CHAPTER 1

General Provisions

**SECTION 11‑1‑10.** Official receipts for monies collected.

 It is unlawful for an officer of this State or his agent, employee, or servant to collect from a person any delinquent taxes, fine, or other money due the county or State without issuing to that person an official receipt showing the number, date, name of person, amount collected, and for what purpose. The officer, agent, employee, or servant shall keep a stub similar to the receipt and he shall turn it over at the end of each month to the county treasurer of the county in which the collections are made. The county treasurer shall check the amounts turned in to him against the stubs and issue a clearance card to the officer or his agent, employee, or servant showing all monies turned in according to the stubs. Any officer, agent, employee, or servant violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days for each offense. An officer or employee of the Department of Revenue may turn in only those documents and reports as required by rules adopted and regulations promulgated by the director of the department.

HISTORY: 1962 Code Section 1‑51.1; 1952 Code Section 1‑51.1; 1942 Code Section 2836; 1932 Code Section 2865; 1924 (33) 927; 1999 Act No. 114, Section 4.

Library References

States 109.

Westlaw Topic No. 360.

C.J.S. States Sections 265, 267, 294.

Attorney General’s Opinions

Jail canteen profits should be considered “public funds” and expended in a manner consistent with State law. The expenditure of canteen profits for facility party would be improper. 1992 S.C. Op.Atty.Gen. 69, 1992 S.C. Op.Atty.Gen. No. 92‑28, (June 1, 1992) 1992 WL 575634.

The County Treasurer is the county officer responsible for the deposit and custody of county funds and in the absence of clear provision otherwise, designates the depository to be used. 1982 S.C. Op.Atty.Gen. 28, 1982 S.C. Op.Atty.Gen. No. 82‑25, (April 14, 1982) 1982 WL 154995.

**SECTION 11‑1‑20.** Interest on deposits of public funds.

 All state, county, and municipal officers depositing funds that accrue interest in a bank or other depository shall account to the respective governing body for all interest collected upon these deposits.

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

HISTORY: 1962 Code Section 1‑52; 1952 Code Section 1‑52; 1942 Code Section 1577; 1932 Code Section 1577; Cr. C. ‘22 Section 530; 1915 (29) 56; 1993 Act No. 184, Section 151.

CROSS REFERENCES

Requirement that municipal officers account for interest, see Section 5‑21‑40.

Library References

Municipal Corporations 172.

States 76.

Westlaw Topic Nos. 268, 360.

C.J.S. Municipal Corporations Sections 406 to 408.

C.J.S. States Sections 388 to 389.

Attorney General’s Opinions

Fines generated from criminal cases in magistrate’s court must be paid over to the county treasurer who is authorized to place such funds in interest‑bearing accounts. 1989 S.C. Op.Atty.Gen. 266, 1989 S.C. Op.Atty.Gen. No. 89‑98, (Sept. 25, 1989) 1989 WL 406188.

Interest becomes part of principal amount. Where a clerk of court receives deposits of money from litigants, and deposits such monies in his individual name or as clerk of court, the interest becomes a part of the principal amount and does not at any time, become the property of the clerk. 1965 S.C. Op.Atty.Gen. 46, 1965 S.C. Op.Atty.Gen. No. 1802, (Feb. 26, 1965) 1965 WL 7966.

NOTES OF DECISIONS

In general 1

1. In general

Statute providing that all state, county and municipal officers depositing funds at interest in any bank or other depository should account to state, county and municipality for all interest collected upon such deposit would not authorize county to retain interest earned on a fund deposited with clerk of court by state university in eminent domain proceeding which was later settled, and state university was entitled to the interest. Code 1962, Sections 1‑52, 25‑109. University of S.C. v. Elliott (S.C. 1966) 248 S.C. 218, 149 S.E.2d 433.

**SECTION 11‑1‑25.** Report by State Treasurer on investment earnings.

 The State Treasurer shall submit a monthly management report on the investment earnings of the general fund of the State to the Ways and Means Committee of the House of Representatives and to the Senate Finance Committee. For the periods ending December 31 and June 30, the State Treasurer shall submit a detailed report on all earnings on investments to these committees.

