CHAPTER 9

Party Organization

**SECTION 7‑9‑10.** Certification and decertification of political parties.

 Political parties desiring to nominate candidates for offices to be voted on in a general or special election shall, before doing so, have applied to the State Election Commission (Commission) for certification as such. Parties shall nominate candidates of that party on a regular basis, as provided in this title, in order to remain certified. Any certified political party that fails to organize on the precinct level as provided by law, hold county conventions as provided by Sections 7‑9‑70 and 7‑9‑80, and hold a state convention as provided by Section 7‑9‑100; that fails to nominate candidates for national, state, multi‑county district, countywide, or less than countywide office by convention or party primary as provided by Sections 7‑11‑20, 7‑11‑30, and 7‑13‑40; and that fails to certify the candidates as provided by Section 7‑13‑350 in at least one of two consecutive general elections held on the first Tuesday following the first Monday in November of an even‑numbered year, or that fails to nominate and certify candidates in any other election which might be held within the period of time intervening between the two general elections, must be decertified by the State Election Commission. The party must be notified in writing of its decertification at the last address of record. If the notification of decertification is returned as undeliverable, it must be placed on file in the office of the State Election Commission and with the Secretary of State.

 Any decertified party or any noncertified party, organization, or association may obtain certification as a political party at any time by filing with the Commission a petition for the certification signed by ten thousand or more registered electors residing in this State, giving the name of the party, which must be substantially different from the name of any other party previously certified.

 No petition for certification may be submitted to the Commission later than six months prior to any election in which the political party seeking certification wishes to nominate candidates for public office.

 At the time a petition is submitted to the Commission for certification, the Commission shall issue a receipt to the person submitting the petition which reflects the date the petition was submitted and the total number of signatures contained therein. Once the petition is received by the Commission, the person submitting the petition shall not submit or add additional signatures.

 If the Commission determines, after checking the validity of the signatures in the petition, that it does not contain the required signatures of registered electors, the person submitting the petition must be notified and shall not submit any new petition seeking certification as a political party under the same name for one year from the date the petition was rejected.

 Once a petition for certification has been submitted and rejected by the Commission, the same signatures may not be submitted in any subsequent petition to certify a new political party.

 Once submitted for verification, a petition for certification may not be returned to the political party, organization, or association seeking certification, but shall become a part of the permanent records of the Commission.

HISTORY: 1962 Code Section 23‑251; 1952 Code Section 23‑251; 1950 (46) 2059; 1974 (58) 2866; 1984 Act No. 263, Section 1, eff January 27, 1984; 1986 Act No. 346, Section 2, eff March 7, 1986.

Code Commissioner’s Note

At the direction of the Code Commissioner, in the second sentence of the first paragraph, “precinct level as provided by law” was substituted for “precinct level as provided by Section 7‑9‑50”. Section 7‑9‑50 was repealed by 2010 Act No. 245, Section 6.

Effect of Amendment

The 1984 amendment substantially rewrote this section so as to provide for certification upon petition.

The 1986 amendment rewrote the first paragraph except for the first sentence, added the second paragraph relative to certification of a decertified or noncertified party, substituted “shall” for “may” in the second sentence of the fourth paragraph and in the fifth paragraph, and made grammatical changes throughout the section.

CROSS REFERENCES

Ballot standards and specifications with respect to presidential electors, see Section 7‑13‑320.

Filing the names of candidates for electors of President and Vice President with the Secretary of State, see Section 7‑19‑70.

LIBRARY REFERENCES

29 C.J.S., Elections Section 84.

Attorney General’s Opinions

American Party of South Carolina could change its name to United States Taxpayers Party of South Carolina by notifying South Carolina State Election Commission. 1993 Op Atty Gen No. 93‑75.

There is no statutory provision that would affirmatively require an active, certified party to file a subsequent petition for certification solely on basis that party’s name has changed. 1993 Op Atty Gen No. 93‑75.

Section 7‑9‑10 would prohibit another organization from utilizing name of “The American Party of South Carolina.” 1993 Op Atty Gen No. 93‑75.

