CHAPTER 9

State Finances Generally

ARTICLE 1

General Provisions

**SECTION 11‑9‑10.** Money to be spent only for purpose or activity specifically appropriated.

 It shall be unlawful for any monies to be expended for any purpose or activity except that for which it is specifically appropriated, and no transfer from one appropriation account to another shall be made unless such transfer be provided for in the annual appropriation act.

HISTORY: 1962 Code Section 1‑701; 1952 Code Section 1‑701; 1942 Code Section 3143; 1932 Code Section 3143; Civ. C. ‘22 Section 839; 1921 (32) 114.

Library References

States 130.

Westlaw Topic No. 360.

C.J.S. States Sections 390 to 393, 396 to 402.

LAW REVIEW AND JOURNAL COMMENTARIES

The Special Fund Doctrine and Revenue Bond Financing in South Carolina. 8 SC LQ 221.

Attorney General’s Opinions

When the General Assembly specifically appropriates funds for the Cost of Living Adjustment to state agencies, no agency director or any other person possesses the discretion to expend such funds for any other purpose. S.C. Op.Atty.Gen. (Jan. 24, 2006) 2006 WL 269606.

Explicit language of Proviso 39.13 of 1992‑93 Appropriations Act is mandatory and expresses General Assembly’s intent that $483,407 shall be used for rape crisis centers around state and DHEC has no authority to deviate from requirements of proviso. 1993 S.C. Op.Atty.Gen. 42, 1993 S.C. Op.Atty.Gen. No. 93‑16, (March 15, 1993) 1993 WL 720089.

Federal regulations governing job training and employment programs which mandate certain limits and impose requirements on the states for the provision of compensation to program participants do not invalidate State law prohibiting the use of State appropriated funds to provide salary increases to employees paid from federal funds derived from the job training programs. 1977 S.C. Op.Atty.Gen. 245, 1977 S.C. Op.Atty.Gen. No. 77‑316, (Oct. 7, 1977) 1977 WL 24655.

A proviso inserted in an appropriations bill, unless there are indications to the contrary, must be complied with for the release of the appropriated money. 1975 S.C. Op.Atty.Gen. 154, 1975 S.C. Op.Atty.Gen. No. 4078, (August 12, 1975) 1975 WL 22375.

NOTES OF DECISIONS

In general 1

1. In general

Governor violated statute governing transfer of funds between appropriation accounts by his coordination of state colleges and universities’ transfer of $28,500,000 that appropriation act allocated from escrow fund created by Atomic Energy and Radiation Control Act, even though the returned funds were placed into a revenue account rather than an appropriation account; statute evidenced a clear legislative intent to ensure funds were expended on the purpose for which they were appropriated. State ex rel. Condon v. Hodges (S.C. 2002) 349 S.C. 232, 562 S.E.2d 623. States 133

**SECTION 11‑9‑15.** Use of state funds for function at club practicing discrimination prohibited.

 (A) No state funds may be used to sponsor or defray the cost of any function by a state agency or institution at a club or organization which does not admit as members persons of all races, religions, colors, sexes, or national origins.

 (B) No state officer or employee may be reimbursed from public funds for expenses incurred at any club or establishment which does not admit as members persons of all races, religions, colors, sexes, or national origins.

HISTORY: 1978 Act No. 644, Part II, Section 6; 1987 Act No. 170, Part II, Section 27.

Library References

States 62.

Westlaw Topic No. 360.

C.J.S. States Sections 89, 101 to 102, 196 to 198, 202 to 204.

Attorney General’s Opinions

Provisions of Section 11‑9‑15, Code of Laws, 1976, do not prohibit the Lieutenant Governor from using State automobiles and State paid Security Agents in appearing at meetings of organizations with discriminatory policies. 1979 S.C. Op.Atty.Gen. 80, 1979 S.C. Op.Atty.Gen. No. 79‑64, (April 23, 1979) 1979 WL 29069.

Section 11‑9‑15 does not prohibit official from appearing officially before organizations using discriminatory practices. 1979 S.C. Op.Atty.Gen. 79, 1979 S.C. Op.Atty.Gen. No. 79‑63, (April 23, 1979) 1979 WL 29068.

Analysis of General Appropriations Act 1978‑79 Part II Sec. 6, prohibiting use of state funds for functions at racially discriminatory clubs. 1979 S.C. Op.Atty.Gen. 76, 1979 S.C. Op.Atty.Gen. No. 79‑60, (April 2, 1979) 1979 WL 34736.

