Town of Johnston (S.C. 1934) 173 S.C. 333, 175 S.E. 821. Municipal Corporations 918(1)

City lacks intrinsic power to issue bonds. Under the Constitution and statutes of this State, there is no authority in a city council, under its own powers, to issue bonds. Bolton v. Wharton (S.C. 1931) 163 S.C. 242, 161 S.E. 454, 86 A.L.R. 1101. Municipal Corporations 906

Only bonds and tax anticipation notes are issued. Municipal corporations may not issue any evidence of indebtedness, except bonds and tax anticipation notes. Bolton v. Wharton (S.C. 1931) 163 S.C. 242, 161 S.E. 454, 86 A.L.R. 1101.

“Bond” distinguished from “tax anticipation note.”—”Municipal bond” represents primary obligation to payment of which general credit of municipality is pledged, whereas “tax anticipation note” is merely obligation payable from particular fund. Bolton v. Wharton (S.C. 1931) 163 S.C. 242, 161 S.E. 454, 86 A.L.R. 1101. Municipal Corporations 953

Municipality’s notes under seal held ‘bonds’. See Bolton v. Wharton (S.C. 1931) 163 S.C. 242, 161 S.E. 454, 86 A.L.R. 1101.

2. Application of former statutes

Acquiring recreation center and pool. A recreation center and a swimming pool are for public or corporate purposes and, therefore, are purposes for which taxes may be levied or indebtedness incurred. Marshall v. Rose (S.C. 1948) 213 S.C. 428, 49 S.E.2d 720.

Lighting public streets. Under this section a town council was authorized upon petition to submit to the electors the question whether the council should contract for the lighting of public streets and buildings. Fowler v. Town Council of Town of Fountain Inn (S.C. 1912) 90 S.C. 352, 73 S.E. 626.

Purchase of waterworks plant. This section confers on municipalities power to vote bonds for purchase of waterworks plant. Dick v. Scarborough (S.C. 1905) 73 S.C. 150, 53 S.E. 86.

Enlarging waterworks system. Act of March 9, 1896, was intended to apply to cities which already have waterworks system, but which desire to enlarge it. At election for issue of bonds for enlarging system already installed, there need not be elected commissioners of public works. Seegers v. Gibbes (S.C. 1905) 72 S.C. 532, 52 S.E. 586.

Erecting schoolhouse. A town incorporated under act of 1896 (22 Stat. 67) has power under this section to issue bonds for erecting schoolhouse within municipality, although school will be controlled by usual school authorities. Allen v. Adams (S.C. 1903) 66 S.C. 344, 44 S.E. 938.

**SECTION 5‑21‑250.** Petition for election on issuance.

 Unless exempted in whole or in part from the following requirement by reason of a special constitutional amendment, there shall be filed with the municipal council a petition signed by a majority of the freeholders of such municipality, as shown by its tax books, petitioning the municipal council to hold an election of the sort provided for by the Constitution of the State upon the question of issuing bonds of the municipality. The petition shall set forth the amount of bonds sought to be issued and the purpose or purposes for which the proceeds thereof are to be expended. Each purpose shall be separately enumerated, except that a proposed bond issue for water and sewer purposes may be combined. The filing of such petition shall be a condition precedent to the holding of the election provided for by this article.

HISTORY: 1962 Code Section 47‑835; 1952 Code Section 47‑835; 1951 (47) 771.

CROSS REFERENCES

Special election for bonding municipality, see SC Const, Art 17, Section 7B.

LIBRARY REFERENCES

Municipal Corporations 918.

Westlaw Key Number Search: 268k918.

C.J.S. Municipal Corporations Sections 1664, 1672.

NOTES OF DECISIONS

In general 2

Validity 1

1. Validity

ARTICLE X, Section 14, implemented by Code Section 11‑27‑40, requiring a majority vote in a referendum authorizing a bond issuance, is a condition precedent for a municipality incurring certain bonded indebtedness, and repeals by implication, if not expressly, the provisions of ARTICLE XVII, Section 7B and Code Section 5‑21‑250 requiring a petition signed by a majority of freeholders authorizing the election. Hanna v. City of Florence (S.C. 1979) 273 S.C. 670, 258 S.E.2d 500.

The exemption enacted in this section [Code 1962 Section 47‑835] is made effective only upon the adoption of a constitutional amendment authorizing it. Moffett v. Traxler (S.C. 1966) 247 S.C. 298, 147 S.E.2d 255.

The 1965 amendment to former SC Const, Art 2, Section 13 (now Art. 17, Section 7B), relating to the city of Greenville, is self‑executing when taken in connection with this section [Code 1962 Section 47‑835]. Moffett v. Traxler (S.C. 1966) 247 S.C. 298, 147 S.E.2d 255.

2. In general

The effect of a petition is to restrict the use of the proceeds of the bonds actually issued to the purpose stated therein. Ramsey v. Cameron (S.C. 1965) 245 S.C. 189, 139 S.E.2d 765.

**SECTION 5‑21‑260.** Notice of filing of petition.

 Upon the filing of such a petition the municipal council shall give notice that it has been filed and will be open for public inspection on all secular days during the week following the publication of the notice and that action will be taken on the petition on some occasion specified in such notice, not sooner than ten days following the occasion when the notice shall be published. Such notice shall be published in some newspaper having general circulation in the municipality.