NOTES OF DECISIONS

In general 1

1. In general

Cited in Toporek v. South Carolina State Election Commission (D.C.S.C. 1973) 362 F.Supp. 613.

The election laws of South Carolina were revised during the 1968 Session of the legislature to become effective January 1, 1969. United Citizens Party of South Carolina v. South Carolina State Election Commission (D.C.S.C. 1970) 319 F.Supp. 784.

This revision created a new agency, the State Election Commission. United Citizens Party of South Carolina v. South Carolina State Election Commission (D.C.S.C. 1970) 319 F.Supp. 784.

And transferred to it most of the duties formerly imposed on the Secretary of State with regard to elections. United Citizens Party of South Carolina v. South Carolina State Election Commission (D.C.S.C. 1970) 319 F.Supp. 784.

But the revision did not specifically amend this section [Code 1962 Section 23‑251] United Citizens Party of South Carolina v. South Carolina State Election Commission (D.C.S.C. 1970) 319 F.Supp. 784.

**SECTION 7‑9‑20.** Qualifications for party membership and voting in primary election.

 The qualifications for membership in a certified party and for voting at a party primary election include the following: the applicant for membership, or voter, must be at least eighteen years of age or become so before the succeeding general election, and must be a registered elector and a citizen of the United States and of this State. A person may not vote in a primary unless he is a registered elector. The state convention of any political party, organization, or association in this State may add by party rules to the qualifications for membership in the party, organization, or association and for voting at the primary elections if the qualifications do not conflict with the provisions of this section or with the Constitution and laws of this State or of the United States.

HISTORY: 1962 Code Section 23‑253; 1952 Code Section 23‑253; 1950 (46) 2059; 1970 (56) 1899; 1974 (58) 2866; 1984 Act No. 510, Section 14, eff June 28, 1984; 2010 Act No. 245, Section 3, eff June 2, 2010.

Effect of Amendment

The 1984 amendment substantially reworded this section.

The 2010 amendment substituted “A person may not vote in a” for “No person may belong to any party club or vote in any” at the beginning of the second sentence; and made other nonsubstantive changes.

RESEARCH REFERENCES

ALR Library

120 ALR 5th 125 , Constitutionality of Voter Participation Provisions for Primary Elections.

Encyclopedias

S.C. Jur. Elections Section 44, Election.

Notes of Decisions

Freedom of association 1

1. Freedom of association

Any burden imposed by state voter qualification statute’s designation of state convention as authoritative body with respect to supplementing statutory qualifications by party rules was insubstantial, precluding claim that statute violated political parties’ associational rights under the First Amendment. Greenville County Republican Party Executive Committee v. South Carolina, 2011, 824 F.Supp.2d 655, motion to amend denied 2011 WL 2910360, appeal dismissed 604 Fed.Appx. 244, 2015 WL 1188395. Constitutional Law 1466; Election Law 247

South Carolina’s open primary laws, which allowed a voter to request the ballot for any party’s primary whether or not voter was registered as a member of that party but allowed voter to cast vote in only one party’s primary election, did not facially burden political parties’ right to freedom of association; even if a political party could not conduct a closed primary, the party could opt out of the primary method and use alternative methods of nomination authorized under South Carolina election laws, including convention method and petition method, allowing parties to associate with only those people approved for membership in the party. Greenville County Republican Party Executive Committee v. South Carolina, 2011, 824 F.Supp.2d 655, motion to amend denied 2011 WL 2910360, appeal dismissed 604 Fed.Appx. 244, 2015 WL 1188395. Constitutional Law 1468; Election Law 67

**SECTIONS 7‑9‑30 to 7‑9‑60.** Repealed by 2010 Act No. 245, Section 6, eff June 2, 2010.

Editor’s Note

Former Section 7‑9‑30 was entitled “Party clubs; title, organization, officers, and committees” and was derived from 1962 Code Section 23‑254; 1952 Code Section 23‑254; 1950 (46) 2059; 1964 (53) 1831; 1990 Act No. 359, Section 1.