HISTORY: 1987 Act No. 170, Part II, Section 52; 1988 Act No. 658, Part II, Section 2.

Library References

States 76.

Westlaw Topic No. 360.

C.J.S. States Sections 388 to 389.

**SECTION 11‑1‑30.** Issuance of negotiable notes in anticipation of taxes.

 Wherever under the general law or a special act authority is given to borrow money in anticipation of the collection of taxes levied or to be levied in any municipality, county, school district or other political subdivision of the State for the payment of which the taxes so levied or to be levied are pledged, a negotiable promissory note or notes may evidence such indebtedness.

HISTORY: 1962 Code Section 1‑53; 1952 Code Section 1‑53; 1942 Code Section 2837; 1932 Code Section 2884; 1931 (37) 131.

Library References

Counties 171.

Municipal Corporations 908.

Schools 93.

Westlaw Topic Nos. 104, 268, 345.

C.J.S. Counties Sections 347 to 348.

C.J.S. Municipal Corporations Sections 1646, 1652.

C.J.S. Schools and Schools Districts Sections 734 to 737.

Attorney General’s Opinions

The taxes pledged for repayment of tax anticipation notes issued by a municipality are those taxes to be collected, or that can reasonably be expected to be collected, in the municipality’s current fiscal year. 1979 S.C. Op.Atty.Gen. 163, 1979 S.C. Op.Atty.Gen. No. 79‑116, (Oct. 2, 1979) 1979 WL 29119.

**SECTION 11‑1‑40.** Contracts in excess of tax or appropriation; diverting public funds.

 (A) It is unlawful for an authorized public officer to enter into a contract for a purpose in which the sum is in excess of the tax levied or the amount appropriated for that purpose.

 (B) It is unlawful for an authorized public officer to divert or appropriate the funds arising from any tax levied and collected for any one fiscal year to the payment of an indebtedness contracted or incurred for a previous year.

 (C) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars and not less than five hundred dollars or imprisoned not more than three years, or both.

HISTORY: 1962 Code Section 1‑54; 1952 Code Section 1‑54; 1942 Code Sections 1508, 3073, 3074; 1932 Code Section 1508; Cr. C. ‘22 Section 457; Cr. C. ‘12 Section 532; Cr. C. ‘02 Section 377; G. S. 458, 459, 460; R. S. 299; 1874 (15) 692; 1906 (25) 206; 1960 (51) 1602; 1993 Act No. 184, Section 152.

CROSS REFERENCES

Disbursing officers exceeding or transferring appropriations, see Section 11‑9‑20.

Rule that debt in excess of appropriation is prohibited, see Section 11‑9‑220.

Rule that disbursing officers are not to exceed or transfer appropriations, and as to suspension by the governor in such cases, see Section 4‑11‑130.

Library References

Counties 111(2).

States 96.

Westlaw Topic Nos. 104, 360.

C.J.S. Counties Section 230.

Attorney General’s Opinions

Expenses, such as salaries paid to county employees, incurred by county during one fiscal year, may be paid only from funds appropriated for that particular year. 1984 S.C. Op.Atty.Gen. 118, 1984 S.C. Op.Atty.Gen. No. 84‑48, (May 1, 1984) 1984 WL 159855.

A State agency may not bind the State for expenditures on a lease beyond the year for which an appropriation is made. 1977 S.C. Op.Atty.Gen. 105, 1977 S.C. Op.Atty.Gen. No. 77‑123, (April 27, 1977) 1977 WL 24465.

NOTES OF DECISIONS

In general 1

1. In general

The manifest intention of this section [Code 1962 Section 1‑54] is to protect the State and counties against either legal or moral obligations incurred by State or county officials in excess of the taxes levied, or the amounts appropriated for the purposes specified by the levy or appropriation. Long v. Dunlap (S.C. 1910) 87 S.C. 8, 68 S.E. 801.

Civ.Code 1902, Section 606 (See Code 1942, Section 3073), providing that it shall be unlawful for any public officer to make a contract for any purpose whatsoever, in a sum in excess of the tax levied, does not affect a contract made by the trustees of a certain college to purchase certain land, the purchase money to be secured by donation or bequest. Long v. Dunlap (S.C. 1910) 87 S.C. 8, 68 S.E. 801.

