CHAPTER 11

Designation and Nomination of Candidates

ARTICLE 1

Methods of Nomination

**SECTION 7‑11‑10.** Methods of nominating candidates.

 Nominations for candidates for the offices to be voted on in a general or special election may be by political party primary, by political party convention, or by petition; however, a person who was defeated as a candidate for nomination to an office in a party primary or party convention shall not have his name placed on the ballot for the ensuing general or special election, except that this section does not prevent a defeated candidate from later becoming his party’s nominee for that office in that election if the candidate first selected as the party’s nominee dies, resigns, is disqualified, or otherwise ceases to become the party’s nominee for that office before the election is held.

HISTORY: 1962 Code Section 23‑263; 1952 Code Section 23‑263; 1950 (46) 2059; 1982 Act No. 419, Section 5, eff June 8, 1982; 2013 Act No. 61, Section 1, eff June 25, 2013.

Editor’s Note

2013 Act No. 61, Sections 11, 14, provide as follows:

“SECTION 11. In order to educate various parties regarding the provisions contained in this act, the following notifications must be made:

“(1) The State Election Commission must notify each county election commission of the provisions of this act.

“(2) The State Election Commission must post the provisions of this act on its website.

“(3) Each state party executive committee must notify their respective county executive parties of the provisions of this act.”

“SECTION 14. This act takes effect upon preclearance approval by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first.”

The amendment by 2013 Act No. 61 became effective June 25, 2013, see South Carolina Libertarian Party v. South Carolina State Election Com’n, 407 S.C. 612, 757 S.E.2d 707 (2014).

Effect of Amendment

The 1982 amendment added the proviso at the end of the section.

The 2013 amendment substituted “however, a person” for “provided no person”, inserted “not” after “in a party primary or party convention shall”, substituted “does” for “shall” after “except that this section”, and made other nonsubstantive changes.

CROSS REFERENCES

Nomination and election to municipal office, see Sections 5‑15‑10 et seq.

Nominations, generally, see SC Const Art. II, Section 6.

Right to be elected to fill public office, see SC Const Art. I, Section 5.

LIBRARY REFERENCES

29 C.J.S., Elections Sections 97‑103, 106 et seq.

RESEARCH REFERENCES

ALR Library

120 ALR 5th 1 , Validity, Construction, and Application of State Statutes Governing “Minor Political Parties”.

146 ALR 668 , Constitutionality of Election Laws as Regards Nominations by Petition or Otherwise Than by Statutory Convention or Primary Election.

Encyclopedias

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

S.C. Jur. Elections Section 46, Statutory Requirements.

LAW REVIEW AND JOURNAL COMMENTARIES

South Carolina Green Party v. South Carolina State Election Commission; Annual Fourth Circuit survey. Susanna C. Brailsford, 62 S.C. L. Rev. 551 (Spring 2011).

United States Supreme Court Annotations

Fourteenth Amendment as affecting nomination or election to state office. 11 L Ed 2d 1057.

Fourteenth Amendment as affecting nomination or election to state office—federal cases. 23 L Ed 2d 782.

Attorney General’s Opinions

In the absence of legislation or court guidance, an election should be held with the opportunity for a write‑in vote for an office for which no candidate filed. 1988 Op Atty Gen, No. 88‑34, p 110.

NOTES OF DECISIONS

In general 1

1. In general

Action to challenge South Carolina’s sore‑loser statute, which was applied to bar name of minor party nominee, a desired fusion candidate, from general election ballot for having failed to win nomination of major party, was not rendered moot by passage of general election, since the associational challenge presented issues that were capable of repetition, yet evading review. South Carolina Green Party v. South Carolina State Election Com’n (C.A.4 (S.C.) 2010) 612 F.3d 752. Constitutional Law 977

Burden imposed on minor political party by operation of South Carolina’s sore‑loser statute, which disqualified its nominee, as a desired fusion candidate, from appearing on general election ballot based on failure to secure primary nomination of major political party, was not so severe as to subject associational challenge to strict scrutiny, despite the timing of nominee’s loss in major party primary after having secured the minor party nomination; minor party retained the right to select nominee, or any other candidate, at its state convention, it was nominee’s own decision to seek nomination of the major party, not interference by members of the major party, that affected minor party’s ability to retain him on general election ballot, and because nominee was “disqualified” from appearing on ballot by operation of the sore‑loser statute, minor party could have nominated a substitute candidate. South Carolina Green Party v. South Carolina State Election Com’n (C.A.4 (S.C.) 2010) 612 F.3d 752. Constitutional Law 1468; Election Law 276

Minor party nominee, a desired fusion candidate against whom South Carolina State Election Commission had applied sore‑loser statute after nominee’s loss in major party’s primary thereby preventing him from appearing on general election ballot as minor party’s nominee, was “disqualified” as minor party’s nominee within meaning of South Carolina statute providing for substitution of disqualified candidates. South Carolina Green Party v. South Carolina State Election Com’n (C.A.4 (S.C.) 2010) 612 F.3d 752. Election Law 326

South Carolina’s sore‑loser statute, which was applied to minor party nominee, a desired fusion candidate, to disqualify him from appearing on general election ballot as minor party nominee after losing major party nomination, furthered important state regulatory interests in minimizing excessive factionalism and party splintering, reducing the possibility of voter confusion that could occur when a candidate’s name appears on the ballot after losing a primary race, and ensuring orderly, fair, and efficient procedures for the election of public officials, and thus statute did not violate associational rights as applied to nominee’s minor party candidacy; even though minor party’s nomination occurred before nominee’s loss in major party primary, by appearing on the election ballot as minor party’s candidate, nominee could have splintered the major party’s voter base. South Carolina Green Party v. South Carolina State Election Com’n (C.A.4 (S.C.) 2010) 612 F.3d 752. Constitutional Law 1468; Election Law 276

South Carolina’s sore‑loser statute, which disqualified a desired fusion candidate from appearing as successful nominee for one political party on general election ballot based on his failure to secure primary nomination of another, furthered important state interests in minimizing excessive factionalism, preventing intra‑party feuding or disputes, and avoiding voter confusion, and thus did not violate associational rights of political party or candidate, even though candidate first obtained one party’s nomination and then lost the other party’s nomination, and despite argument that statute would discourage fusion. South Carolina Green Party v. South Carolina State Election Com’n, 2009, 647 F.Supp.2d 602, affirmed 612 F.3d 752. Constitutional Law 1468; Election Law 276

Burden imposed on voter who intended to vote for fusion candidate, by operation of South Carolina’s sore‑loser statute, which disqualified its candidate from appearing on ballot based on his failure to secure nomination of one of the political party for which he had sought nomination, was not so severe as to subject voter’s right of association claims against statute to strict scrutiny; despite any burden due to fact that voter’s first choice did not appear on general election ballot, voter was not prevented form voting for candidate as a write‑in candidate, and candidate was not prevented from being placed on the ballot due to some discriminatory or unfair requirement. South Carolina Green Party v. South Carolina State Election Com’n, 2009, 647 F.Supp.2d 602, affirmed 612 F.3d 752. Constitutional Law 1468

Burden imposed on desired fusion candidate, by operation of South Carolina’s sore‑loser statute which disqualified him from appearing as successful nominee on general election ballot for one political party based on his failure to secure nomination of another during primary, was not so severe as to subject candidate’s right of association claims against application of statute to strict scrutiny; candidate had notice of sore‑loser statute when he decided to seek multiple nominations and similarly assumed the risk associated therewith, and burdens were effective only for the remainder of particular election season. South Carolina Green Party v. South Carolina State Election Com’n, 2009, 647 F.Supp.2d 602, affirmed 612 F.3d 752. Constitutional Law 1468

Burden imposed on state political party by operation of South Carolina’s sore‑loser statute, which disqualified its nominee, a desired fusion candidate, from appearing on general election ballot based on his failure to secure primary nomination of another political party, was not so severe as to subject party’s right of association claims against statute to strict scrutiny; statute did not prevent the party from having a candidate of its choice appear on general election ballot, but only prevented it from having its first choice on the ballot, nothing prevented party from nominating candidate in a future election, party was still able to nominate another candidate who had been defeated by candidate based on his disqualification, and party was still able to nominate candidate, even though it would be ineffective in placing his name on the ballot. South Carolina Green Party v. South Carolina State Election Com’n, 2009, 647 F.Supp.2d 602, affirmed 612 F.3d 752. Constitutional Law 1468

Nomination contemplated under this Title is the result of a primary, convention, executive committee action or petition, and not of the general election. Glasscock v. Bradford (S.C. 1951) 218 S.C. 458, 63 S.E.2d 166.

**SECTION 7‑11‑12.** Joint election of Governor and Lieutenant Governor; qualifications; procedures.

 (A) A person nominated for the Office of Governor by primary or convention, or seeking the Office of Governor as a petition candidate must designate a qualified elector to be elected jointly as Lieutenant Governor.

 (B) A designee for Lieutenant Governor must possess all of the qualifications required to hold the Office of Governor.

 (1) The appropriate political party shall determine if its gubernatorial candidate’s Lieutenant Governor designee is qualified.

 (2) The State Election Commission shall determine whether a gubernatorial petition candidate’s Lieutenant Governor designee is qualified.

 (C) No later than August first, a gubernatorial candidate’s designation for Lieutenant Governor must be in writing and filed either with the appropriate political party, or, in the case of a petition candidate, with the State Election Commission.