Former Section 7‑9‑40 was entitled “Party club membership and activities; membership lists; one voting place per club; absentee voting” and was derived from 1962 Code Section 23‑255; 1952 Code Section 23‑255; 1950 (46) 2059; 1984 Act No. 510, Section 15.

Former Section 7‑9‑50 was entitled “Meetings of clubs” and was derived from 1962 Code Section 23‑256; 1952 Code Section 23‑256; 1950 (46) 2059; 1954 (48) 1447; 1974 (58) 2866; 1986 Act No. 327, Section 1, eff February 20, 1986; 1996 Act No. 434, Section 4.

Former Section 7‑9‑60 was entitled “County committees” and was derived from 1962 Code Section 23‑258; 1952 Code Section 23‑258; 1950 (46) 2059, 2442; 1954 (48) 1447; 1974 (58) 2866.

**SECTION 7‑9‑70.** County conventions; notice, time.

 A county convention must be held during a twelve‑month period ending March thirty‑first of each general election year during a month determined by the state committee as provided in Section 7‑9‑100. The county committee shall set the date, time, and location during the month designated by the state committee for the county convention to be held. The date set by the county committee for the county convention must be at least two weeks before the state convention. When a month in a nongeneral election year is chosen for the county convention, it must be held for the purpose of reorganization only. The date, time, and location that the county convention must be reconvened during the general election year to nominate candidates for public office to be filled in the general election must be set by county committee. Notices, both for the convention to be held for reorganization and for the reconvened convention to nominate candidates, must be published by the county committee, once a week for two consecutive weeks, not more than three nor less than two weeks, before the day in a newspaper having general circulation in the county.

HISTORY: 1962 Code Section 23‑259; 1952 Code Section 23‑259; 1950 (46) 2059; 1954 (48) 1447; 1964 (53) 1831; 1968 (55) 2349; 1974 (58) 2866; 1976 Act No. 479 Section 1; 1977 Act No. 133 Section 1; 1979 Act No. 173 Section 1, eff July 25, 1979; 1986 Act No. 327, Section 2, eff February 20, 1986; 2010 Act No. 245, Section 4, eff June 2, 2010.

Effect of Amendment

The 1976 amendment added after the word “year” in the third sentence “or based upon the number of votes for presidential electors at the last preceding general election therefor from the precinct as determined by the state committee; provided, the same basis shall be used in all precincts”.

The 1977 amendment substituted the words “on a day from March first to March fifteenth to be determined by the county executive committee” for the words “on the first Monday in March; provided, that the county executive committee may set another day in March for such convention” in the first sentence of this section.

The 1979 amendment changed the time range for county conventions from “March first to March fifteenth” to “March first to March thirty‑first”.

The 1986 amendment substantially revised this section.

The 2010 amendment deleted the last four sentences of the section relating to convention delegates; and made other nonsubstantive changes to the section.

CROSS REFERENCES

Decertification of a political party for failure to hold county conventions, see Section 7‑9‑10.

LIBRARY REFERENCES

29 C.J.S., Elections Sections 97 et seq.

Attorney General’s Opinions

Election of delegates to the county convention where last preceding method of nomination was by primary election. 1969‑70 Op Atty Gen, No. 2844, p 75.

**SECTION 7‑9‑80.** County conventions; organization and conduct of business.

 Each county convention shall be called to order by the county chairman and shall proceed to elect a temporary president, a temporary secretary and a committee on credentials for the purpose of organizing. When organized, it shall elect a permanent president, a secretary and treasurer. It shall also elect the county chairman, the county vice‑chairman and a member of the State committee from the county and as many delegates to the State convention as triple the number of members from the county in the House of Representatives, plus one. But county conventions at their discretion may elect double the number of delegates in which case each delegate shall have one‑half vote. The secretary of the convention shall keep a record of the proceedings in the minute book.

 All officers except delegates shall be reported to the clerk of court of the county and to the Secretary of State prior to the State convention. The reports shall be public record.

HISTORY: 1962 Code Section 23‑260; 1952 Code Section 23‑260; 1950 (46) 2059; 1964 (53) 1831; 1968 (55) 2349.