HISTORY: 1962 Code Section 47‑836; 1952 Code Section 47‑836; 1951 (47) 771.

LIBRARY REFERENCES

Municipal Corporations 918(3).

Westlaw Key Number Search: 268k918(3).

C.J.S. Municipal Corporations Sections 1665, 1670.

**SECTION 5‑21‑270.** Action on petition.

 Upon the occasion fixed in the notice a meeting of the municipal council shall be held for the purpose of determining the sufficiency of the petition and action thereon shall be taken at such meeting or some adjournment thereof. If the municipal council shall find:

 (1) That the petition is signed by a majority of the freeholders of the municipality;

 (2) That it seeks the issuance of bonds for corporate purposes of the municipality; and

 (3) That it seeks the issuance of bonds in an amount not prohibited by any constitutional limitation;

 The municipal council shall order such an election.

HISTORY: 1962 Code Section 47‑837; 1952 Code Section 47‑837; 1951 (47) 771.

CROSS REFERENCES

Constitutional limit on bonded debt, see SC Const, Art 10, Section 13.

Special election for bonding municipality, see SC Const, Art 17, Section 7B.

Special provisions for municipal elections, see Sections 7‑5‑610 et seq.

LIBRARY REFERENCES

Municipal Corporations 918(3).

Westlaw Key Number Search: 268k918(3).

C.J.S. Municipal Corporations Sections 1665, 1670.

NOTES OF DECISIONS

In general 1

1. In general

The reason for the particular language of this section [Code 1962 Section 47‑837] is that the legislature did not wish those who would be called upon to vote upon the question to be misled or deceived, and if the entire amount of bonds sought to be issued could not be issued, the legislature wished the voters to be so informed. Ramsey v. Cameron (S.C. 1965) 245 S.C. 189, 139 S.E.2d 765.

The municipal council is required by this section [Code 1962 Section 47‑837] to call for an election, provided that the petition as specified in Code 1962 Section 47‑835 has been presented. Ramsey v. Cameron (S.C. 1965) 245 S.C. 189, 139 S.E.2d 765.

This section [Code 1962 Section 47‑837] can only mean that the municipal council has no discretionary power as to calling an election if it finds that the petition seeks the issuance of bonds in an amount within the applicable constitutional debt limitation. Ramsey v. Cameron (S.C. 1965) 245 S.C. 189, 139 S.E.2d 765.

Presumption where amount exceeds constitutional limitation. Where a petition seeks the issuance of bonds in an amount greater than the constitutional limitation, it is presumed that those signing the petition gave authority to issue bonds to the extent of the constitutional debt limitation. Ramsey v. Cameron (S.C. 1965) 245 S.C. 189, 139 S.E.2d 765.

Exercising a discretion clearly implied by this section, city council interpreted the petition as meaning that it sought the issuance of bonds within the applicable debt limitation. Ramsey v. Cameron (S.C. 1965) 245 S.C. 189, 139 S.E.2d 765.

**SECTION 5‑21‑280.** Time for holding election.

 Such election shall be held not sooner than twenty days from the occasion on which the election shall be ordered.

HISTORY: 1962 Code Section 47‑838; 1952 Code Section 47‑838; 1951 (47) 771.

CROSS REFERENCES

Conduct of elections, generally, see Sections 7‑5‑410 et seq., 7‑7‑10 et seq., 7‑9‑10 et seq., 7‑11‑10 et seq., 7‑13‑10 et seq., 7‑21‑10 et seq.

Special election for bonding municipalities, see SC Const Art. XVII, Section 7B.

Special provisions for municipal elections, see Sections 7‑5‑610 et seq.

LIBRARY REFERENCES

Municipal Corporations 918(4).

Westlaw Key Number Search: 268k918(4).

C.J.S. Municipal Corporations Sections 1671 to 1673.

**SECTION 5‑21‑290.** Notice of the holding of the election.

 Notice of the holding of the election shall be published in some newspaper having general circulation in the municipality on not less than two occasions. The first publication shall appear not less than fifteen days prior to the occasion of the holding of the election and the second publication shall appear within the week prior to the election. Such notice shall specify:

 (1) The time 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 purposes for which the proceeds of the bonds are to be applied.

HISTORY: 1962 Code Section 47‑839; 1952 Code Section 47‑839; 1951 (47) 771.

LIBRARY REFERENCES

Municipal Corporations 918(3).

Westlaw Key Number Search: 268k918(3).

C.J.S. Municipal Corporations Sections 1665, 1670.

NOTES OF DECISIONS

In general 1

1. In general

Section must be substantially complied with. Where special elections are held there must be a substantial compliance with the pertinent provisions of law relating to notice of such elections. Holding that a former statute as to notice of bond elections was directory and not mandatory and that the notice actually given substantially complied with the intention of the statute. Phillips v. City of Rock Hill (S.C. 1938) 188 S.C. 140, 198 S.E. 604, 119 A.L.R. 656. Election Law 300

Test of elections’ invalidity for lack of notice. The test for determining whether an election is invalidated for want of notice prescribed by a statute is whether the voters have had knowledge of the election and full opportunity to express their will. Phillips v. City of Rock Hill (S.C. 1938) 188 S.C. 140, 198 S.E. 604, 119 A.L.R. 656. Election Law 461

Cited in Sullivan v. City Council of Charleston (S.C. 1925) 130 S.E. 876, republished at 133 S.C. 189, 133 S.E. 340.