 (D) No later than August tenth, a Lieutenant Governor designee must provide:

 (1) to the State Election Commission:

 (a) a copy of the gubernatorial candidate’s written designation for Lieutenant Governor; and

 (b) a completed statement of intention of candidacy; and

 (2) to the State Ethics Commission:

 (a) a copy of the completed statement of intention of candidacy; and

 (b) a current filed statement of economic interests.

 (E)(1) If after being designated and before the general election the Lieutenant Governor candidate dies, becomes disqualified, or resigns for a legitimate nonpolitical reason as defined in Section 7‑11‑50, the gubernatorial candidate must make a substitution for the Lieutenant Governor candidate no later than ten days after the death, disqualification, or resignation occurs in the format provided in subsection (C).

 (2) If a Lieutenant Governor candidate is substituted as provided in item (1), the substituted Lieutenant Governor candidate must file the documents required in subsection (D) no later than ten days after the substitution is made.

 (3) The substitutions authorized in items (1) and (2) may be made after the general election if the death, disqualification, or resignation occurs before the general election. If the death, disqualification, or resignation occurs after the general election, the vacancy must be filled as provided in Section 1‑3‑125 by the Governor‑elect.

 (F) If the Lieutenant Governor candidate is not designated as provided in this section, the party or petition candidate for Governor shall not have his name placed on the ballot for the general election.

 (G) A Lieutenant Governor candidate is not required to pay a separate filing fee.

 (H) The provisions of Sections 7‑11‑10 and 7‑11‑210 are not applicable to a Lieutenant Governor candidate.

 (I) If a Lieutenant Governor candidate has solicited or received contributions for another elective office, he must comply with the provisions of Sections 8‑13‑1350 and 8‑13‑1352. A contribution transferred to the single candidate committee of the Governor and Lieutenant Governor elected jointly must comply with the requirements of Section 8‑13‑1314(A).

HISTORY: 2018 Act No. 142 (H.4977), Section 2, eff March 15, 2018.

**SECTION 7‑11‑15.** Qualifications to run as a candidate in general elections.

 (A) In order to qualify as a candidate to run in the general election, all candidates seeking nomination by political party primary or political party convention must file a statement of intention of candidacy and party pledge and submit any filing fees between noon on March sixteenth and noon on March thirtieth as provided in this section. If March thirtieth is on a Saturday or Sunday, the time for filing extends to the next regular business day. For purposes of this section and Section 7‑13‑45, “next regular business day” means a day that is not a Saturday, Sunday, or legal holiday.

 (1) Except as otherwise provided in this section, candidates seeking nomination for a statewide, congressional, or district office that includes more than one county must file their statements of intention of candidacy, and party pledge and submit any filing fees with the State Election Commission.

 (2) Candidates seeking nomination for the State Senate or House of Representatives must file their statements of intention of candidacy and party pledge and submit any filing fees with the State Election Commission or county board of voter registration and elections in the county of their residence. The state executive committees must certify candidates pursuant to Section 7‑13‑40.

 (3) Candidates seeking nomination for a countywide or less than countywide office shall file their statements of intention of candidacy and party pledge and submit any filing fees with the county board of voter registration and elections in the county of their residence.

 (B) Except as provided in this section, the board of voter registration and elections with whom the documents in subsection (A) are filed must provide a copy of all statements of intention of candidacy, the party pledge, receipt and filing fees, to the appropriate political party executive committee within two days following the deadline for filing. If the second day falls on Saturday, Sunday, or a legal holiday, the statement of intention of candidacy, party pledge, and filing fee must be filed by noon the following day that is not a Saturday, Sunday, or legal holiday. A candidate’s name may not appear on a primary election ballot, convention slate of candidates, general election ballot, or special election ballot, except as otherwise provided by law, if (1) the candidate’s statement of intention of candidacy and party pledge has not been filed with the county board of voter registration and elections or State Election Commission, as the case may be, as well as any filing fee, by the deadline and (2) the candidate has not been certified by the appropriate political party as required by Sections 7‑13‑40 and 7‑13‑350, as applicable. The candidate’s name must appear if the candidate produces the signed and dated copy of his timely filed statement of intention of candidacy. An error or omission by a person seeking to qualify as a candidate pursuant to this section who is not directly related to a constitutional or statutory qualification for that office must be construed in a manner that favors the person’s access to the ballot.

 (C) The statement of intention of candidacy required in this section and in Section 7‑13‑190(B) must be on a form designed and provided by the State Election Commission. This form, in addition to all other information, must contain an affirmation that the candidate meets, or will meet by the time of the general election, or as otherwise required by law, the qualifications for the office sought. The candidate or his agent must file a signed statement of intention of candidacy and the election commission with whom it is filed must stamp the statement with the date and time received, keep the original statement, provide a copy to the candidate, and provide a copy to the appropriate political party executive committee.

 (D) The candidate or his agent must file a signed party pledge, as required pursuant to Section 7‑11‑210, and the election commission with which it is filed must stamp the party pledge with the date and time received, provide a copy to the candidate, and provide a copy to the appropriate political party executive committee.

 (E) The election commission with which the filing fee is filed must issue a receipt for the filing fee, stamp the receipt with the date and time the filing fee was received, provide a copy to the candidate or his agent, and provide a copy to the appropriate political executive party. The filing fee must be made payable to the appropriate political party.

 (F) If, after the closing of the time for filing the documents required pursuant to this section, there are not more than two candidates for any one office and one or more of the candidates dies, or withdraws, the state or county committee, as the case may be, if the nomination is by political party primary or political party convention only may, in its discretion, afford opportunity for the entry of other candidates for the office involved; however, for the office of State House of Representatives or State Senator, the discretion must be exercised by the state committee.

 (G) The county chairman of a political party and the chairman of the state executive committee of a political party may designate a person to observe the filings made at the election commission pursuant to this section.

 (H) The provisions of this section do not apply to nonpartisan school trustee elections in a school district where local law provisions provide for other dates and procedures for filing statements of candidacy or petitions, and to the extent the provisions of this section and the local law provisions conflict, the local law provisions control.

HISTORY: 1988 Act No. 363, Section 1, eff March 14, 1988; 1990 Act No. 583, Section 1, eff June 11, 1990; 1996 Act No. 226, Section 1, eff February 12, 1996; 2000 Act No. 236, Section 1, eff March 7, 2000; 2003 Act No. 3, Section 1, eff upon approval (became law without the Governor’s signature on January 16, 2003); 2013 Act No. 61, Section 2, eff June 25, 2013; 2018 Act No. 142 (H.4977), Section 6, eff March 15, 2018.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

Editor’s Note

1990 Act No. 583, Section 2, provides as follows:

“The amendment to Section 7‑11‑15 of the 1976 Code, as contained in Section 1 of this act, extends the time for filing a statement of candidacy or petition as provided by a local law governing a nonpartisan school trustee election for the general election of 1990 and all general elections conducted after that time.”

1992 Act No. 289, Section 3 effective March 12, 1992, provides as follows:

“SECTION 3. Notwithstanding the provisions of Section 7‑11‑15 of the 1976 Code, for 1992 only, the dates for filing for all candidates seeking nomination by a political party primary, political party convention, or petition is between noon June first and noon June twenty‑fifth.”

1997 Act No. 1, Section 6, eff February 12, 1997, provides as follows:

“SECTION 6. For purposes of the 1997 election for the members of the House of Representatives to be elected from those election districts revised by the provisions of Section 2‑1‑25 of the 1976 Code, as amended by Section 1 of this act, and for the members of the Senate to be elected from those election districts revised by Section 4 of this act, the following provisions apply:

“(1) Notwithstanding the provisions of Section 7‑11‑15 of the 1976 Code, the dates for filing for all candidates seeking nomination by a political party primary or political party convention are between noon on June second and noon on June sixteenth.

“(2) Notwithstanding the provisions of Section 7‑11‑210 of the 1976 Code, the date for filing the notice of candidacy and pledge is by noon on June sixteenth.

“(3) Notwithstanding the provisions of Section 7‑13‑40 of the 1976 Code, certification of the names of all candidates to be placed on primary ballots must be made by the political party chairman, vice chairman, or secretary to the State Election Commission or the county election commission, whichever is responsible under law for preparing the ballot, not later than noon on June eighteenth.

“(4) Notwithstanding the provisions of Section 7‑13‑40 of the 1976 Code, the date for primary elections is the second Tuesday in August.

“(5) For these elections held in 1997 only, if run‑off primary elections are necessary they must be held on August twenty‑sixth.

“(6) Notwithstanding the provisions of Section 7‑13‑351 of the 1976 Code, all candidates seeking nomination by petition must file these petitions with the State Election Commission no later than noon on September ninth.

“(7) Notwithstanding the provisions of Section 7‑13‑350 of the 1976 Code, the names of all nominees to be placed on the special election ballots must be certified by the respective political party to the appropriate election commissioners by noon on September eleventh.”

2013 Act No. 61, Sections 11, 14, provide as follows:

“SECTION 11. In order to educate various parties regarding the provisions contained in this act, the following notifications must be made:

“(1) The State Election Commission must notify each county election commission of the provisions of this act.

“(2) The State Election Commission must post the provisions of this act on its website.

“(3) Each state party executive committee must notify their respective county executive parties of the provisions of this act.”

“SECTION 14. This act takes effect upon preclearance approval by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first.”