Civ.Code 1902, Section 606 (See Code 1942, Section 3073), makes it unlawful for any officer to contract for any purpose in a sum in excess of the tax levied or the amount appropriated for the accomplishment of such purpose. Held that, where a claim against a county is allowed by the board of commissioners, the allowance constitutes an adjudication that the claim does not rest on a contract in excess of the tax levied or the amount appropriated for the purpose. State v. Goodwin (S.C. 1908) 81 S.C. 419, 62 S.E. 1100.

**SECTION 11‑1‑45.** Settlement of certain litigation, dispute, or claim by state agencies; approval of Fiscal Accountability Authority required; exemptions.

 (A) No state agency or instrumentality of the State, excluding the General Assembly, Senate, House of Representatives, local political subdivisions, special purpose districts, and special taxing districts, shall enter into a settlement of any litigation, dispute, or claim over one hundred thousand dollars requiring the expenditure of monies appropriated or provided for in a general or supplemental appropriations act, or from any other source of public funds without prior written approval from the State Fiscal Accountability Authority.

 (B) The intent of this provision is to prevent state agencies or instrumentalities of the State, other than local political subdivisions, special purpose districts, and special taxing districts, from entering into settlements that can bind and commit the State to unreasonable funding requirements from current or future revenues of the State. In keeping with this intent, the State Fiscal Accountability Authority may exempt in its discretion any entity or specific litigation matter from this provision.

HISTORY: 1994 Act No. 497, Part II, Section 24.

Code Commissioner’s Note

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

Library References

States 121.

Westlaw Topic No. 360.

C.J.S. States Sections 322 to 323, 372.

**SECTION 11‑1‑50.** Protection of deposits of public funds and trust funds by Federal deposit insurance; other security.

 Such portion of the public monies as may be on deposit in any bank and protected by Federal deposit insurance shall be exempt from the requirement that security be furnished for it by such bank and security shall be required only for such portion of such deposits as shall exceed the amount covered by such insurance. All public officers who have deposited public funds in banks for which security or collateral is required shall obtain it only for the amount by which the particular deposit exceeds the sum protected by Federal deposit insurance. Such portions of trust funds as may be on deposit in any bank and for which security is now required shall be secured only for the amount by which the same exceeds the amount protected by Federal deposit insurance.

HISTORY: 1962 Code Section 1‑62; 1952 Code Section 1‑62; 1942 Code Section 7847; 1934 (38) 1465.

Library References

Deposits and Escrows 32.

Westlaw Topic No. 122A.

C.J.S. Depos: Sections 62 to 90.

**SECTION 11‑1‑60.** Investment of public funds in savings and loan associations and building and loan associations.

 The State or any department, institution, agency, district, county, municipality or other political subdivision of the State or any political or public corporation of the State or of the United States may invest its funds or the monies in its custody or possession eligible for investment in the shares of any Federal savings and loan association or in the shares of any building and loan association organized and existing under the laws of this State when such shares are insured by the Federal Savings and Loan Insurance Corporation and also in bonds or debentures issued by any Federal home loan bank or in the consolidated bonds or debentures issued by the Federal Home Loan Bank Board.

HISTORY: 1962 Code Section 1‑63; 1952 Code Section 1‑63; 1942 Code Section 9051‑2; 1935 (39) 289.

CROSS REFERENCES

Provisions relating to the authority of the treasurer to make investments under Chapter 6, see Section 6‑6‑30.

Library References

Counties 155.

Municipal Corporations 884.

States 124.

Westlaw Topic Nos. 104, 268, 360.

C.J.S. Counties Section 319.

C.J.S. Municipal Corporations Section 1624.

C.J.S. States Sections 374 to 376.

RESEARCH REFERENCES

Treatises and Practice Aids

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

Attorney General’s Opinions

County funds may be invested in a certificate of deposit that is collaterally secured by the bonds or debentures of a federal home loan bank. The County Treasurer is not the proper party to hold securities used to secure a certificate of deposit purchased with county funds as authorized by 6‑5‑10(a)(4). 1986 S.C. Op.Atty.Gen. 279, 1986 S.C. Op.Atty.Gen. No. 86‑91, (August 18, 1986) 1986 WL 192049.