Applied in Luther v. Wheeler (S.C. 1905) 73 S.C. 83, 52 S.E. 874.

**SECTION 5‑21‑300.** Qualified voters.

 Only those persons, residents of the municipality, qualified under the applicable constitutional provisions to vote in such elections shall be entitled to vote.

HISTORY: 1962 Code Section 47‑840; 1952 Code Section 47‑840; 1951 (47) 771.

CROSS REFERENCES

Special election for bonding municipality, see SC Const, Art 17, Section 7B.

LIBRARY REFERENCES

Municipal Corporations 918(4).

Westlaw Key Number Search: 268k918(4).

C.J.S. Municipal Corporations Sections 1671 to 1673.

NOTES OF DECISIONS

In general 1

1. In general

On June 23, 1970, the United States Supreme Court, in the case of City of Phoenix v Kolodziejski, 399 US 204, 90 S Ct 1990, 26 L Ed 2d 523 (1970), decided that a bond election held in the city of Phoenix, at which suffrage was denied all those who were not property owners, constituted denial of due process and equal protection and invalidated the election. The provisions of the Arizona Constitution differ from the provisions of the South Carolina Constitution and statute. Under the Arizona provision only those who owned property were permitted to vote. As can be pointed out, in South Carolina suffrage does not depend upon ownership of property, but is denied merely to those who have tax liability which has not been discharged at the time of voting. Sadler v. Lyle (S.C. 1970) 254 S.C. 535, 176 S.E.2d 290.

**SECTION 5‑21‑310.** Ballots.

 The form of ballot shall seek an answer to the question or questions as to whether the municipal council of the municipality shall be empowered to issue general obligation bonds of such municipality for the purpose specified in the petition. The question thus presented shall be followed with the words “YES” and “NO” and instructions shall appear on such ballot that those who wish the issuance of bonds shall strike through the word “NO” while those who oppose the issuance of bonds shall strike through the word “YES.” As many questions may be submitted on a single ballot as there are purposes for which bonds are sought to be issued in the petition, but each question shall be separately stated, except that when bonds are sought to be issued for water and sewer purposes those questions may be combined. If more than one question appears on the ballot, the instructions shall make it clear to all voters that they may vote for one or more proposals and against the others or that they may vote for one or more proposals and not vote for or against the others.

HISTORY: 1962 Code Section 47‑841; 1952 Code Section 47‑841; 1951 (47) 771.

CROSS REFERENCES

Form of ballot in election as to issuance of bonds, see also Section 7‑13‑400.

LIBRARY REFERENCES

Municipal Corporations 918(4).

Westlaw Key Number Search: 268k918(4).

C.J.S. Municipal Corporations Sections 1671 to 1673.

NOTES OF DECISIONS

In general 1

1. In general

As to submission of several purposes separately under former provisions similar to this article, see Johnson v Roddy, 83 SC 462, 65 SE 626 (1909). State v Brasington, 93 SC 447, 76 SE 1086 (1913). Herbert v Griffith, 99 SC 1, 82 SE 986 (1914). Waits v Ninety‑Six, 154 SC 350, 151 SE 576 (1930).

**SECTION 5‑21‑320.** Declaration of result of election; effect when filed.

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

HISTORY: 1962 Code Section 47‑842; 1952 Code Section 47‑842; 1951 (47) 771.

LIBRARY REFERENCES

Municipal Corporations 918(5).

Westlaw Key Number Search: 268k918(5).

C.J.S. Municipal Corporations Sections 1674 to 1678.

NOTES OF DECISIONS

In general 1

1. In general

Applied in Sadler v. Lyle (S.C. 1970) 254 S.C. 535, 176 S.E.2d 290.

The practical necessity of short statutes of limitation such as set out in this section [Code 1962 Section 47‑842] is obvious. Purchasers of bonds could hardly be found if the bonds were subject in their hands to attack for alleged illegality in the proceedings upon the issuance of them, and furthermore, it is within common knowledge that sales of bonds are frequently timed to take advantage of a favorable market, which might well be hindered by long delay. Morgan v. Feagin (S.C. 1956) 230 S.C. 315, 95 S.E.2d 621.

**SECTION 5‑21‑330.** Issuance of bonds as single issue or as several separate issues; time limit for issuance of bonds.

 The bonds authorized as a consequence of the favorable result of such an election may be issued either as a single issue or from time to time as several separate issues, but no bonds shall be issued subsequent to five years following the occasion on which the election was held.

HISTORY: 1962 Code Section 47‑843; 1952 Code Section 47‑843; 1951 (47) 771; 1976 Act No. 527; 1980 Act No. 424, Section 2.

LIBRARY REFERENCES

Municipal Corporations 929.

Westlaw Key Number Search: 268k929.

C.J.S. Municipal Corporations Section 1699.

NOTES OF DECISIONS

In general 1

1. In general

Applied in Black v Fishburne, 84 SC 451, 66 SE 681 (1910). Seegers v Gibbes, 72 SC 532, 52 SE 586 (1905).

City council is not required to issue bonds even though the election has resulted favorably. Ramsey v. Cameron (S.C. 1965) 245 S.C. 189, 139 S.E.2d 765.