The amendment by 2013 Act No. 61 became effective June 25, 2013, see South Carolina Libertarian Party v. South Carolina State Election Com’n, 407 S.C. 612, 757 S.E.2d 707 (2014).

Effect of Amendment

The 1990 amendment added the fifth unnumbered paragraph pertaining to nonpartisan school trustee elections.

The 1996 amendment revised this section.

The 2000 amendment added the second sentence of the third undesignated paragraph relating to candidates’ qualifications, and, in the fourth undesignated paragraph, added “State House of Representatives or”.

The 2003 amendment, in the second undesignated paragraph of item (3), designated (1) and added (2) and made nonsubstantive changes in items (1), (2), and the third undesignated paragraph of item (3).

The 2013 amendment rewrote the section.

2018 Act No. 142, Section 6, in (A), added the second and third sentences, and in (A)(2), inserted “State Election Commission or” preceding “county board” in the first sentence; in (B), substituted “Except as provided in this section, the board of voter registration and elections” for “Except as provided herein, the election commission”; in (C), substituted “candidate or his agent must file a signed statement of intention of candidacy and the election commission with whom it is filed must stamp the statement with the date and time received, keep the original statement, provide a copy to the candidate, and provide a copy” for “candidate must file three signed copies and the election commission with whom it is filed must stamp each copy with the date and time received, keep one copy, return one copy to the candidate, and send one copy” in the third sentence; in (D), substituted “or his agent must file a signed party pledge, as required pursuant to Section 7‑11‑210, and the election commission with which it is filed must stamp the party pledge with the date and time received, provide a copy to the candidate, and provide a copy” for “must file three signed copies of the party pledge, as required pursuant to Section 7‑11‑210, and the election commission with whom it is filed must stamp each copy with the date and time received, return one copy to the candidate, and send one copy”; in (E), substituted “election commission with which the filing fee is filed must issue a receipt for the filing fee,” for “candidate must sign a receipt for the filing fee, and the election commission with whom it is filed must”, and inserted “or his agent,” in the first sentence; and made nonsubstantive changes throughout.

CROSS REFERENCES

Acceptance of filings, see Section 7‑13‑45.

Employment and Workforce Appellate Panel, creation, purpose, powers, composition, see Section 41‑29‑300.

Nonjudicial screening and election, prohibition against dual offices, pledges, penalty for violations, see Section 2‑20‑420.

Notice of candidacy and pledge, see Section 7‑11‑210.

Special elections to fill vacancies in office, see Section 7‑13‑190.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 1, Scope Note.

S.C. Jur. Elections Section 37, Filing Dates.

S.C. Jur. Elections Section 46, Statutory Requirements.

LAW REVIEW AND JOURNAL COMMENTARIES

The South Carolina primary debacle: The impact of Anderson v. South Carolina State Election Commission and vague state election laws on the 2012 election. Vordman Carlisle Traywick, III, 64 S.C. L. Rev. 931 (Summer 2013).

Attorney General’s Opinions

The Legislature likely intended to leave state parties with the discretion to determine whether candidates for countywide or less than countywide offices should be certified by the state party or the respective county party, if one so exists. S.C. Op.Atty.Gen. (March 6, 2014) 2014 WL 1398579.

In the absence of legislation for court guidance, an election should be held with the opportunity for a write‑in vote for an office for which no candidate filed. 1988 Op Atty Gen, No. 88‑34, p 110.

NOTES OF DECISIONS

In general 1

1. In general

Requirement of Section 7‑11‑15 that independent candidate for State House of Representatives formally declare candidacy in March for general election the following November, despite lack of need for primary in June, is unconstitutional because no valid state interest is promoted by requiring independent candidates to register at the same time as candidates who are members of political parties intending to hold primaries. Cromer v. State of S.C. (C.A.4 (S.C.) 1990) 917 F.2d 819.

**SECTION 7‑11‑20.** Conduct of party conventions or party primary elections generally; presidential preference primaries.

 (A) Except as provided in subsection (B), party conventions or party primary elections held by political parties certified as such by the State Election Commission pursuant to the provisions of this title to nominate candidates for any of the offices to be filled in a general or special election must be conducted in accordance with the provisions of this title and with party rules not in conflict with the provisions of this title or of the Constitution and laws of this State or of the United States.

 (B)(1) Except as provided in item (2), a certified political party wishing to hold a presidential preference primary election may do so in accordance with the provisions of this title and party rules. However, notwithstanding any other provision of this title, the state committee of the party shall set the date and the hours that the polls will be open for the presidential primary election and the filing requirements. If a party holds a presidential preference primary election on a Saturday, an absentee ballot must be provided to a person who signs an affirmation stating that for religious reasons he does not wish to take part in the electoral process on a Saturday.

 (2) If the state committee of a certified political party which received at least five percent of the popular vote in South Carolina for the party’s candidate for President of the United States decides to hold a presidential preference primary election, the State Election Commission must conduct the presidential preference primary in accordance with the provisions of this title and party rules provided that a registered elector may cast a ballot in only one presidential preference primary. However, notwithstanding any other provision of this title, (a) the State Election Commission and the authorities responsible for conducting the elections in each county shall provide for cost‑effective measures in conducting the presidential preference primaries including, but not limited to, combining polling places, while ensuring that voters have adequate notice and access to the polling places; and (b) the state committee of the party shall set the date and the filing requirements, including a certification fee. Political parties must verify the qualifications of candidates prior to certifying to the State Election Commission the names of candidates to be placed on primary ballots. The written certification required by this section must contain a statement that each certified candidate meets, or will meet by the time of the general election, or as otherwise required by law, the qualifications in the United States Constitution, statutory law, and party rules to participate in the presidential preference primary for which he has filed. Political parties must not certify any candidate who does not or will not by the time of the general election meet the qualifications in the United States Constitution, statutory law, and party rules for the presidential preference primary for which the candidate desires to file, and such candidate’s name must not be placed on a primary ballot. Political parties may charge a certification fee to persons seeking to be candidates in the presidential preference primary for the political party. A filing fee not to exceed twenty thousand dollars, as determined by the State Election Commission, for each candidate certified by a political party must be transmitted by the respective political party to the State Election Commission and must be used for conducting the presidential preference primaries.

 (3) The political party shall give written notice to the State Election Commission of the date set for the party’s presidential preference primary no later than ninety days before the date of the primary.

 (4) Nothing in this section prevents a political party from conducting a presidential preference primary pursuant to the provisions of Section 7‑11‑25.

HISTORY: 1962 Code Section 23‑252; 1952 Code Section 23‑252; 1950 (46) 2059; 1974 (58) 2866; 1991 Act No. 47, Section 1, eff May 1, 1991; 1992 Act No. 489, Section 3, eff July 1, 1992; 2007 Act No. 81, Section 1, eff June 19, 2007; 2014 Act No. 256 (H.4732), Section 1, eff June 6, 2014.

Effect of Amendment

The 1991 amendment added the second paragraph.

The 1992 amendment, in the second paragraph, added the third sentence.

The 2007 amendment designated the existing undesignated paragraphs as subsection (A) and paragraph (B)(1) and added paragraphs (B)(2) to (B)(4) relating to conducting presidential preference primaries.

2014 Act No. 256, Section 1, in subsections (B)(2) and (B)(4), deleted reference to the 2008 election cycle.

CROSS REFERENCES

Decertification of a political party for failure to nominate candidates for office by convention or party primary, see Section 7‑9‑10.

Furnishing of absentee ballots and other primary election materials to county board of registration, see Section 7‑15‑365.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 9, Duties of the State Election Commission.

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

Attorney General’s Opinions

The Legislature likely intended to leave state parties with the discretion to determine whether candidates for countywide or less than countywide offices should be certified by the state party or the respective county party, if one so exists. S.C. Op.Atty.Gen. (March 6, 2014) 2014 WL 1398579.

The State Election Commission possesses the authority either to conduct the Presidential Preference Primaries itself, or, in the alternative, to contract with the parties to do so, and it would be appropriate for such contract to include a provision that the parties assist in bearing the expense of such primaries. S.C. Op.Atty.Gen. (June 27, 2011) 2011 WL 2648710.

Provisos in the Appropriations Act provide authority to the State Election Commission and the county election commissions to conduct the Presidential Preference Primaries. S.C. Op.Atty.Gen. (June 23, 2011) 2011 WL 2648709.