**SECTION 11‑9‑20.** Disbursing officers exceeding or transferring appropriations.

 (A) It is unlawful for an officer, clerk, or other person charged with disbursements of state funds appropriated by the General Assembly to exceed the amounts and purposes stated in the appropriations, or to change or shift appropriations from one item to another. Transfers may be authorized by the General Assembly in the annual appropriation act for the State.

 (B) An officer, clerk, or other person who violates the provisions of this section is guilty of malfeasance in office. The Governor may suspend immediately the officer and shall investigate the conduct of the person.

 (C) If after the investigation the person is found guilty, the Governor shall suspend him from office. In addition to the suspension, the officer 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 1‑702; 1952 Code Section 1‑702; 1942 Code Sections 1592, 3070; 1932 Code Section 1592; Cr. C. ‘22 Section 557; 1921 (32) 117; 1993 Act No. 184, Section 153.

CROSS REFERENCES

Contracts in excess of tax or appropriation, and as to diverting public funds, see Section 11‑1‑40.

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

Similar provision as to county officers, see Section 4‑11‑130.

Library References

States 132.

Westlaw Topic No. 360.

C.J.S. States Sections 390 to 392, 394, 398 to 399, 401 to 402.

Attorney General’s Opinions

When the General Assembly specifically appropriates funds for the Cost of Living Adjustment to state agencies, no agency director or any other person possesses the discretion to expend such funds for any other purpose. S.C. Op.Atty.Gen. (Jan. 24, 2006) 2006 WL 269606.

The State Law Enforcement Hall of Fame cannot borrow money from the State Sinking Fund. 1975 S.C. Op.Atty.Gen. 190, 1975 S.C. Op.Atty.Gen. No. 4113, (Sept. 10, 1975) 1975 WL 22409.

NOTES OF DECISIONS

In general 1

1. In general

“Funds appropriated by Legislature” referred to in statute relating to suspension of officers disbursing funds appropriated by Legislature meant “public or trust funds” within constitutional provision relating to suspension of officers having custody of public or trust funds (Code 1932, Section 1592; Const. art. 4, Section 22). Dacus v. Johnston (S.C. 1936) 180 S.C. 329, 185 S.E. 491.

State highway commissioners held not “officers” within statute relating to suspension of officers disbursing funds appropriated by the Legislature, since funds of highway commission appropriated by Legislature could be disbursed only by state treasurer on comptroller general’s warrant. Code 1942, Section 1592. Dacus v. Johnston (S.C. 1936) 180 S.C. 329, 185 S.E. 491.

Statute relating to suspension of officers disbursing funds appropriated by Legislature did not give Governor power of indefinitely suspending officers without hearing. Code 1942, Section 1592; U.S.C.A.Const.Amend. 14; Const.S.C.art. 1, Section 5; art. 4, Section 22. Dacus v. Johnston (S.C. 1936) 180 S.C. 329, 185 S.E. 491.

**SECTION 11‑9‑30.** Transfer of funds upon transfer of personnel.

 The State Fiscal Accountability Authority shall have the authority to transfer appropriate funds from one department to another when personnel are transferred by an act of the legislature from one department to another to perform the same functions.

HISTORY: 1962 Code Section 1‑703; 1971 (57) 709.

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 133.

Westlaw Topic No. 360.

C.J.S. States Sections 395, 398 to 399, 401 to 402.

**SECTION 11‑9‑40.** Statement to General Assembly.

 The amounts specified for the various officers of the State and for the various public purposes, other than for salaries and clerical services, shall be duly accounted for. A detailed statement thereof shall be made to the General Assembly at its next ensuing session.

HISTORY: 1962 Code Section 1‑704; 1952 Code Section 1‑704; 1942 Code Section 3191; 1932 Code Section 3191; Civ. C. ‘22 Section 887; Civ. C. ‘12 Section 806; 1909 (26) 280.

Library References

States 121.

Westlaw Topic No. 360.

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

**SECTION 11‑9‑50.** Accounts to be itemized and verified.

 All accounts shall be itemized and verified.

HISTORY: 1962 Code Section 1‑705; 1952 Code Section 1‑705; 1942 Code Section 3191; 1932 Code Section 3191; Civ. C. ‘22 Section 887; Civ. C. ‘12 Section 806; 1909 (26) 280.