The issuance of bonds following a favorable election is left to the discretion of the municipal council. Ramsey v. Cameron (S.C. 1965) 245 S.C. 189, 139 S.E.2d 765.

**SECTION 5‑21‑340.** Maturity of bonds.

 Bonds issued hereunder shall mature in such annual series or instalments, equal or unequal in amount, as the municipal council shall provide, except that:

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

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

 (3) No bonds shall mature later than forty years from the date as of which they are issued.

HISTORY: 1962 Code Section 47‑844; 1952 Code Section 47‑844; 1951 (47) 771.

CROSS REFERENCES

Date on which bonds maturing on Sunday or legal holiday are collectible, see Section 53‑5‑80.

LIBRARY REFERENCES

Municipal Corporations 925.

Westlaw Key Number Search: 268k925.

C.J.S. Municipal Corporations Sections 1690 to 1693.

NOTES OF DECISIONS

In general 1

1. In general

A town may issue bonds for school purpose running for longer time than corporate life of town, and if town later becomes incorporated under general law, such fact will not affect validity of bonds. Black v. Fishburne (S.C. 1910) 84 S.C. 451, 66 S.E. 681, 19 Am.Ann.Cas. 1104.

**SECTION 5‑21‑350.** Redemption privilege.

 All bonds maturing subsequent to fifteen years from their date shall be subject to redemption not later than fifteen years from their date and on all subsequent interest payment dates prior to their respective maturities. Bonds may be issued with a provision permitting their redemption on any interest payment date prior to their respective maturities. Bonds made subject to redemption prior to their stated maturities may contain a provision requiring the municipality to pay a premium for the privilege of exercising the right of redemption, in such amount as the municipal council shall have prescribed in the proceedings taken to authorize the issuance of such bonds. All bonds that are subject to redemption shall contain a statement to that effect on the face of each bond. 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.

HISTORY: 1962 Code Section 47‑845; 1952 Code Section 47‑845; 1951 (47) 771.

CROSS REFERENCES

Advanced refunding of bonds of public agencies, see Sections 11‑21‑10 et seq.

Refunding of general obligation bonds, see Sections 11‑15‑410 et seq.

LIBRARY REFERENCES

Municipal Corporations 951.

Westlaw Key Number Search: 268k951.

C.J.S. Municipal Corporations Sections 1704 to 1705.

**SECTION 5‑21‑360.** Negotiability; registration.

 Bonds issued hereunder shall be in the form of negotiable coupon bonds, payable to bearer, with the privilege to the holder of having them registered on the books of the treasurer of the municipality 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 municipal council may prescribe. Unless registered such bonds shall have all the qualities of negotiable instruments under the law merchant and the Uniform Commercial Code.

HISTORY: 1962 Code Section 47‑846; 1952 Code Section 47‑846; 1951 (47) 771.

LIBRARY REFERENCES

Municipal Corporations 936.

Westlaw Key Number Search: 268k936.

C.J.S. Municipal Corporations Section 1700.

**SECTION 5‑21‑370.** Place of payment.

 Such bonds shall be made payable at such place or places, within or without the State, as the municipal council shall provide.

HISTORY: 1962 Code Section 47‑847; 1952 Code Section 47‑847; 1951 (47) 771.

LIBRARY REFERENCES

Municipal Corporations 925.

Westlaw Key Number Search: 268k925.

C.J.S. Municipal Corporations Sections 1690 to 1693.

**SECTION 5‑21‑380.** Interest rate.

 The bonds shall bear interest at the rate or rates to be named by the municipal council.

HISTORY: 1962 Code Section 47‑848; 1952 Code Section 47‑848; 1951 (47) 771.

LIBRARY REFERENCES

Municipal Corporations 926.

Westlaw Key Number Search: 268k926.

C.J.S. Municipal Corporations Section 1689.

**SECTION 5‑21‑390.** Execution of bonds.

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

HISTORY: 1962 Code Section 47‑849; 1952 Code Section 47‑849; 1951 (47) 771.

LIBRARY REFERENCES

Municipal Corporations 927.

Westlaw Key Number Search: 268k927.

C.J.S. Municipal Corporations Section 1699.

**SECTION 5‑21‑400.** Pledge of credit for payment and tax therefor; sinking fund.

 For the payment of the principal and interest of the bonds as they respectively mature and for the creation of a sinking fund to aid in the retirement and payment thereof the full faith, credit and taxing power of the municipality shall be irrevocably pledged, and there shall be levied and collected annually upon all taxable property in the municipality an ad valorem tax, without limitation as to rate or amount, sufficient for such purposes.

HISTORY: 1962 Code Section 47‑850; 1952 Code Section 47‑850; 1951 (47) 771.

LIBRARY REFERENCES

Municipal Corporations 919, 951.

Westlaw Key Number Searches: 268k919; 268k951.

C.J.S. Municipal Corporations Sections 1661, 1704 to 1705.

Attorney General’s Opinions

County or municipality incurring general obligation debt would be required to pledge full faith, credit, and tax and power to repay debt. No political subdivision has been authorized by constitution or statute to incur such indebtedness and then obligate another entity to repay it; instead, such repayment would be made from general revenue sources of subdivision incurring debt. 1990 Op Atty Gen, No. 90‑20.

A municipality may borrow money whether in anticipation of taxes or by issuing bonds pledging the general credit and both require the taxes be pledged as the security for repayment of such bonds. 1969‑70 Op Atty Gen, No 2853, p 88.