CROSS REFERENCES

Decertification of a political party for failure to hold county conventions, see Section 7‑9‑10.

LIBRARY REFERENCES

29 C.J.S., Elections Sections 101, 102.

**SECTION 7‑9‑90.** State committee.

 The state committee is composed of one member from each county, elected by the county conventions, the state chairman and state vice‑chairman, elected by the state convention; and for the Republican and Democratic party state committees, the president of the South Carolina Federation of Republican Women and the president of the South Carolina Federation of Democratic Women ex officio are members of their respective state committees. Those persons named as members of the national executive committee of a national party are ex officio members of the state committee. If the office of state chairman or state vice‑chairman becomes vacant, the state committee may fill the vacancy by electing a chairman or vice‑chairman to serve until the organization of the next regular state convention. The state committee shall choose its other officers, not necessarily from the membership. The state chairman may vote only in case of a tie. The state committee shall meet at the call of the state chairman or any five members and at a time and place as he may appoint. Vacancies on the state committee, other than in the offices of state chairman and state vice‑chairman, and the presidents of the women’s federations must be filled by the respective county committees. The members of the state committee shall continue in office for two years from the time of their election, and until their successors are elected. The state committee shall nominate presidential electors and a vacancy in the state ticket of electors or in the national committee of a party must be filled by the state committee by a majority of the whole committee.

HISTORY: 1962 Code Section 23‑261; 1952 Code Section 23‑261; 1950 (46) 2059; 1960 (51) 1612; 1992 Act No. 254, Section 1, eff February 18, 1992.

Effect of Amendment

The 1992 amendment added the provisions pertaining to the women’s federations as ex officio members; provided that the state chairman “may”, instead of “must”, vote only in case of a tie; and made grammatical changes.

LIBRARY REFERENCES

29 C.J.S., Elections Sections 85‑87.

Attorney General’s Opinions

Filling vacancy created by disqualification of member. One who is disqualified to act as a member of the State committee because of consideration of his candidacy by that committee is not authorized to appoint a proxy to act in his place and stead. If the vacancy is to be filled, it should be done by the county executive committee of the county from which the disqualified member is elected. 1963‑64 Op Atty Gen, No. 1692, p 148.

**SECTION 7‑9‑100.** State convention.

 The state convention shall meet at a location in this State determined by the state committee to have adequate facilities during a thirteen‑month period ending May fifteenth of every general election year on a day and at a time fixed by the state committee and announced publicly at least ten days before the meeting. The state committee shall notify the delegates to the state convention of the accommodations that are available for the delegates during the convention. This listing must be as complete as practicable and must include the accommodations in close proximity to the convention site as well as any other accommodations that are chosen by the state committee. This notice must include the name and location of the accommodations, the cost per day, and any discounts or surcharges that are applicable during the period of the convention. Should the state committee fix the date for the state convention in a nongeneral election year, it must be held for the purpose of reorganization only. The convention to be held for the purpose of nominating candidates for public office to be filled in the general election must be held in the general election year. At the time that the state committee sets the date for the state convention it shall set what month during the twelve‑month period ending March thirty‑first of every general election year that the county convention must be held. If it sets a month in a nongeneral election year for the county conventions to be held for the purpose of reorganization, it must set a month during the general election year for the county convention to be reconvened for the purpose of nominating candidates for public office to be filled in the general election. Sufficient advance notice of the month set for county conventions must be given to county executive committees so that the public notices required by law may be met. The convention must be composed of delegates elected by the county conventions. Each county is entitled to one delegate for each six thousand residents of the county, according to the latest official United States Census, plus two additional members. If a county has a fractional portion of population of at least three thousand residents above its last six thousand resident figure it is entitled to an additional delegate. When the state convention assembles, it must be called to order by the chairman of the state committee. A temporary president must be nominated and elected by the convention, and after its organization the convention shall proceed immediately to the election of permanent officers and to the transaction of business. When the business has concluded it shall adjourn sine die, or may recess. The state chairman may recall the state convention into special session at any time he determines appropriate.