**SECTION 11‑1‑70.** Investment of public pension funds in obligations of International Bank; use of these obligations as deposits of collateral and security.

 (1) The following terms as used in this section shall have the meanings set forth below, viz.:

 (a) The term “person” shall mean any individual, firm, partnership, corporation, association or institution, including banks chartered under state or national laws;

 (b) The term “public bodies” shall mean the State of South Carolina, any county of the State, any incorporated city or town in the State, and any division or political subdivision of the State;

 (c) The term “public agency” shall mean any authority, board, commission, governing body, any department of any of the foregoing and any public officer acting in an official capacity and performing functions committed by law, for any public body;

 (d) “The International Bank” means the International Bank for Reconstruction and Development, the African Development Bank, or the Asian Development Bank, each of which is an international institution, the members of which are governments of certain nations of the world including the government of the United States, and which was established and is operating under articles of agreement signed by those governments;

 (e) The term “pension funds” shall mean pension funds established by public bodies and which are administered by persons or public agencies.

 (2) Notwithstanding any other provision of law, public agencies may invest pension funds in obligations issued or unconditionally guaranteed by the International Bank.

 (3) Such obligations issued or unconditionally guaranteed by the International Bank shall be eligible as deposits of collateral, as security for the deposit of public funds, and for all other types of deposits to be made with any public agency.

HISTORY: 1962 Code Section 1‑64; 1955 (49) 195; 1972 (57) 2584; 1990 Act No. 314, Section 1.

Library References

Officers and Public Employees 101.5(1).

Westlaw Topic No. 283.

C.J.S. Officers and Public Employees Sections 270 to 271, 311 to 320.

RESEARCH REFERENCES

Treatises and Practice Aids

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

**SECTION 11‑1‑80.** Restrictions on issuance of state capital improvement bonds for beach renourishment projects.

 No state capital improvement bonds may be issued for beach renourishment projects in the absence of any provision of law that establishes specific criteria for the distribution of bond proceeds for the projects.

HISTORY: 1988 Act No. 658, Part II, Section 50.

Library References

States 148.

Westlaw Topic No. 360.

C.J.S. States Sections 437, 443 to 445.

**SECTION 11‑1‑85.** Covenant required.

 Notwithstanding any other provision of law, a tax‑exempt bond issued by or on behalf of any public or private body or entity must include in the issuing indenture, ordinance, or resolution a covenant requiring the issuer to file with a central repository for availability in the secondary bond market when requested:

 (1) an annual independent audit, within thirty days of the issuer’s receipt of the audit, and

 (2) event specific information, within thirty days of an event adversely affecting more than five percent of revenue or its tax base.

HISTORY: 1994 Act No. 442, Section 1.

Editor’s Note

1994 Act No. 442, Section 2, provides as follows:

“This act takes effect on the first day of the second month following approval by the Governor [approved June 16, 1994] and applies with respect to tax‑exempt bond indentures executed on or after that date.”

Library References

Municipal Corporations 919.

Westlaw Topic No. 268.

C.J.S. Municipal Corporations Section 1661.

**SECTION 11‑1‑100.** Starting date of projects funded with capital improvement bonds regulated.

 The State Fiscal Accountability Authority or Department of Administration, as appropriate, after review of the Joint Bond Review Committee, is authorized and directed to regulate the starting date of the various projects approved for funding through the issuance of Capital Improvement Bonds so as to ensure that the appropriations for debt service on these bonds, as provided in the general appropriations act, is sufficient during the current fiscal year.

HISTORY: 1995 Act No. 145, Part II, Section 32.

Code Commissioner’s Note

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

**SECTION 11‑1‑110.** State Fiscal Accountability Authority to issue and sell bonds, notes, or other obligations; review by Joint Bond Review Committee.