NOTES OF DECISIONS

In general 1

1. In general

A general obligation bond is payable from an ad valorem tax on all taxable property within the municipality. Ramsey v. Cameron (S.C. 1965) 245 S.C. 189, 139 S.E.2d 765. Municipal Corporations 919

Which is to be levied and collected in the manner provided for in this section [Code 1962 Section 47‑850]. Ramsey v. Cameron (S.C. 1965) 245 S.C. 189, 139 S.E.2d 765.

**SECTION 5‑21‑410.** Additional pledge of utility revenues.

 The municipal council may, in its discretion, additionally secure bonds by a pledge of the net revenues which it may derive from any municipally owned public utility. In making a pledge of such revenues the municipality may reserve the right to place other bonds, general obligation or revenue, on a parity with the bonds additionally secured in the manner provided for by this section.

 If the net revenues of any municipally owned utility shall be pledged and such utility shall be under the management of commissioners, the commissioners shall give their consent to the issuance of bonds and to the pledge and covenants securing them.

HISTORY: 1962 Code Section 47‑851; 1952 Code Section 47‑851; 1951 (47) 771.

LIBRARY REFERENCES

Municipal Corporations 950(15).

Westlaw Key Number Search: 268k950(15).

NOTES OF DECISIONS

In general 1

1. In general

Both under this section [former Code 1962 Section 47‑851] of the Municipal Bond Act, and under the law as it existed prior to the enactment of this statute, a municipal corporation might additionally secure general obligation bonds by a pledge of the revenues derived from its water system. Hence, the statutory provisions in the Municipal Bond Act merely implement and define the method of the exercise of a power already recognized as belonging to municipal corporations. Babb v. Green (S.C. 1952) 222 S.C. 534, 73 S.E.2d 699.

The pledge of the revenues of the municipal water system for the purpose of additionally securing a municipality’s general obligation bonds, made subsequent to the execution and delivery of such bonds, was made without consideration and was therefore ineffective and unenforceable. Babb v. Green (S.C. 1952) 222 S.C. 534, 73 S.E.2d 699.

Municipality’s right to use income from revenue‑raising project to meet cost of such project, see Simons v. City Council of Charleston (S.C. 1936) 181 S.C. 353, 187 S.E. 545.

**SECTION 5‑21‑420.** Covenants permissible if revenues are pledged.

 If revenues are pledged pursuant to the provisions of Section 5‑21‑410, the municipality may covenant and agree:

 (1) That the schedule of rates and charges for the services rendered by the utility shall be designed at all times to produce not less than the amount needed to discharge the covenants and obligations undertaken by the municipality in the proceedings authorizing the issuance of such bonds;

 (2) That it will operate the utility in an efficient and economical manner;

 (3) That it will segregate the revenues therefrom into funds designed to (a) operate and maintain the utility, (b) pay the principal and interest of the bonds secured by such pledge, (c) establish a cushion or reserve fund to insure the timely payment of such principal and interest and (d) provide for contingencies and for depreciation; and

 (4) That upon its failure to pay any instalment of interest or principal as it becomes due and payable or to observe the covenants and obligations undertaken in issuing the bonds any court having jurisdiction thereof may appoint a receiver to operate and administer such utility.

HISTORY: 1962 Code Section 47‑852; 1952 Code Section 47‑852; 1951 (47) 771.

LIBRARY REFERENCES

Municipal Corporations 950(15).

Westlaw Key Number Search: 268k950(15).

**SECTION 5‑21‑430.** Sale of bonds.

 Bonds issued hereunder shall be sold at public sale, after advertisement of the 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 municipal council, 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 or any agency thereof.

HISTORY: 1962 Code Section 47‑853; 1952 Code Section 47‑853; 1951 (47) 771.

LIBRARY REFERENCES

Municipal Corporations 921.

Westlaw Key Number Search: 268k921.

C.J.S. Municipal Corporations Sections 1679 to 1682.

NOTES OF DECISIONS

In general 1

1. In general

In order to sell bonds at private sale, the bonds must first be publicly offered, and it is only when the conditions prescribed by this section [former Code 1962 Section 47‑853] exist that private negotiations are authorized. Babb v. Green (S.C. 1952) 222 S.C. 534, 73 S.E.2d 699.

Where a town had advertised for public sale its general obligation bonds without any additional pledge of the net revenues from its water system, it might not negotiate at private sale for general obligation bonds additionally secured by a pledge of such net revenues, for the reason that bonds of this particular tenor had never been advertised. Babb v. Green (S.C. 1952) 222 S.C. 534, 73 S.E.2d 699.

**SECTION 5‑21‑440.** Minimum sale price.

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

HISTORY: 1962 Code Section 47‑854; 1952 Code Section 47‑854; 1951 (47) 771.

LIBRARY REFERENCES

Municipal Corporations 921.

Westlaw Key Number Search: 268k921.

C.J.S. Municipal Corporations Sections 1679 to 1682.

**SECTION 5‑21‑450.** Deposit and use of proceeds.

 The proceeds derived from the sale of any such bonds shall be deposited in a special fund, separate and distinct from all other funds, and applied solely to the purposes for which the bonds are issued, except that the premium, if any, shall be placed in the sinking fund established by Section 5‑21‑400 and the accrued interest, if any, shall be used to discharge in part the first interest to become due on such bonds. Should any surplus remain it shall be deposited in the sinking fund required by the provisions of Section 5‑21‑400 to be established for the payment of the bonds.