Notes of Decisions

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1. Closed primary

Section of South Carolina election law allowing political parties to fashion party rules concerning party primaries did not permit parties to operate closed primaries; such statute also required that party primary elections be conducted in accordance with other state laws, which collectively precluded a closed primary. 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. Election Law 67

2. Subsequent elections

Provisos of 2011‑2012 Appropriations Act that allowed State Election Commission to use funds towards a presidential preference primary suspended the 2008 temporal limitation of statute that allowed a certified political party wishing to hold a presidential preference primary election to do so, and authorized the State Election Commission and the county election commissions to conduct a presidential preferential primary in the next election cycle. Beaufort County v. South Carolina State Election Com’n (S.C. 2011) 395 S.C. 366, 718 S.E.2d 432. Election Law 249

3. Injunctions

Public interest weighed against issuance of preliminary injunction to require political party to submit prospective presidential candidate’s name for inclusion on state presidential primary ballot, in candidate’s Section 1983 action alleging that party’s failure to submit his name for inclusion on the ballot violated his due process and equal protection rights; public had strong interest in ensuring that primary election was conducted pursuant to state law and that only qualified candidates appeared on the ballot, and issuance of the injunction would disrupt state’s primary election, without adequate legal basis. De La Fuente v. South Carolina Democratic Party, 2016, 164 F.Supp.3d 794. Injunction 1345

Prospective presidential candidate failed to show that the balance of the equities tipped in favor of issuance of preliminary injunction to require political party to submit his name for inclusion on presidential primary ballot, in candidate’s Section 1983 action alleging that party’s failure to submit his name for inclusion on the ballot violated his due process and equal protection rights; after prospective candidate was notified that he would not be approved for candidacy, which was approximately two months before the state’s primary election, he waited more than one month to file suit, he delayed service of process on the defendants, and he did not file a motion for preliminary injunction until several weeks after his suit was filed, so that candidate lacked diligence in pursuing injunctive relief, and grant of preliminary injunction would cause prejudice to defendants, as it would greatly disrupt the state’s primary election or require it to be delayed. De La Fuente v. South Carolina Democratic Party, 2016, 164 F.Supp.3d 794. Injunction 1345

Prospective presidential candidate failed to show that he would suffer irreparable harm based on political party’s failure to certify him for inclusion on state’s presidential primary ballot, as required to support prospective candidate’s motion for preliminary injunction to require party to submit his name for inclusion on the ballot, in candidate’s Section 1983 action for violation of due process and equal protection; although candidate would suffer some harm without preliminary injunction, the harm was negligible, as candidate was not actively campaigning in the state and had minimal likelihood of winning delegates in the state’s primary. De La Fuente v. South Carolina Democratic Party, 2016, 164 F.Supp.3d 794. Injunction 1345

Prospective presidential candidate failed to show that he was likely to succeed on the merits of his equal protection claim that state political party declined to certify him for inclusion on the state presidential primary ballot due to racial discrimination against Hispanic candidates, as required to support prospective candidate’s motion for preliminary injunction to require party to submit his name for inclusion on primary ballot, absent any factual allegations or evidence that the party took such discriminatory action or that prospective candidate was treated differently than other non‑Hispanic prospective candidates. De La Fuente v. South Carolina Democratic Party, 2016, 164 F.Supp.3d 794. Injunction 1345

Prospective presidential candidate failed to show that he was likely to succeed on the merits of his claim that state political party rules, requiring that for candidate to be certified for placement on the presidential primary ballot, the state party executive council had to find that he was generally acknowledged or recognized in news media throughout the United States as viable candidate, and that he was actively campaigning in the party’s presidential primary, were void for vagueness, in violation of due process, as required to support prospective candidate’s motion for preliminary injunction to require party to submit his name for inclusion on primary ballot; the rules were capable of narrow and reasonable application, requirements similar to the state rules were upheld in other cases as valid and reasonable restrictions on ballot access, and there was no showing that party exercised its discretion under the rules arbitrarily against candidate. De La Fuente v. South Carolina Democratic Party, 2016, 164 F.Supp.3d 794. Injunction 1345

**SECTION 7‑11‑25.** Advisory primaries conducted by political party.

 Nothing in this chapter nor any other provision of law may be construed as either requiring or prohibiting a political party in this State from conducting advisory primaries according to the party’s own rules and at the party’s expense.

HISTORY: 1992 Act No. 253, Section 14, eff February 19, 1992; 2007 Act No. 81, Section 3, eff June 19, 2007; 2014 Act No. 256 (H.4732), Section 2, eff June 6, 2014.

Effect of Amendment

The 2007 amendment rewrote this section to except presidential preference primaries.

2014 Act No. 256, Section 2, deleted from the beginning “Except for the provisions of Section 7‑11‑20 related to presidential preference primaries,”.

**SECTION 7‑11‑30.** Convention nomination of candidates.

 (A) A party may choose to change from nomination of candidates by primary to a method to nominate candidates by convention for all offices including, but not limited to, Governor, Lieutenant Governor, United States Senator, United States House of Representatives, Circuit Solicitor, State Senator, and members of the State House of Representatives if:

 (1) there is a three‑fourths vote of the total membership of the convention to use the convention nomination process; and

 (2) a majority of voters in that party’s next primary election approve the use of the convention nomination process.

 (B) A party may not choose to nominate by party convention for an election cycle in which the filing period for candidates has begun.

 (C) A political party nominating candidates by party convention shall nominate the party candidates and make the nominations public not later than the time for certifying candidates to the authority charged by law with preparing ballots for the general or special election.

 (D) Nothing in this section requires a political party that has nominated candidates by convention in the previous election cycle to hold a primary in order to continue using the convention method to nominate candidates.

HISTORY: 1962 Code Section 23‑264; 1952 Code Section 23‑264; 1950 (46) 2059; 1964 (53) 1744; 1966 (54) 2093; 1968 (55) 2316; 1972 (57) 2531; 1974 (58) 2124; 1984 Act No. 403, Section 1, eff May 24, 1984; 2013 Act No. 61, Section 3, eff June 25, 2013; 2014 Act No. 196 (S.815), Section 6, eff June 2, 2014.

Editor’s Note

2013 Act No. 61, Sections 11, 14, provide as follows:

“SECTION 11. In order to educate various parties regarding the provisions contained in this act, the following notifications must be made:

“(1) The State Election Commission must notify each county election commission of the provisions of this act.

“(2) The State Election Commission must post the provisions of this act on its website.

“(3) Each state party executive committee must notify their respective county executive parties of the provisions of this act.”

“SECTION 14. This act takes effect upon preclearance approval by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first.”

The amendment by 2013 Act No. 61 became effective June 25, 2013, see South Carolina Libertarian Party v. South Carolina State Election Com’n, 407 S.C. 612, 757 S.E.2d 707 (2014).

Effect of Amendment

The 1984 amendment substantially reworded this section.

The 2013 amendment rewrote the section.

2014 Act No. 196, Section 6, in subsection (A), substituted “change from nomination of candidates by primary to a method to nominate candidates by convention” for “nominate candidates”; and added subsection (D).

CROSS REFERENCES

Decertification of a political party for failure to nominate candidates for office by convention or party primary, see Section 7‑9‑10.

Nominations for municipal offices, see Sections 5‑15‑10 et seq.

Placing names of certified nominees on ballots, see Section 7‑13‑350.

RESEARCH REFERENCES

ALR Library

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

Encyclopedias

S.C. Jur. Elections Section 38, Convention Nomination.

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

Attorney General’s Opinions

[A number of the opinions of the Attorney General cited below were rendered prior to amendments which restated this section.] ‑.

Candidates for county offices should be nominated by state convention regardless of whether the party is organized at the county level. S.C. Op.Atty.Gen. (March 6, 2014) 2014 WL 1398579.

The state party should nominate all of its candidates for office, including county offices. S.C. Op.Atty.Gen. (March 6, 2014) 2014 WL 1398579.

This section, as amended by the Equal Access to the Ballot Act, does not require all political parties to adopt a primary nomination process, but should instead be construed as amending the procedure that political parties must utilize if they wish to change from the primary nomination process to a convention nomination process. S.C. Op.Atty.Gen. (Nov. 12, 2013) 2013 WL 6210744.

Nomination by primary for congressional district seat not precluded. This section [Code 1962 Section 23‑264] does not preclude a party from nominating its candidate by the primary method for the First Congressional District seat in special election to be held in April, 1971, because it has to nominate its candidates by the convention method in March, 1970. 1970‑71 Op Atty Gen, No. 3071, p 10.

Deadline for certifying names of county nominees picked by convention to county board of elections. As ambiguity exists between the provisions of this section [Code 1962 Section 23‑264] and Code 1962 Section 23‑312 (now Code 1962 Section 23‑400.15), but the latter section controls and the names of nominees for county offices made by convention should be placed on the ballot if those names are certified to the county board of elections at least twenty days prior to the general election. 1965‑66 Op Atty Gen, No. 2175, p 308.

As to time limitation in connection with special election to fill a vacancy created by the resignation of a State Senator, see 1966‑67 Op Atty Gen, No 2306, p 125.

Method of nominating Senate candidate in multiple‑county senatorial district other than by primary is determined by State party committee. 1965‑66 Op Atty Gen, No. 1994, p 52.

Nominations for Senate by convention in multiple‑county districts need not be reported to State convention but only to the Secretary of State. 1965‑66 Op Atty Gen, No. 1994, p 52.

Nominations for Senate using convention method in multiple‑county districts need not be ratified by State convention. 1965‑66 Op Atty Gen, No. 1994, p 52.

Procedure followed after withdrawal of a candidate. The procedure to be followed on withdrawal of a candidate is the same procedure to be followed as in the original method of nomination. 1965‑66 Op Atty Gen, No. 2035, p 111.

If a nominee for the office of State Senator of a party not using the primary method should withdraw, the State committee of the party may make nominations of the party’s candidates in such manner as the committee may determine. 1965‑66 Op Atty Gen, No. 2035, p 111.

Deadline for making nominations for State‑wide offices. Nominations for State‑wide office are required to be made not later than the date and time fixed for the closing of primary entries. 1965‑66 Op Atty Gen, No. 2136, p 263.

Under no conditions, can any person qualify as a candidate after the time fixed for the closing of primary entries. 1965‑66 Op Atty Gen, No. 2013, p 76.