 The officers of the state convention must be a president, vice president, two secretaries, and a treasurer. Each county delegation to a state convention may fill any vacancies therein. Any county failing or refusing to organize under the provisions of this title may not have representation in the state convention. The state officers must be reported to the Secretary of State and to the State Election Commission within fifteen days of their election and the reports must be public record.

HISTORY: 1962 Code Section 23‑262; 1952 Code Section 23‑262; 1950 (46) 2059; 1954 (48) 1447; 1964 (53) 1831; 1974 (58) 2866; 1976 Act No. 459; 1977 Act No. 133 Section 2; 1986 Act No. 327, Section 3, eff February 20, 1986; 1988 Act No. 423, Section 1, eff April 5, 1988; 1989 Act No. 136, Section 1, eff June 5, 1989.

Effect of Amendment

The 1976 amendment struck the words “as many delegates as double the number of members in the House of Representatives from the county plus one additional member.” in the second sentence and inserted “one delegate for each six thousand residents of the county, according to the latest official United States Census, plus two additional members. If a county has a fractional portion of population of at least three thousand residents above its last six thousand resident figure it shall be entitled to an additional delegate.”

The 1977 amendment inserted the words “on a day from April first to April fifteenth” for the words “not later than April thirtieth on such day” in the first sentence of this section.

The 1986 amendment made grammatical changes in this section and, in the first paragraph, substituted “during a twelve‑month period ending April fifteenth of every general election year on a day” for “every general election year on a day from April first to April fifteenth”, added provisions regulating the purposes of state conventions in general election and non‑general election years, and substituted “determines appropriate” for “deems wise”.

The 1988 amendment in the first paragraph replaced “Columbia” with “a location in this State determined by the state committee to have adequate facilities”, and added a provision requiring the state committee to notify delegates of available accommodations and related information.

The 1989 amendment in the first paragraph, replaced “twelve‑month period ending April” with “thirteen‑month period ending May”.

CROSS REFERENCES

County conventions doubling the number of delegates, see Section 7‑9‑80.

Decertification of a political party for failure to hold a state convention, see Section 7‑9‑10.

Provision that county conventions must be held during a month determined by the state committee as provided in this section, see Section 7‑9‑70.

LIBRARY REFERENCES

29 C.J.S., Elections Sections 97 et seq.

Attorney General’s Opinions

While there exists no express requirement that a reconvened meeting of a state political party convention be held in Columbia, the better practice, and one more in keeping with the spirit of Section 7‑9‑100, is to require such meetings to also be held in Columbia. 1986 Op Atty Gen, No. 86‑97, p 298.

Number of delegates per county authorized by this section [Code 1962 Section 23‑262] to attend political party State convention is equal to double the sum total of the members of the House elected from a county and the Senators representing that county in the General Assembly, whether or not such Senators live within the county. 1969‑70 Op Atty Gen, No. 2813, p 22.

NOTES OF DECISIONS

In general 1

1. In general

Stated in United Citizens Party of South Carolina v. South Carolina State Election Commission (D.C.S.C. 1970) 319 F.Supp. 784.

Applied in State ex rel. Thornton v. Wannamaker (S.C. 1966) 248 S.C. 421, 150 S.E.2d 607.

**SECTION 7‑9‑105.** Use of state funds for state conventions prohibited.

 No state funds shall in any manner be used for the purpose of holding conventions pursuant to the provisions of Section 7‑9‑100.

HISTORY: 1988 Act No. 423, Section 2, eff April 5, 1988.

**SECTION 7‑9‑110.** Conducting elections or primaries in facilities receiving state funds.

 A political party or the State Election Commission may conduct a primary or election, without charge, in any facility that receives state funds for support or operation. The use of the facility, pursuant to the provisions of this section, is subject to the availability of the facility as determined by the facility’s governing entity.

HISTORY: 2007 Act No. 81, Section 4, eff June 19, 2007.

Editor’s Note

Former Section 7‑9‑110, which provided for the establishment, powers and rights of county party election commissions, was derived from 1984 Act No. 260, Section 1 and repealed by 1992 Act No. 253, Section 17, eff February 19, 1992.