HISTORY: 1962 Code Section 47‑855; 1952 Code Section 47‑855; 1951 (47) 771.

LIBRARY REFERENCES

Municipal Corporations 921(3).

Westlaw Key Number Search: 268k921(3).

C.J.S. Municipal Corporations Section 1683.

**SECTION 5‑21‑460.** Bonds are legal investments for fiduciaries and sinking funds commissions.

 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.

HISTORY: 1962 Code Section 47‑856; 1952 Code Section 47‑856; 1951 (47) 771.

RESEARCH REFERENCES

Treatises and Practice Aids

Bogert ‑ the Law of Trusts and Trustees Section 656, South Carolina.

**SECTION 5‑21‑470.** Exemption 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.

HISTORY: 1962 Code Section 47‑857; 1952 Code Section 47‑857; 1951 (47) 771.

LIBRARY REFERENCES

Taxation 218.

Westlaw Key Number Search: 371k218.

C.J.S. Taxation Section 304.

**SECTION 5‑21‑480.** Use of bonds in payment of taxes.

 The municipal council may provide in the proceedings taken in connection with the issuance of bonds that the bonds or the coupons, either or both, shall be receivable for taxes due to the municipality during the years in which they respectively mature.

HISTORY: 1962 Code Section 47‑858; 1952 Code Section 47‑858; 1951 (47) 771.

LIBRARY REFERENCES

Taxation 527.

Westlaw Key Number Search: 371k527.

C.J.S. Taxation Sections 888 to 894, 1676, 1688.

**SECTION 5‑21‑490.** Bond holder’s right to require levying of taxes and to enforce covenants.

 If the municipal council shall fail to levy the taxes required to be levied or to perform the covenants undertaken in the issuance of the bonds, any holder of any of the bonds or coupons may require the levy of taxes and enforce the performance of the covenants by mandamus in any of the courts of this State.

HISTORY: 1962 Code Section 47‑859; 1952 Code Section 47‑859; 1951 (47) 771.

LIBRARY REFERENCES

Municipal Corporations 955(1).

Westlaw Key Number Search: 268k955(1).

**SECTION 5‑21‑500.** Diversion of and payment of funds; penalties.

 Any member of any municipal council or any commissioner who shall vote to divert money applicable to the payment of principal or interest of bonds or to the sinking fund or cushion fund for them and any disbursing officer who shall pay out any moneys applicable thereto, whether or not such payment has been ordered by the municipal council, the commissioners or any officer or agent of either, shall be guilty of a misdemeanor and shall be punished by imprisonment for a term of not less than thirty days nor more than one year and by a fine of not less than two hundred dollars nor more than five hundred dollars, either or both, within the discretion of the court.

HISTORY: 1962 Code Section 47‑860; 1952 Code Section 47‑860; 1951 (47) 771.

LIBRARY REFERENCES

Municipal Corporations 174.

Westlaw Key Number Search: 268k174.

C.J.S. Municipal Corporations Sections 411 to 415.

NOTES OF DECISIONS

In general 1

1. In general

Cited in Sadler v. Lyle (S.C. 1970) 254 S.C. 535, 176 S.E.2d 290.

ARTICLE 7

Paving Bonds

**SECTION 5‑21‑610.** Short title.

 This article shall be cited as the “Paving Bond Act.”

HISTORY: 1962 Code Section 47‑860.1; 1952 Code Section 47‑860.1; 1951 (47) 767.

**SECTION 5‑21‑620.** Definitions.

 As used in this article:

 (1) The word “municipality” shall mean an incorporated city or town, irrespective of its population;

 (2) The term “municipal council” shall mean the governing body of any incorporated city or town; and

 (3) The word “assessments” shall denote such sums as may be due to the municipality by reason of improvements to streets and sidewalks, in the nature of roadway paving, sidewalk paving, the installation of curbs, the installation of gutters, the installation of storm drains or sewers, the paving of sidewalk or roadway intersections, street lighting or any other improvement for which such municipality shall be authorized to pay, in whole or in part, through the means of assessments against the real property benefited thereby.

HISTORY: 1962 Code Section 47‑860.2; 1952 Code Section 47‑860.2; 1951 (47) 767.

CROSS REFERENCES

Assessment of abutting property for street improvements, see Sections 5‑27‑310 et seq.

Assessments generally, see SC Const, Art 10, Sections 1, 2, 4.

Municipal public works generally, see Sections 5‑29‑10 et seq., 5‑31‑10 et seq., 5‑33‑10 et seq., 5‑35‑10 et seq., 6‑11‑1210 et seq., 6‑15‑10 et seq. and 6‑21‑10 et seq.

**SECTION 5‑21‑630.** Declaration of purpose.

 This article is designed to furnish a method by which incorporated cities and towns to which there are due sums of money represented by unpaid and unmatured assessments levied for improvements benefiting real property may realize such sums at once through the issuance and sale of paving bonds.

HISTORY: 1962 Code Section 47‑860.3; 1952 Code Section 47‑860.3; 1951 (47) 767.

**SECTION 5‑21‑640.** Issuance of paving bonds authorized after levy by municipality of assessments against real property for permanent improvements to streets and sidewalks; amount of bonds.