NOTES OF DECISIONS

In general 1

Equal protection 3

Freedom of association 2

1. In general

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

Effect of 1972 amendment. This section [Code 1962 Section 23‑264] as amended in 1972 designates the announcement date for non‑primary candidates as the date of the party primary rather than the date for filing for the primary. The 1972 amending act does not, however, explicitly set the second Tuesday in June as the date for announcement, regardless of whether a primary is held. While the act remedies the nomadic nature of the announcement date by eliminating reference to the floating “closing date for primaries,” it is still not clear whether a decision by the established political parties not to conduct primaries would eliminate the June filing and bring into effect Code 1962 Section 23‑400.15, which requires only that candidates for statewide office be certified to the appropriate election commission thirty‑five days prior to the general election. Toporek v. South Carolina State Election Commission (D.C.S.C. 1973) 362 F.Supp. 613.

Section as amended in 1972 held unconstitutional. This section [Code 1962 Section 23‑264] as amended in 1972 is unconstitutional and invalid insofar as the time limitations provided therein are applicable to candidates nominated other than by the primary method. Toporek v. South Carolina State Election Commission (D.C.S.C. 1973) 362 F.Supp. 613.

This section [Code 1962 Section 23‑264] as amended in 1972 is unconstitutional in that it is in violation of the equal protection clause of the Fourteenth Amendment, and, as it unnecessarily burdens the right of the citizenry to vote and seek office, it is also unconstitutional because it violates the right of the people to peaceable assembly and petition the government for redress of grievances as guaranteed by the First Amendment. Toporek v. South Carolina State Election Commission (D.C.S.C. 1973) 362 F.Supp. 613. Constitutional Law 1468; Constitutional Law 3640; Election Law 268

Five‑month period between a required declaration of candidacy and the following general election does not unconstitutionally discriminate against petition candidates and minority party candidates. Toporek v. South Carolina State Election Commission (D.C.S.C. 1973) 362 F.Supp. 613.

Former provisions unconstitutional. Before the 1972 amendment, this section [Code 1962 Section 23‑264] set the date for submitting names for the ballot by parties choosing their candidates at the State convention at 60 days prior to the election except that the names must be submitted no later than the date for the closing of primary entries. Therefore, a political party having a primary could control the date of submission of candidates by parties having no primary by their control over the date of their State convention. Thus the section was unconstitutional as in violation of the due process clause of the Fourteenth Amendment and as in violation of the right of the people peaceably to assemble and petition the government for redress of grievances, guaranteed by the First Amendment and applied to the states by the Fourteenth Amendment. United Citizens Party of South Carolina v. South Carolina State Election Commission (D.C.S.C. 1970) 319 F.Supp. 784. Constitutional Law 1468; Constitutional Law 4231; Election Law 268

This section [Code 1962 Section 23‑264] as it stood before the 1972 amendment was an unconstitutional delegation of power by the South Carolina legislature to the established private political parties of South Carolina to fix the specific deadline by which the candidates must be nominated and announced. United Citizens Party of South Carolina v. South Carolina State Election Commission (D.C.S.C. 1970) 319 F.Supp. 784.

Contingency, which was placed on effective date of Equal Access to the Ballot Act, of preclearance by the United States Department of Justice of changes to election law, was met, and, thus, Act was in effect, where General Assembly’s intent in making preclearance a contingency was to comply with the then‑mandatory provisions of the Voting Rights Act, and a United States Supreme Court decision obviated the need for that compliance. South Carolina Libertarian Party v. South Carolina State Election Com’n (S.C. 2014) 407 S.C. 612, 757 S.E.2d 707. Election Law 233(3)

Libertarian party was not required by Equal Access to the Ballot Act to adopt a primary nomination process in order to retain its convention method of nominating candidates, where it had always utilized the convention method. South Carolina Libertarian Party v. South Carolina State Election Com’n (S.C. 2014) 407 S.C. 612, 757 S.E.2d 707. Election Law 235; Election Law 241; Election Law 246

2. Freedom of association

South Carolina statute authorizing nomination of a political party’s candidate by party convention, which required that three‑fourths of the total membership of the convention affirmatively vote to utilize the nomination method, and allocated authority to state committee over nomination process of state legislative offices, did not violate political parties’ First Amendment right to freedom of association; statute did not have any direct effect on political parties’ internal processes, but only indirectly impacted parties by placing requirements on the parties’ efforts to utilize convention method as alternative to open primary. 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 247

3. Equal protection

South Carolina law requiring political parties to receive supermajority approval of their membership to select convention method of candidate nomination did not violate Equal Protection Clause, even though private corporate entities could make decisions by simple majority or other vote percentage designated in corporate organizational documents; challenged law placed all political parties on equal ground and did not discriminate between certified political parties, and state provided several important regulatory interests to justify the law, including protecting and preserving the integrity of the nominating process. 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 3641; Election Law 247

**SECTION 7‑11‑40.** Names and addresses of candidates for House of Representatives shall be reported to State Election Commission.

 Notwithstanding any other provision of law, if a political party in this State shall nominate candidates by party primary election, the person with whom candidates of that party for the House of Representatives file shall report to the State Election Commission the names and addresses of all candidates so filing within twenty‑four hours after the close of the filing period for the House of Representatives.

HISTORY: 1962 Code Section 23‑265.4; 1974 (58) 2400.

**SECTION 7‑11‑50.** Substitution where party nominee dies, becomes disqualified or resigns for legitimate nonpolitical reason.

 If a party nominee who was nominated by a method other than party primary election dies, becomes disqualified after his nomination, or resigns his candidacy for a legitimate nonpolitical reason as defined in this section and sufficient time does not remain to hold a convention to fill the vacancy or to nominate a nominee to enter a special election, the respective state or county party executive committee may nominate a nominee for the office, who must be duly certified by the respective county or state chairman.

 “Legitimate nonpolitical reason” as used in this section is limited to:

 (a) reasons of health, which include any health condition which, in the written opinion of a medical doctor, would be harmful to the health of the candidate if he continued;

 (b) family crises, which include circumstances which would substantially alter the duties and responsibilities of the candidate to the family or to a family business;

 (c) substantial business conflict, which includes the policy of an employer prohibiting employees being candidates for public offices and an employment change which would result in the ineligibility of the candidate or which would impair his capability to carry out properly the functions of the office being sought.

 A candidate who withdraws based upon a legitimate nonpolitical reason which is not covered by the inclusions in (a), (b) or (c) has the strict burden of proof for his reason. A candidate who wishes to withdraw for a legitimate nonpolitical reason shall submit his reason by sworn affidavit.

 This affidavit must be filed with the state party chairman of the nominee’s party and also with the board of voter registration and elections of the county if the office concerned is countywide or less and with the State Election Commission if the office is statewide, multi‑county, or for a member of the General Assembly. A substitution of candidates is not authorized, except for death or disqualification, unless the election commission to which the affidavit is submitted approves the affidavit as constituting a legitimate nonpolitical reason for the candidate’s resignation within ten days of the date the affidavit is submitted to the commission. However, where this party nominee is unopposed, each political party registered with the State Election Commission has the privilege of nominating a candidate for the office involved. If the nomination is certified two weeks or more before the date of the general election, that office is to be filled at the general election. If the nomination is certified less than two weeks before the date of the general election, that office must not be filled at the general election but must be filled in a special election to be held on the second Tuesday in the month following the election, provided that the date of the special election to be conducted after the general election may be combined with other necessary elections scheduled to occur within a twenty‑eight day period in the manner authorized by Section 7‑13‑190(D).

HISTORY: 1962 Code Section 23‑266; 1952 Code Section 23‑266; 1950 (46) 2059; 1968 (55) 2316; 1978 Act No. 432, eff March 13, 1978; 1991 Act No. 81, Section 1, eff May 27, 1991; 2006 Act No. 256, Section 1, eff January 1, 2007.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

Editor’s Note

The preamble to 1978 Act No. 432 provides in part:

“Whereas, it is the intent of the General Assembly to prohibit substitute candidates for those who qualify without the intention of pursuing an office; and the desired effect is to eliminate those persons commonly known as ‘ghost candidates.’”

Effect of Amendment

The 1978 amendment substantially rewrote the section so as to limit substitutions for nominees to specific circumstances and require Election Commission approval to authorize substitutions.

The 1991 amendment in the first sentence added “who was nominated by a method other than party primary election” and deleted “or primary” following “convention”; rewrote the third paragraph; and made grammatical changes.

The 2006 amendment, in the first sentence of the last undesignated paragraph, deleted “including members of the General Assembly” following “countywide or less” and added at the end “multi‑county, or for a member of the General Assembly”; and at the beginning of the second sentence, substituted “A substitution of candidates is not authorized” for “No substitution of candidates is authorized”.

LIBRARY REFERENCES

29 C.J.S., Elections Sections 93 et seq.

RESEARCH REFERENCES

ALR Library

120 ALR 5th 1 , Validity, Construction, and Application of State Statutes Governing “Minor Political Parties”.

Encyclopedias

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

Attorney General’s Opinions

Section 7‑11‑50 would be inapplicable to candidates who had been disqualified by the Supreme Court decision in Anderson v. South Carolina Election Com’n, 397 S.C. 551, 725 S.E.2d 704 (2012), and who sought to be appointed as replacement candidates for the 2012 general election. S.C. Op.Atty.Gen. (July 10, 2012) 2012 WL 2950119.

Candidate who withdraws candidacy must have withdrawn for legitimate nonpolitical reason in order for party to replace his candidacy. 1990 Op Atty Gen No. 90‑52.