**SECTION 11‑9‑70.** Neglect or failure to remit funds.

 Any state officer who neglects or fails to remit to the State Treasurer as required by law shall become responsible on his official bond for any loss the State may sustain by reason of such neglect or failure to remit.

HISTORY: 1962 Code Section 1‑708; 1952 Code Section 1‑708; 1942 Code Section 2200; 1932 Code Section 2200; 1925 (34) 273; 1926 (34) 1049; 1955 (49) 151.

Library References

States 80.

Westlaw Topic No. 360.

C.J.S. States Sections 235 to 237.

**SECTION 11‑9‑75.** State funds to be withheld from counties or municipalities delinquent in payments due to State or its agencies.

 If an agency or political subdivision becomes delinquent for ninety days for any payments to the State or agencies or institutions thereof, the agency or institution responsible for the collection of the payment may file a certificate of delinquency with the State Treasurer. Upon receipt of the certificate of delinquency, the State Treasurer shall withhold from the next distribution of any revenue to such agency or political subdivision the amount certified as being due and shall forward a remittance to the agency or institution to be applied against the payment due by such agency or political subdivision. If the State Treasurer does not forward any remittance or forwards an amount less than the delinquent payment after one year from the date of certification, the agency or institution shall write off the outstanding delinquent amount as an uncollectible bad debt.

HISTORY: 1979 Act No. 199, Part II, Section 26; 1996 Act No. 314, Section 2.

Library References

Counties 156.

Municipal Corporations 881.

Westlaw Topic Nos. 104, 268.

C.J.S. Counties Section 321.

C.J.S. Municipal Corporations Section 1622.

**SECTION 11‑9‑80.** Fiscal year starts July 1 and ends June 30.

 In accordance with the terms of Section 10, Article X of the Constitution of South Carolina, as amended, the fiscal year of the State shall begin on the first day of July and end on the thirtieth day of June each year. All officers or servants of the State who are required to perform any duty at a specific time contingent upon the beginning and ending of the fiscal year shall perform such duties at such a time as will conform to the fiscal year beginning July first and ending June thirtieth. Nothing herein contained shall be held to affect the date for the assessment, levying or collection of any tax now provided for by law nor to affect the submitting of reports to the General Assembly. All officers or servants of the State shall keep their accounts and records in conformity with such fiscal year, opening them on the first day of July and closing them on the thirtieth day of June each year.

HISTORY: 1962 Code Section 1‑709; 1952 Code Section 1‑709; 1942 Code Section 3081‑1; 1933 (38) 218.

Library References

States 121.

Westlaw Topic No. 360.

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

**SECTION 11‑9‑85.** Tax and fee revenues to be calculated on accrual basis.

 For accounting purposes, the Comptroller General shall calculate revenues of the following taxes and fees on an accrual basis:

 (1) stamp and business license;

 (2) alcoholic liquor;

 (3) beer and wine;

 (4) soft drink;

 (5) electric power;

 (6) gasoline and motor fuel;

 (7) admissions, including bingo admissions;

 (8) sales, use, and casual excise; and

 (9) recording a deed.

HISTORY: 1992 Act No. 501, Part II, Section 34A; 2002 Act No. 356, Section 1, Part XI.O.

Library References

States 121.

Westlaw Topic No. 360.

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

**SECTION 11‑9‑90.** Sale of state general obligation bonds of different issues as though they constituted a single issue.

 Whenever the Governor and the State Treasurer shall be empowered by law to issue general obligation bonds of the State, they may receive bids on more than one issue at the same time and, in such event, may impose as a condition to bidding a requirement that all who shall bid shall submit proposals for all bonds then offered as though such bonds constituted only a single issue of bonds. Under such circumstances, the fact that more than one issue of bonds is offered, and the maturity schedules of the issues are dissimilar, shall be disregarded and the bonds shall be awarded to the bidder whose bid prescribes the lowest interest cost, calculated on the basis that all bonds then issued constituted but a single issue of bonds, rather than more than one issue of bonds.

HISTORY: 1962 Code Section 1‑710; 1966 (54) 2055.

CROSS REFERENCES

Payment of state general obligation bonds pursuant to Article 10 of Constitution, see Section 11‑29‑10 et seq.

Library References

States 153.

Westlaw Topic No. 360.

C.J.S. States Sections 451 to 453.