 When any municipality shall have levied assessments against real property for the purpose of paying for any permanent improvement to streets and sidewalks of any type mentioned in Section 5‑21‑620, the municipal council may by ordinance direct that bonds of the municipality, to be known as paving bonds, be issued in anticipation of the collection of such assessments. The amount of the bonds to be issued may equal but shall not exceed the amount of the unmatured assessments remaining uncollected at the time of the adoption of the ordinance authorizing their issuance. A single issue of paving bonds may be authorized and issued in anticipation of the collection of two or more separate assessments.

HISTORY: 1962 Code Section 47‑860.4; 1952 Code Section 47‑860.4; 1951 (47) 767.

CROSS REFERENCES

Advanced refunding of bonds of public agencies, see Sections 11‑21‑10 et seq.

Bonds of political subdivisions generally, see Sections 11‑15‑10 et seq.

Refunding of general obligation bonds, see Sections 11‑15‑410 et seq.

LIBRARY REFERENCES

Municipal Corporations 911.

Westlaw Key Number Search: 268k911.

C.J.S. Municipal Corporations Section 1649.

**SECTION 5‑21‑650.** Maturities of bonds.

 Each issue of such paving bonds shall mature in annual installments of equal or unequal amounts, beginning not more than one year from the date of the bonds and ending not more than two years following the occasion when the last installment of the assessments, in anticipation of whose collection such bonds are issued, shall fall due. In fixing the dates or amounts of annual installments the municipal council shall consider the probable amounts to be collected in each year upon the assessments and shall endeavor, so far as may be practicable, to make the bonds mature in such amounts that the principal of the bonds will be paid by means of the assessments.

HISTORY: 1962 Code Section 47‑860.5; 1952 Code Section 47‑860.5; 1951 (47) 767.

LIBRARY REFERENCES

Municipal Corporations 925.

Westlaw Key Number Search: 268k925.

C.J.S. Municipal Corporations Sections 1690 to 1693.

**SECTION 5‑21‑660.** Redemption privilege.

 Any bond issued may be issued with a provision providing for its redemption prior to its stated maturity at par and accrued interest plus such redemption premium as may be prescribed by the municipal council, 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.

HISTORY: 1962 Code Section 47‑860.6; 1952 Code Section 47‑860.6; 1951 (47) 767.

LIBRARY REFERENCES

Municipal Corporations 951.

Westlaw Key Number Search: 268k951.

C.J.S. Municipal Corporations Sections 1704 to 1705.

**SECTION 5‑21‑670.** Denominations of bonds.

 Bonds issued under this article shall be of such denominations as may be fixed by the municipal council.

HISTORY: 1962 Code Section 47‑860.7; 1952 Code Section 47‑860.7; 1951 (47) 767.

LIBRARY REFERENCES

Municipal Corporations 923.

Westlaw Key Number Search: 268k923.

C.J.S. Municipal Corporations Sections 1684 to 1685, 1697 to 1698.

**SECTION 5‑21‑680.** Coupons, registrations and negotiability.

 Any such bonds shall be issued as coupon bonds, payable to bearer, with the privilege to the holder of having them registered on the books of the treasurer of the municipality 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 municipal council may prescribe. Unless registered such bonds shall have all the qualities of negotiable instruments under the law merchant and the Uniform Commercial Code.

HISTORY: 1962 Code Section 47‑860.8; 1952 Code Section 47‑860.8; 1951 (47) 767.

LIBRARY REFERENCES

Municipal Corporations 936, 938.

Westlaw Key Number Searches: 268k936; 268k938.

C.J.S. Municipal Corporations Sections 1700 to 1703.

**SECTION 5‑21‑690.** Place of payment.

 The bonds shall be made payable at such place or places, within or without the State, as the municipal council shall provide.

HISTORY: 1962 Code Section 47‑860.9; 1952 Code Section 47‑860.9; 1951 (47) 767.

LIBRARY REFERENCES

Municipal Corporations 953.

Westlaw Key Number Search: 268k953.

C.J.S. Municipal Corporations Section 1706.

**SECTION 5‑21‑700.** Interest rates.

 Such bonds shall bear interest at the rate or rates to be named by the municipal council.

HISTORY: 1962 Code Section 47‑860.10; 1952 Code Section 47‑860.10; 1951 (47) 767.

LIBRARY REFERENCES

Municipal Corporations 926.

Westlaw Key Number Search: 268k926.

C.J.S. Municipal Corporations Section 1689.

**SECTION 5‑21‑710.** Execution of bonds.

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

HISTORY: 1962 Code Section 47‑860.11; 1952 Code Section 47‑860.11; 1951 (47) 767.

LIBRARY REFERENCES

Municipal Corporations 927.

Westlaw Key Number Search: 268k927.

C.J.S. Municipal Corporations Section 1699.

**SECTION 5‑21‑720.** Exemption 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.

HISTORY: 1962 Code Section 47‑860.12; 1952 Code Section 47‑860.12; 1951 (47) 767.

LIBRARY REFERENCES

Taxation 218.

Westlaw Key Number Search: 371k218.

C.J.S. Taxation Section 304.

**SECTION 5‑21‑730.** Sale of bonds.

 Such bonds shall be sold at public sale, after advertisement of the 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 municipal council, 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 or any agency thereof.