The decision as to whether or not an office could be opened for refiling where a candidate withdraws to accept another public office would depend upon many variables, especially the timing of the resignation. 1988 Op Atty Gen, No. 88‑25, p 81.

The provisions of Section 7‑11‑50 permit the nomination by each political party of nominees to the office involved when an unopposed candidate dies, withdrawn or otherwise becomes disqualified less than forty‑five days prior to the General Election; only when the nominee of a political party is unopposed in the General Election is postponement of the election required. Because Section 7‑11‑50 is silent as to who should decide if sufficient time exists to hold a primary or convention, and in the absence of a specific statute, it would appear that the proper body to make such a determination would be the party itself. 1986 Op Atty Gen, No. 86‑103, p 317.

There is no provision of law which prohibits person who is nominee for House seat to resign his candidacy and run for Senate. 1984 Op Atty Gen, No. 84‑68, p. 176.

Substitution where not more than two candidates for one office. Where a candidate for office dies or withdraws, a party may nominate a substitute candidate if there are not more than two party candidates for any one office. 1965‑66 Op Atty Gen, No 2014, p 77.

Withdrawal of candidate. This section [Code 1962 Section 23‑266] and Code 1962 Section 23‑372 (now Code 1962 Section 23‑396), read together, authorize the substitution of a candidate upon the withdrawal of a prior candidate. 1965‑66 Op Atty Gen, No. 2014, p 77.

NOTES OF DECISIONS

In general 1

1. In general

Minor party nominee, a desired fusion candidate against whom South Carolina State Election Commission had applied sore‑loser statute after nominee’s loss in major party’s primary thereby preventing him from appearing on general election ballot as minor party’s nominee, was “disqualified” as minor party’s nominee within meaning of South Carolina statute providing for substitution of disqualified candidates. South Carolina Green Party v. South Carolina State Election Com’n (C.A.4 (S.C.) 2010) 612 F.3d 752. Election Law 326

Burden imposed on minor political party by operation of South Carolina’s sore‑loser statute, which disqualified its nominee, as a desired fusion candidate, from appearing on general election ballot based on failure to secure primary nomination of major political party, was not so severe as to subject associational challenge to strict scrutiny, despite the timing of nominee’s loss in major party primary after having secured the minor party nomination; minor party retained the right to select nominee, or any other candidate, at its state convention, it was nominee’s own decision to seek nomination of the major party, not interference by members of the major party, that affected minor party’s ability to retain him on general election ballot, and because nominee was “disqualified” from appearing on ballot by operation of the sore‑loser statute, minor party could have nominated a substitute candidate. South Carolina Green Party v. South Carolina State Election Com’n (C.A.4 (S.C.) 2010) 612 F.3d 752. Constitutional Law 1468; Election Law 276

There is an illegal discrimination against petition candidates and minority party candidates apparent in the interplay of the various statutes which govern the filing date for candidates. Toporek v. South Carolina State Election Commission (D.C.S.C. 1973) 362 F.Supp. 613.

The obvious effect of this section [Code 1962 Section 23‑266] is to allow political parties, certified pursuant to Code 1962 Section 23‑251 to meet the filing requirement up until thirty dats prior to the general election, whereas petition candidates must meet the deadline five months (now two and one‑half months) prior to the general election. Toporek v. South Carolina State Election Commission (D.C.S.C. 1973) 362 F.Supp. 613.

Petition candidate may not avail self of section. The language of this section [Code 1962 Section 23‑266] and the realities of petition signature procurement preclude a petition candidate from availing himself of this section [Code 1962 Section 23‑266]. Toporek v. South Carolina State Election Commission (D.C.S.C. 1973) 362 F.Supp. 613.

**SECTION 7‑11‑53.** Nomination of substitute candidate.

 If the executive committee of a political party substitutes a candidate for a general or special election pursuant to Section 7‑11‑50, it must do so as soon as is reasonably possible. The executive committee must nominate a substitute candidate for an office not more than thirty days from the date the candidacy becomes vacant. If a party fails to name a substitute candidate within thirty days pursuant to Section 7‑11‑50, that party is prohibited from nominating a candidate for that office.

HISTORY: 2006 Act No. 337, Section 1, eff June 8, 2006.

**SECTION 7‑11‑55.** Substitution of candidates where nominee selected by primary election.

 If a party nominee dies, becomes disqualified after his nomination, or resigns his candidacy for a legitimate nonpolitical reason as defined in Section 7‑11‑50 and was selected through a party primary election, the vacancy must be filled in a special primary election to be conducted as provided in this section. The filing period for this special primary election opens the second Tuesday after the death, disqualification, or approval of the resignation for one week. The special primary election then must be conducted on the second Tuesday immediately following the close of the filing period. A runoff, if necessary, must be held two weeks after the first primary. The nomination must be certified not less than two weeks before the date of the general election. If the nomination is certified two weeks or more before the date of the general election, that office is to be filled at the general election.

 If the nomination is certified less than two weeks before the date of the general election, that office must not be filled at the general election but must be filled in a special election to be held on the second Tuesday in the month following the election, provided that the date of the special election to be conducted after the general election may be combined with other necessary elections scheduled to occur within a twenty‑eight day period in the manner authorized by Section 7‑13‑190(D).

 The procedures for resigning a candidacy under this section for legitimate nonpolitical reasons are the same as provided in Section 7‑11‑50.

 Where the party nominee was unopposed, each political party registered with the State Election Commission has the privilege of nominating a candidate for the office involved through a special primary election in the same manner and under the same procedures stipulated by this section.

HISTORY: 1991 Act No. 81, Section 2, eff May 27, 1991.

RESEARCH REFERENCES

Encyclopedias

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

Notes of Decisions

Disqualified candidates 2

Legislative intent 1

1. Legislative intent

Legislative intent of statute that requires special primary election when a party nominee dies, resigns, or is disqualified is to provide a mechanism for political parties to replace nominees prior to the general election. Tempel v. South Carolina State Election Com’n (S.C. 2012) 400 S.C. 374, 735 S.E.2d 453. Election Law 271

2. Disqualified candidates

Candidate for the Republication nomination for a state senate seat, who should have been decertified for failure to meet statutory requirement to simultaneously file statement of economic interests (SEI) and statement of intention of candidacy (SIC), was a “party nominee” who was subsequently disqualified, although party erroneously believed that candidate was exempt from the filing requirement. Tempel v. South Carolina State Election Com’n (S.C. 2012) 400 S.C. 374, 735 S.E.2d 453. Election Law 271

Candidate who should have been decertified for failure to meet statutory requirement to simultaneously file statement of economic interests (SEI) and statement of intention of candidacy (SIC) was “disqualified,” and his candidacy was not void ab initio, and, thus, special primary election was required. Tempel v. South Carolina State Election Com’n (S.C. 2012) 400 S.C. 374, 735 S.E.2d 453. Election Law 271

**SECTION 7‑11‑60.** Repealed by 1984 Act No. 403, Section 2, eff May 24, 1984.

Editor’s Note

Former Section 7‑11‑60 was entitled “Permissible number of nominees for State Senator from any county” and was derived from 1962 Code Section 23‑267; 1966 (54) 2093.

**SECTION 7‑11‑70.** Nomination by petition.

 A candidate’s nominating petition for any office in this State shall contain the signatures of at least five percent of the qualified registered electors of the geographical area of the office for which he offers as a candidate; provided, that no petition candidate is required to furnish the signatures of more than ten thousand qualified registered electors for any office. The official number of qualified registered electors of the geographical area of any office must be the number of registered electors of such area registered one hundred twenty days prior to the date of the election for which the nomination petition is being submitted.

 The petition must be certified to the State Election Commission in the case of national, state, circuit, and multicounty district offices; with the county board of voter registration and elections in the case of countywide or less than countywide offices with the exception of municipal offices; with the clerk of a municipality in case of a municipal office, and the certified petition shall constitute and be kept as a public record.

HISTORY: 1962 Code Section 23‑400.16; 1952 Code Section 23‑313; 1950 (46) 2059; 1956 (49) 1739; 1961 (52) 548; 1964 (53) 1744; 1966 (54) 2340; 1968 (55) 2316; 1972 (57) 2531; 1974 (58) 2124, 2866; 1984 Act No. 405, Section 2, eff May 24, 1984.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

Effect of Amendment

The 1984 amendment substituted “one hundred and twenty” for “ninety” in the last sentence of the first paragraph, and made grammatical changes at various locations.

CROSS REFERENCES

Economic interests statements, filing deadlines for particular candidates, see Section 8‑13‑1356.

Requirements for nomination petitions for election to board of special purpose district, see Section 6‑11‑70.

LIBRARY REFERENCES

29 C.J.S., Elections Sections 106‑110.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 46, Statutory Requirements.

NOTES OF DECISIONS

In general 1

1. In general

Former provision unconstitutional. The provision of this section [Code 1962 Section 23‑400.16] that “no candidate who may be defeated in a party primary shall be placed on the general election ballot by petition or otherwise” (eliminated by the 1974 amendment) discriminated against candidates defeated in a party primary and served no rational State interest, and thus unconstitutionally denied primary candidates equal protection of the law. Toporek v. South Carolina State Election Commission (D.C.S.C. 1973) 362 F.Supp. 613. Constitutional Law 3642; Election Law 276

**SECTION 7‑11‑71.** Petitions in election for commissioners of public service districts.

 Notwithstanding the provisions of Section 7‑11‑70, petitions to nominate candidates elected in the general election to serve as commissioners of public service districts shall require signatures of not less than two hundred fifty qualified electors of the district concerned or five percent of the total number of electors of the district, whichever is the lesser, if such petitions are otherwise in compliance with this chapter.