**SECTION 11‑9‑95.** Transfer of agency funds to pay debts prior to closing books for fiscal year.

 With respect to debts owed to the State Fiscal Accountability Authority or Department of Administration, as appropriate, on June thirtieth of any fiscal year, including outstanding obligations for rent and upfitting, telecommunications services, data processing, installment purchase program payments, insurance premiums, and printing, the authority or department, as appropriate, is authorized and directed, after discussion in an open meeting, to transfer any funds remaining in the agency’s accounts to pay these obligations prior to the closing of the books for that fiscal year and prior to carrying any funds forward to the subsequent fiscal year. The provisions of this section shall not apply to the General Assembly.

HISTORY: 1995 Act No. 145, Part II, Section 7.

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 133.

Westlaw Topic No. 360.

C.J.S. States Sections 395, 398 to 399, 401 to 402.

**SECTION 11‑9‑105.** Contracts for legal or consultant services.

 Any contract for legal or consultant services entered into by a state agency or institution shall include a provision which requires completion of all services. The provisions shall further require that in the event all services are not fully rendered as provided for in the contract, any monies which have been paid by the agency under the contract must be refunded to the agency along with a twelve percent penalty.

HISTORY: 1983 Act No. 151, Part II, Section 36.

Library References

States 107.

Westlaw Topic No. 360.

C.J.S. States Sections 291 to 294.

**SECTION 11‑9‑110.** Organization to which contribution is appropriated to submit statement to Executive Budget Office and the Revenue and Fiscal Affairs Office as to nature and function of organization and use of contribution.

 Each organization to which a contribution is made in the contributions section of the general appropriation bill shall submit to the Executive Budget Office and the Revenue and Fiscal Affairs Office by the end of the applicable fiscal year a detailed statement explaining the nature and function of the organization as well as a detailed statement explaining the use that was made of the contribution. The statements must be available at the office of the Executive Budget Office and the Revenue and Fiscal Affairs Office for public inspection and given to a member of the General Assembly upon request.

 A contribution must not be made to an organization until it agrees in writing to allow the State Auditor to audit or cause to be audited the contributed funds.

HISTORY: 1982 Act No. 466, Part II, Section 11; 2005 Act No. 164, Section 8.

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).

Library References

States 123.

Westlaw Topic No. 360.

C.J.S. States Sections 377 to 380.

**SECTION 11‑9‑115.** Certain purchases made by State not subject to fair trade contracts.

 Prices offered in connection with contracts for purchases made by the State of South Carolina for any county, municipality, college or university, political subdivision, school district, or agency of the State shall not be subject to fair trade contracts.

HISTORY: 1995 Act No. 145, Part II, Section 9.

**SECTION 11‑9‑125.** Order of expenditure of funds by state agencies; remittance of certain funds to state general fund.

 Federal and other funds must be expended before funds appropriated from the general fund of the State, to the extent possible, and any excess balances in accounts resulting from matching fund programs must be remitted to the general fund of the State. Federal or other funds generated by the expenditure of state funds, including refunds from prior year general fund expenditures, must be remitted to the general fund of the State if there is no federal or state requirement governing the specific use of the funds. In order to permit identification of these funds, state agencies shall:

 (1) draw down and expend federal and other funds before spending state general fund appropriations whenever possible;

 (2) maintain separate accounting records for each grant for cash, revenues, and expenditures to insure a proper audit trail;

 (3) reconcile federal and other fund accounts at the end of each state fiscal year and maintain those records for audit purposes;

 (4) submit federal financial reports to the grantor agency as required.

 State agencies shall remit to the general fund of the State any funds found to exist in agency accounts. If an agency believes funds have been inappropriately identified as the funds defined in this section, the agency may appeal through the process provided in Sections 2‑65‑30 and 2‑65‑40. A report of the amount of funds credited to the general fund of the State pursuant to this section must be made by the Comptroller General at the time of each official state revenue forecast. This report must be provided to the Executive Budget Office and the Revenue and Fiscal Affairs Office, the Senate Finance Committee, and the House Ways and Means Committee. Research and student aid grants, including indirect cost recoveries, are exempt from this provision.

HISTORY: 1988 Act No. 658, Part II, Section 37; 2005 Act No. 164, Section 9.

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).

Library References

States 123.

Westlaw Topic No. 360.

C.J.S. States Sections 377 to 380.