HISTORY: 1962 Code Section 47‑860.13; 1952 Code Section 47‑860.13; 1951 (47) 767.

LIBRARY REFERENCES

Municipal Corporations 921.

Westlaw Key Number Search: 268k921.

C.J.S. Municipal Corporations Sections 1679 to 1682.

**SECTION 5‑21‑740.** Minimum sale price.

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

HISTORY: 1962 Code Section 47‑860.14; 1952 Code Section 47‑860.14; 1951 (47) 767.

LIBRARY REFERENCES

Municipal Corporations 921.

Westlaw Key Number Search: 268k921.

C.J.S. Municipal Corporations Sections 1679 to 1682.

**SECTION 5‑21‑750.** Deposit and use of proceeds.

 The proceeds derived from the sale of any bonds issued under this article shall be deposited in a special fund, separate and distinct from all other funds, and applied solely to the cost of the improvements for which were levied the assessments in anticipation of which the bonds were issued, except that the premium, if any, shall be placed in the fund established for the payment of the principal of the bonds and the accrued interest, if any, shall be used to discharge in part the first interest to become due on such bonds. Should any surplus remain after paying for the cost of the improvements, it shall be deposited in the fund established for the payment of such principal and interest.

HISTORY: 1962 Code Section 47‑860.15; 1952 Code Section 47‑860.15; 1951 (47) 767.

LIBRARY REFERENCES

Municipal Corporations 921(3).

Westlaw Key Number Search: 268k921(3).

C.J.S. Municipal Corporations Section 1683.

**SECTION 5‑21‑760.** Bonds are legal investments for fiduciaries and sinking fund commissions.

 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.

HISTORY: 1962 Code Section 47‑860.16; 1952 Code Section 47‑860.16; 1951 (47) 767.

RESEARCH REFERENCES

Treatises and Practice Aids

Bogert ‑ the Law of Trusts and Trustees Section 656, South Carolina.

**SECTION 5‑21‑770.** Use of bonds in payment of taxes.

 The municipal council may provide in the proceedings taken in connection with the issuance of bonds that the bonds or the coupons, either or both, shall be receivable for taxes due to the municipality during the year in which they respectively mature.

HISTORY: 1962 Code Section 47‑860.17; 1952 Code Section 47‑860.17; 1951 (47) 767.

LIBRARY REFERENCES

Taxation 527.

Westlaw Key Number Search: 371k527.

C.J.S. Taxation Sections 888 to 894, 1676, 1688.

**SECTION 5‑21‑780.** Credit pledged for payment; levy of taxes to pay.

 The full faith, credit and taxing power of the municipality shall be pledged for the punctual payment of the principal and interest of all bonds issued pursuant to this article as such principal and interest become due. The municipal council shall levy annually on all taxable property in the municipality a tax sufficient to pay such principal and interest as they respectively become due. Such tax, however, shall be reduced in each year by the amount of moneys in the special fund provided for by Section 5‑21‑790 which are applicable to the payment of such principal and interest then due or falling due in such year, and such tax shall be entirely suspended for such year in case such moneys on hand and applicable as aforesaid are sufficient to pay such principal and interest then due or falling due in such year and remaining unpaid.

HISTORY: 1962 Code Section 47‑860.18; 1952 Code Section 47‑860.18; 1951 (47) 767.

LIBRARY REFERENCES

Municipal Corporations 919.

Westlaw Key Number Search: 268k919.

C.J.S. Municipal Corporations Section 1661.

**SECTION 5‑21‑790.** Use and pledge of assessments collected.

 All moneys derived from the collection of the assessments upon which any such paving bonds are predicated, which are collected subsequent to the passage of the ordinance authorizing the bonds, including all interest on any deferred payment of the assessments, shall be placed in a special fund to be used only for the payment of the principal and interest of the bonds. The amount of such special fund to be applied to the payment of interest shall not exceed so much of such fund as shall have been derived from the collections by way of interest on deferred payments of the assessments. The special fund shall be pledged for such purposes and such pledge shall be an obligation of the contract between the municipality and the holders of its paving bonds.

HISTORY: 1962 Code Section 47‑860.19; 1952 Code Section 47‑860.19; 1951 (47) 767.

LIBRARY REFERENCES

Municipal Corporations 951.

Westlaw Key Number Search: 268k951.

C.J.S. Municipal Corporations Sections 1704 to 1705.

Attorney General’s Opinions

County or municipality incurring general obligation debt would be required to pledge full faith, credit, and tax and power to repay debt. No political subdivision has been authorized by constitution or statute to incur such indebtedness and then obligate another entity to repay it; instead, such repayment would be made from general revenue sources of subdivision incurring debt. 1990 Op Atty Gen No. 90‑20.

**SECTION 5‑21‑800.** Bond holder’s right to require levying of taxes and to enforce covenants.

 If the municipal council shall fail to levy the taxes required to be levied or to perform the covenants undertaken in the issuance of the bonds, any holder of any of the bonds or coupons may require the levy of such taxes and enforce the performance of such covenants by mandamus in any of the courts of this State.

HISTORY: 1962 Code Section 47‑860.20; 1952 Code Section 47‑860.20; 1951 (47) 767.

LIBRARY REFERENCES

Municipal Corporations 955(1).

Westlaw Key Number Search: 268k955(1).