HISTORY: 1978 Act No. 597 eff July 18, 1978.

CROSS REFERENCES

Economic interests statements, filing deadlines for particular candidates, see Section 8‑13‑1356.

**SECTION 7‑11‑80.** Form of nominating petition.

 All nominating petitions for any political office or petition of any political party seeking certification as such in the State of South Carolina shall be standardized as follows:

 (1) Shall be on good quality original bond paper sized 8 1/2’’ X 14’’.

 (2) Shall contain a concise statement of purpose; in the case of nomination of candidates, the name of the candidate, the office for which he offers and the date of the election for such office shall be contained in such petition.

 (3) Shall contain in separate columns from left to right the following:

 (a) Signature of voter and printed name of voter;

 (b) Address of residence where registered; and

 (c) Precinct of voter.

 (4) No single petition page shall contain the signatures of registered voters from different counties.

 (5) All signatures of registered voters shall be numbered consecutively.

 (6) Petitions with more than one page must have the pages consecutively numbered upon filing with the appropriate authority.

 The State Election Commission may furnish petition forms to the county election officials and to interested persons.

HISTORY: 1962 Code Section 23‑400.16:1; 1974 (58) 2866; 1984 Act No. 510, Section 16, eff June 28, 1984.

Effect of Amendment

The 1984 amendment substantially reworded item (3).

CROSS REFERENCES

Provisions precluding rejection of signature on nominating petition failing to comply with this section, see Section 7‑11‑85.

LIBRARY REFERENCES

29 C.J.S., Elections Sections 106‑110.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 46, Statutory Requirements.

Attorney General’s Opinions

(1) The County Election Commission is the determining authority as to the legality of a county petition; (2) Section 23‑400.16:1 [1976 Code Section 7‑11‑80] is to be used in processing Home Rule Act petitions. 1976‑77 Op Atty Gen, No 77‑145, p 121.

**SECTION 7‑11‑85.** Verification of petition; bases for rejection of petitioners.

 Every signature on a petition requiring five hundred or less signatures must be checked for validity by the respective county board of voter registration and elections against the signatures of the voters on the original applications for registration on file in the board office. When a petition requires more than five hundred signatures, every one of the first five hundred signatures must be checked for validity and at least one out of every ten signatures thereafter beginning with the five hundred and first signature must be checked for validity. If the projected number of valid signatures, using this percentage method for the signatures over five hundred plus the number of valid signatures in the first five hundred, total at least the number of signatures required by law on the petition, it must be certified as a valid petition. No petition, however, may be rejected if the number of signatures over five hundred checked using the percentage method plus the number of valid signatures in the first five hundred does not total at least the number required by law. If insufficient signatures are found using the percentage method in order to certify as a valid petition, the county board of voter registration and elections must check every signature over five hundred separately, or such number over five hundred until the required number of valid signatures is found.

 If it is a petition seeking to certify a new political party or if the office for which the petition has been submitted comprises more than one county, and using the percentage method of checking does not result in the required number of valid signatures, the executive director of the Commission shall designate which counties must check additional signatures.

 No signatures on a petition may be rejected if the address of a voter, registration certificate number of a voter, or the precinct of a voter, as required by Section 7‑11‑80, is missing or incorrect if the signature is otherwise valid. The signature of a voter may only be rejected if it is illegible and cannot be found in the records of the county board of voter registration and elections is missing from the petition, or is not that of the voter, or if the registration of the voter has been deleted for any of the reasons named in items (2) or (3) of Subsection (C) of Section 7‑3‑20.

 The county board of voter registration and elections shall complete a summary form containing the results of checking any petition and must give the completed form to the requesting authority. The form used for this purpose must be prescribed and provided by the executive director.

HISTORY: 1984 Act No. 263, Section 2, eff January 27, 1984.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 46, Statutory Requirements.

**SECTION 7‑11‑90.** Unopposed candidates.

 After the closing of entries if any candidates shall be unopposed, the State committee in the case of State offices and the county committees in the case of county offices shall declare such unopposed candidates as party nominees, and the names of unopposed candidates shall not be placed upon the primary election ballots but shall be certified for the general election ballots.

HISTORY: 1962 Code Section 23‑400.76; 1952 Code Section 23‑375; 1950 (46) 2059; 1966 (54) 2340.

LIBRARY REFERENCES

29 C.J.S., Elections Section 111(3).

ARTICLE 3

Notice of Candidacy; Candidate’s Pledge and Affidavits

**SECTION 7‑11‑210.** Notice of candidacy and pledge.

 Every candidate for selection as a nominee of any political party for any state office, United States Senator, member of Congress, or solicitor, to be voted for in any party primary election or political party convention, shall file with and place in the possession of the appropriate election commission, pursuant to Section 7‑11‑15 by twelve o’clock noon on March thirtieth a party pledge in the following form, the blanks being properly filled in and the party pledge signed by the candidate: “I hereby file my notice as a candidate for the nomination as \_\_\_\_\_\_\_\_\_\_ in the primary election or convention to be held on \_\_\_\_\_\_\_\_\_\_. I affiliate with the \_\_\_\_\_\_\_\_\_\_ Party, and I hereby pledge myself to abide by the results of the primary or convention. I shall not authorize my name to be placed on the general election ballot by petition and will not offer or campaign as a write‑in candidate for this office or any other office for which the party has a nominee. I authorize the issuance of an injunction upon ex parte application by the party chairman, as provided by law, should I violate this pledge by offering or campaigning in the ensuing general election for election to this office or any other office for which a nominee has been elected in the party primary election, unless the nominee for the office has become deceased or otherwise disqualified for election in the ensuing general election. I hereby affirm that I meet, or will meet by the time of the general or special election, or as otherwise required by law, the qualifications for this office”.

 Every candidate for selection in a primary election as the nominee of any political party for member of the Senate, member of the House of Representatives, and all county and township offices shall file with and place in the possession of the county board of voter registration and elections of the county in which they reside by twelve o’clock noon on March thirtieth a like party pledge.

 The party pledge required by this section to be filed by a candidate in a primary must be signed personally by the candidate, and the signature of the candidate must be signed in the presence of an individual authorized by the election commission director. Any party pledge of any candidate signed by an agent on behalf of a candidate shall not be valid.

 In the event that a person who was defeated as a candidate for nomination to an office in a party’s primary election shall thereafter offer or campaign as a candidate against any nominee for election to any office in the ensuing general election, the state chairman of the party which held the primary (if the office involved is one voted for in the general election by the electors of more than one county), or the county chairman of the party which held the primary (in the case of all other offices), shall forthwith institute an action in a court of competent jurisdiction for an order enjoining the person from so offering or campaigning in the general election, and the court is hereby empowered upon proof of these facts to issue an order.

HISTORY: 1962 Code Section 23‑400.72; 1952 Code Section 23‑373; 1950 (46) 2059; 1964 (53) 1778; 1966 (54) 2093, 2340; 1968 (55) 2277; 1974 (58) 2124; 1977 Act No. 133 Section 4; 1996 Act No. 226, Section 2, eff February 12, 1996; 2000 Act No. 236, Section 2, eff March 7, 2000; 2013 Act No. 61, Section 4, eff June 25, 2013.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

Editor’s Note

1992 Act No. 289, Section 4 effective March 12, 1992, reads as follows:

“SECTION 4. Notwithstanding the provisions of Section 7‑11‑210 of the 1976 Code, for 1992 only, the date for filing the notice of candidacy and pledge is by noon on June twenty‑fifth.”

1997 Act No. 1, Section 6, eff February 12, 1997, provides as follows:

“SECTION 6. For purposes of the 1997 election for the members of the House of Representatives to be elected from those election districts revised by the provisions of Section 2‑1‑25 of the 1976 Code, as amended by Section 1 of this act, and for the members of the Senate to be elected from those election districts revised by Section 4 of this act, the following provisions apply:

“(1) Notwithstanding the provisions of Section 7‑11‑15 of the 1976 Code, the dates for filing for all candidates seeking nomination by a political party primary or political party convention are between noon on June second and noon on June sixteenth.

“(2) Notwithstanding the provisions of Section 7‑11‑210 of the 1976 Code, the date for filing the notice of candidacy and pledge is by noon on June sixteenth.

“(3) Notwithstanding the provisions of Section 7‑13‑40 of the 1976 Code, certification of the names of all candidates to be placed on primary ballots must be made by the political party chairman, vice chairman, or secretary to the State Election Commission or the county election commission, whichever is responsible under law for preparing the ballot, not later than noon on June eighteenth.

“(4) Notwithstanding the provisions of Section 7‑13‑40 of the 1976 Code, the date for primary elections is the second Tuesday in August.

“(5) For these elections held in 1997 only, if run‑off primary elections are necessary they must be held on August twenty‑sixth.

“(6) Notwithstanding the provisions of Section 7‑13‑351 of the 1976 Code, all candidates seeking nomination by petition must file these petitions with the State Election Commission no later than noon on September ninth.

“(7) Notwithstanding the provisions of Section 7‑13‑350 of the 1976 Code, the names of all nominees to be placed on the special election ballots must be certified by the respective political party to the appropriate election commissioners by noon on September eleventh.”