**SECTION 11‑9‑130.** Funds for capital improvement projects not on state‑owned property.

 Funds authorized by the General Assembly for capital improvement projects not located on state‑owned property may be expended only if the projects are owned or operated by a governmental entity including, but not limited to, municipalities or counties or a combination of governmental entities or by a separate authority whose membership is controlled by a governmental entity.

HISTORY: 1988 Act No. 638, Section 13.

Library References

States 123.

Westlaw Topic No. 360.

C.J.S. States Sections 377 to 380.

**SECTION 11‑9‑140.** Transfer of capital improvement bond balances to Bond Contingency Revolving Fund; exemptions; determination and review.

 The State Fiscal Accountability Authority may transfer to the Bond Contingency Revolving Fund any capital improvement bond project balances determined not to be usable or needed. Capital improvement bonds issued on behalf of the Mental Health Commission as provided in Act 151 of 1983 and Acts 1272 and 1276 of 1970, as amended, or bonds issued on behalf of the Department of Disabilities and Special Needs as provided in Section 44‑21‑1010 et seq. are exempt. Before accomplishing a transfer of this type, the required determination must be made by the agency for which the funds were authorized or by the State Fiscal Accountability Authority if the agency no longer exists, and the board must find that the purpose for which the funds were authorized has been achieved. Any transfer by the State Fiscal Accountability Authority must first be reviewed by the Joint Bond Review Committee.

HISTORY: 1995 Act No. 145, Part II, Section 41.

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 127.

Westlaw Topic No. 360.

C.J.S. States Sections 386 to 387.

ARTICLE 3

Indebtedness Generally

**SECTION 11‑9‑210.** Certificates of indebtedness and certain checks cannot be issued by state officers.

 It shall be unlawful for any state officer to issue any certificate of indebtedness. Nor shall it be lawful for any state officer to draw a warrant or check for any public debt except upon money then actually to his credit in that account in the hands of some bank or public officer.

HISTORY: 1962 Code Section 1‑761; 1952 Code Section 1‑761; 1942 Code Section 3076; 1932 Code Section 3076; Civ. C. ‘22 Section 763; Civ. C. ‘12 Section 679; Civ. C. ‘02 Section 609; G. S. 462; R. S. 527; 1877 (16) 364.

Library References

States 113, 137.

Westlaw Topic No. 360.

C.J.S. States Sections 349 to 351, 362, 368, 418 to 420.

**SECTION 11‑9‑220.** Debt in excess of appropriation prohibited.

 It shall be unlawful for any department, institution, commission or board of the state government or officer or agent of the state government authorized to make contracts or draw appropriations to contract indebtedness in excess of the amount specifically provided in the annual appropriation act.

HISTORY: 1962 Code Section 1‑762; 1952 Code Section 1‑762; 1942 Code Sections 2083, 3191; 1932 Code Sections 2083, 3191; Civ. C. ‘22 Sections 45, 887; Civ. C. ‘12 Section 806; 1909 (26) 280; 1921 (32) 114.

CROSS REFERENCES

Contracts in excess of tax or appropriation, and as to diverting public funds, see Section 11‑1‑40.

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

Library References

States 115.

Westlaw Topic No. 360.

C.J.S. States Sections 358 to 371.

Attorney General’s Opinions

State agencies lack authority to enter into indemnification agreements, even with public agencies, as a part of a contract. 1989 S.C. Op.Atty.Gen. 116, 1989 S.C. Op.Atty.Gen. No. 89‑43, (April 10, 1989) 1989 WL 406133.

**SECTIONS 11‑9‑230 to 11‑9‑270.** Repealed.

HISTORY: Former 11‑9‑230, titled Borrowing money prohibited except by State Budget and Control Board, had the following history: 1962 Code Section 1‑763; 1952 Code Section 1‑763; 1942 Code Section 2083; 1932 Code Section 2083; Civ. C. ‘22 Section 45; 1921 (32) 114; 1950 (46) 3605. Repealed by 2014 Act No. 121, Pt VI, Section 10.C, eff July 1, 2015.

HISTORY: Former 11‑9‑240, titled Budget and Control Board may borrow from departments of state government, had the following history: 1962 Code Section 1‑765; 1952 Code Section 1‑765; 1942 Code Section 2203; 1932 Code Section 2203; 1930 (36) 1343; 1950 (46) 3605. Repealed by 2014 Act No. 121, Pt VI, Section 10.C, eff July 1, 2015.