 The State Fiscal Accountability Authority is authorized to issue and sell bonds, notes, or other obligations for the purpose of acquiring, constructing, renovating, or maintaining facilities for the use of and occupancy of state departments and agencies or to refund such bonds, notes, or other obligations, provided that these obligations must be payable solely from revenues derived from the renting, leasing, or sale of all or any designated portion of such facilities held by the State Fiscal Accountability Authority for the use of and occupancy by state departments and agencies and must be secured by a pledge of the revenues from such designated facilities and, at the option of the State Fiscal Accountability Authority, may be additionally secured by a mortgage of these facilities; provided, further, that the issuance and the sale of the bonds, notes, or other obligations provided for in this section are subject to the review of the Joint Bond Review Committee.

HISTORY: 1995 Act No. 145, Part II, Section 72; 2004 Act No. 184, Section 10.

Code Commissioner’s Note

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

Library References

States 148, 152.

Westlaw Topic No. 360.

C.J.S. States Sections 437, 443 to 445, 449 to 450.

**SECTION 11‑1‑120.** Suits on payment bonds; remote claimants.

 When the State or a county, city, public service district, or other political subdivision thereof, or other public entity contracts for construction and requires the person or entity performing the work to furnish a payment bond not governed by Section 11‑35‑3030(2)(c) or Section 57‑5‑1660(b), for the protection of persons who furnish labor, material, or rental equipment to the contractor or its subcontractors for the work specified in the contract, the following provisions shall apply.

 Every person who has furnished labor, material, or rental equipment to a bonded contractor or its subcontractors in the prosecution of the work provided for in the contract for construction, and who has not been paid in full therefor before the expiration of a period of ninety days after the day on which the last of the labor was done or performed by him or material or rental equipment was furnished or supplied by him for which such claim is made, shall have the right to sue on such bond for the amount, or the balance thereof, unpaid at the time of the institution of such suit and to prosecute such action to final execution and judgment for the sum or sums justly due him.

 A remote claimant shall have a right of action on the payment bond only upon giving written notice by certified or registered mail to the bonded contractor within ninety days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material or rental equipment upon which such claim is made. However, in no event shall the aggregate amount of any claim against such payment bond by a remote claimant exceed the amount due by the bonded contractor to the person to whom the remote claimant has supplied labor, materials, rental equipment, or services, unless the remote claimant has provided notice of furnishing labor, materials, or rental equipment to the bonded contractor. Such written notice to the bonded contractor must generally conform to the requirements of Section 29‑5‑20(B) and sent by certified mail or registered mail to the bonded contractor at any place the bonded contractor maintains a permanent office for the conduct of its business, or at the current address as shown on the records of the Department of Labor, Licensing and Regulation. After receiving the notice of furnishing labor, materials, or rental equipment, no payment by the bonded contractor shall lessen the amount recoverable by the remote claimant. However, in no event shall the aggregate amount of claims on the payment bond exceed the penal sum of the bond.

 No suit under this section shall be commenced after the expiration of one year after the last date of providing or furnishing labor, materials, rental equipment, or services.

 For purposes of this section, “bonded contractor” means a contractor or subcontractor furnishing a payment bond, and “remote claimant” means a person having a direct contractual relationship with a subcontractor or supplier of a bonded contractor, but no contractual relationship expressed or implied with the bonded contractor. Any payment bond surety for the bonded contractor must have the same rights and defenses of the bonded contractor as provided in this section.

 If the State, or county, city, public service district, or other political subdivision of the State, or other public entity contracts for construction and requires the contractor to furnish a payment bond pursuant to this section, the State, political subdivision of this State, or other public entity of this State may not exact that the payment bond be furnished by a particular surety company or through a particular agent or broker.

HISTORY: 2000 Act No. 240, Section 4; 2002 Act No. 253, Section 2; 2014 Act No. 264 (S.1026), Section 2, eff June 6, 2014.

Effect of Amendment

2014 Act No. 264, Section 2, in the third paragraph, substituted “must generally conform to the requirements of Section 29‑5‑20(B) and sent by certified mail or registered mail” for “shall be personally served or sent by fax or sent by electronic mail or sent by registered or certified mail, postage prepaid,”; and in the fifth paragraph, inserted “or supplier” in the first sentence, and added the second sentence, relating to rights and defenses.

CROSS REFERENCES

Effect of failure to file notice of project commencement, see Section 29‑5‑23.

Library References

Public Contracts 57, 61, 62.

Westlaw Topic No. 316A.

C.J.S. Public Contracts Sections 54 to 58.