2013 Act No. 61, Sections 11, 14, provide as follows:

“SECTION 11. In order to educate various parties regarding the provisions contained in this act, the following notifications must be made:

“(1) The State Election Commission must notify each county election commission of the provisions of this act.

“(2) The State Election Commission must post the provisions of this act on its website.

“(3) Each state party executive committee must notify their respective county executive parties of the provisions of this act.”

“SECTION 14. This act takes effect upon preclearance approval by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first.”

The amendment by 2013 Act No. 61 became effective June 25, 2013, see South Carolina Libertarian Party v. South Carolina State Election Com’n, 407 S.C. 612, 757 S.E.2d 707 (2014).

Effect of Amendment

The 1977 amendment substituted the words “April thirtieth” for the words “the third Thursday following the State convention” in the first paragraph of this section, inserted the words “member of the Senate, member of the House of Representatives and” in the second paragraph, and substituted the words “March thirtieth” for the words “the third Tuesday following the county convention” in the same paragraph.

The 1996 amendment made minor revisions of style and provided for a March notice or pledge filing date.

The 2000 amendment rewrote the first undesignated paragraph.

The 2013 amendment, in the first paragraph, substituted “appropriate election commission, pursuant to Section 7‑11‑15” for “treasurer of the state committee”, and twice substituted “party pledge” for “notice or pledge”; in the second paragraph, substituted “election commission of the county in which they reside by twelve o’clock noon on March thirtieth a like party pledge” for “chairman or other officer as may be named by the county committee of the county in which they reside by twelve o’clock noon on March thirtieth a like notice and pledge”; and rewrote the third sentence.

CROSS REFERENCES

Qualifications to run as a candidate in general elections, see Section 7‑11‑15.

LIBRARY REFERENCES

29 C.J.S., Elections Section 114.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Injunctions Section 43, Injunctions Relating to Elections.

United States Supreme Court Annotations

Elections, voting rights preclearance requirements, utility districts, bail out provisions, see Northwest Austin Mun. Utility Dist. No. One v. Holder, U.S.Dist.Col.2009, 129 S.Ct. 2504, 557 U.S. 193, 174 L.Ed.2d 140.

Attorney General’s Opinions

A candidate defeated in a primary election is prohibited from campaigning in the succeeding general election. 1969‑70 Op Atty Gen, No. 3010, p 293.

NOTES OF DECISIONS

In general 1

1. In general

A city may constitutionally refuse to accept an otherwise valid petition seeking to place the name of a defeated primary candidate on the general election ballot. Backus v. Spears (C.A.4 (S.C.) 1982) 677 F.2d 397. Election Law 276

An oath taken by a candidate in a primary election to “abide by the results of said primary and to support in the next general election all candidates nominated in said primary” is merely a moral commitment and does not legally or constitutionally preclude said voter from offering for office as a candidate in a general election against one nominated in the primary. Toporek v. South Carolina State Election Commission (D.C.S.C. 1973) 362 F.Supp. 613. Election Law 276

Stated in Vandross v. Ellisor (D.C.S.C. 1972) 347 F.Supp. 197.

**SECTION 7‑11‑210 is not unconstitutional, notwithstanding contention that it unlawfully delegates state power to private citizen, impairs obligation of contract, violates individual’s right to speak, petition, associate, vote, and run for public office, and is vague, discriminatory on basis of geography and race, and fundamentally unfair.** Florence County Democratic Party by Moore v. Johnson (S.C. 1984) 281 S.C. 218, 314 S.E.2d 335.

A candidate defeated in the primary election was not ineligible to win the general election as a “write‑in” candidate because of the pledge taken as a candidate in the primary. Redfearn v. Board of State Canvassers of S. C. (S.C. 1959) 234 S.C. 113, 107 S.E.2d 10.

Candidate qualification filing and certain other steps taken by State of South Carolina in preparation for primary elections constitute “implementation” of unprecleared voting change embodied in 1983 Act No. 257, amending Section 2‑1‑60, for purposes of Voting Rights Act of 1965 (42 USCA Sections 1973 et seq.); thesis that candidate filing procedures implement only precleared Section 7‑11‑210 is specious, since aspiring senatorial candidates are filing to stand for election in districts laid out by 1983 Act No. 257, not by Section 7‑11‑210 (and not by legislation it was enacted to replace). State of S.C. v. U.S., 1984, 585 F.Supp. 418, appeal dismissed 105 S.Ct. 285, 469 U.S. 875, 83 L.Ed.2d 164.

**SECTION 7‑11‑220.** Repealed by 2013 Act No. 61, Section 10, eff June 25, 2013.

Editor’s Note

Former Section 7‑11‑220 was titled Notice or pledge by candidates for State Senator and was derived from 1962 Code Section 23‑400.73; 1966 (54) 2093, 2340. 3.15.

The amendment by 2013 Act No. 61 became effective June 25, 2013, see South Carolina Libertarian Party v. South Carolina State Election Com’n, 407 S.C. 612, 757 S.E.2d 707 (2014).

**SECTION 7‑11‑230.** Repealed by 1979 Act No. 47, Section 1, eff April 16, 1979.

Editor’s Note

Former Section 7‑11‑230 was entitled “Making and filing of pledge by candidate; effect of failure to comply; penalty for violating pledge” and was derived from 1962 Code Section 23‑265; 1952 Code Section 23‑265; 1950 (46) 2059; 1952 (47) 1712; 1966 (54) 2093; 1971 (57) 85.

For similar provisions, see Section 7‑11‑210. See also Sections 8‑13‑10 et seq., for Ethics, rules of conduct and campaign practices.

Attorney General’s Opinions

Mailing of candidate’s pledge on day of election is substantial compliance. 1963‑64 Op Atty Gen, No. 1752, p 255.

NOTES OF DECISIONS

In general 1

1. In general

The provisions as to the time of filing the statements of expenditures are directory rather than mandatory. To justify overthrow of an election, failure to comply with them must appear to have been prejudicial or likely to result in prejudice. Lovelle v. Thornton (S.C. 1959) 234 S.C. 21, 106 S.E.2d 531.

Filing of statement after opening of polls. Where pre‑election statement of expenditures showed that no expenditures had been made for campaign purposes, its filing on the day of the election, after the opening of the polls, was not fatal to the candidate’s election. Lovelle v. Thornton (S.C. 1959) 234 S.C. 21, 106 S.E.2d 531.

The Supreme court has no jurisdiction of a proceeding to contest an election for State Senator for failure to comply with this section [Code 1962 Section 23‑265]. Scott v. Thornton (S.C. 1959) 234 S.C. 19, 106 S.E.2d 446.

Compliance with section where three primaries are held. Where three primaries were held for office of auditor, the candidate substantially complied with requirements of this section [Code 1962 Section 23‑265] by filing pledge and pre‑election statement of expenditures on day before first primary and post‑election statement two days after third primary. Breeden v. S. C. Democratic Executive Committee (S.C. 1954) 226 S.C. 204, 84 S.E.2d 723.

**SECTION 7‑11‑240.** Repealed by 1979 Act No. 47, Section 1, eff, April 16, 1979.

Editor’s Note

Former Section 7‑11‑240 was entitled “Successful political candidates shall file affidavits as to vote‑buying” and was derived from 1962 Code Section 23‑265.2; 1962 (52) 1694; 1971 (57) 85.

For similar provisions, see Section 7‑11‑210. See also Sections 8‑13‑10 et seq., for Ethics, rules of conduct and campaign practices.

**SECTION 7‑11‑250.** Repealed by 1979 Act No. 47, Section 1, eff, April 16, 1979.

Editor’s Note

Former Section 7‑11‑250 was entitled “Places where notice of candidacy, pledge of candidates and statement of expenses shall be filed” and was derived from 1962 Code Section 23‑265.3; 1974 (58) 2124.

For similar provisions, see Section 7‑11‑210. See also Sections 8‑13‑10 et seq., for Ethics, rules of conduct and campaign practices.

ARTICLE 5

Assessment of Candidates

**SECTION 7‑11‑410.** Repealed by 1996 Act No. 434, Section 25, eff June 4, 1996.

Editor’s Note

Former Section 7‑11‑410 was entitled “Assessments payable by candidates” and was derived from 1962 Code Section 23‑400.74; 1952 Code Section 23‑374; 1950 (46) 2059; 1966 (54) 2093, 2340.

**SECTION 7‑11‑420.** Amounts and proration of assessments to be paid by candidates for State Senator in multi‑county districts.

 In multi‑county senatorial districts, the amounts of assessments to be paid by candidates for the office of State Senator at the time and place of filing notwithstanding the provisions of Section 7‑11‑410, shall be fixed by a majority of the county chairmen of the counties in the respective districts and shall be prorated among the county committees of the counties comprising the district in proportion to the number of precincts in each county. Provided, if such chairmen of any district fail to reach agreement within three days after the opening for entries the State executive committee shall fix the fee. Provided, further, that in 1966 only the chairmen shall have seven days in which to reach such agreement.

HISTORY: 1962 Code Section 23‑400.75; 1966 (54) 2093, 2340.

**SECTION 7‑11‑430.** Repealed by 1996 Act No. 434, Section 25, eff June 4, 1996.

Editor’s Note

Former Section 7‑11‑430 was entitled “Amounts and proration of assessments to be paid by candidates for House of Representatives” and was derived from 1962 Code Section 23‑400.75:1; 1974 (58) 2124.