HISTORY: Former 11‑9‑250, titled Interest on loans by departments of state government, had the following history: 1962 Code Section 1‑766; 1952 Code Section 1‑766; 1942 Code Section 2203; 1932 Code Section 2203; 1930 (36) 1343; 1950 (46) 3605. Repealed by 2014 Act No. 121, Pt VI, Section 10.C, eff July 1, 2015.

HISTORY: Former 11‑9‑260, titled Evidences of loans by departments of state government, had the following history: 1962 Code Section 1‑767; 1952 Code Section 1‑767; 1942 Code Section 2203; 1932 Code Section 2203; 1930 (36) 1343; 1950 (46) 3605. Repealed by 2014 Act No. 121, Pt VI, Section 10.C, eff July 1, 2015.

HISTORY: Former 11‑9‑270, titled Borrowing in open market to repay loans by departments of state government, had the following history: 1962 Code Section 1‑768; 1952 Code Section 1‑768; 1942 Code Section 2203; 1932 Code Section 2203; 1930 (36) 1343; 1950 (46) 3605. Repealed by 2014 Act No. 121, Pt VI, Section 10.C, eff July 1, 2015.

**SECTION 11‑9‑280.** Borrowing to pay operating expenses of the State.

 In anticipation of the receipt of the taxes and other income of the State for any fiscal year, applicable to the payment of the expenses of the ordinary and current business of the State, the State Fiscal Accountability Authority may borrow on the credit of the State, at a rate of interest not exceeding the legal rate, so much money as the authority deems necessary to finance the ordinary and current business of the State for such fiscal year or to repay any money borrowed for such purposes with interest thereon. The authority may issue and sell notes or other obligations of the State for the money hereby authorized to be borrowed. The total amount of indebtedness, at any one time outstanding, incurred to finance the ordinary and current business of the State for the then current fiscal year, shall not exceed seventy‑five per cent of the State’s estimated current income from the receipt of taxes and other revenue applicable to the payment of the expenses of the ordinary and current business of the State for such fiscal year and the amount of taxes and other revenue owing and due to the State but unpaid for the fiscal year next preceding. Out of the monies borrowed under the provisions of this section the State Treasurer may pay any borrowings for or claims against the current and ordinary business of the State for the fiscal year next preceding to the end that no deficit may be ever created in the general funds of the State.

HISTORY: 1962 Code Section 1‑770; 1952 Code Section 1‑770; 1942 Code Section 2206‑1; 1932 (37) 1220; 1950 (46) 3605.

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 118.

Westlaw Topic No. 360.

C.J.S. States Sections 351, 353 to 354.

**SECTION 11‑9‑290.** Borrowing to maintain balance in general deposit account.

 The State Treasurer shall at all times maintain a sufficient cash reserve in the general deposit account to finance properly the activities supported by the respective funds comprising the general deposit account and to this end the State Fiscal Accountability Authority may borrow, from time to time, such amounts as are necessary. To the end that such borrowing may be kept at a minimum each department and institution may be required to give to the State Treasurer a quarterly anticipation of its expenditures, itemized according to budget classifications, by months.

HISTORY: 1962 Code Section 1‑771; 1952 Code Section 1‑771; 1947 (45) 97; 1950 (46) 3605.

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 118.

Westlaw Topic No. 360.

C.J.S. States Sections 351, 353 to 354.

**SECTION 11‑9‑300.** Borrowing to maintain general fund; required cash balance.

 The State Fiscal Accountability Authority shall, when necessary, borrow as otherwise provided by law a sufficient sum or sums of money to provide for the payment of all demands upon the State Treasury, to the end that the general fund herein authorized shall at no time become exhausted, and the authority shall maintain at all times a cash balance sufficient in its judgment to meet the requirements of Sections 11‑9‑240 to 11‑9‑270 and this section.

HISTORY: 1962 Code Section 1‑772; 1952 Code Section 1‑772; 1942 Code Section 2204; 1932 Code Section 2204; 1930 (36) 1343; 1950 (46) 3605.

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.

Editor’s Note

Sections 11‑9‑240 to 11‑9‑270 are repealed by 2014 Act No. 121, Section 10.C, effective July 1, 2015.

Library References

States 118.

Westlaw Topic No. 360.

C.J.S. States Sections 351, 353 to 354.

**SECTION 11‑9‑310.** Issuance of bonds, notes, certificates of indebtedness, or other obligations in small denominations.

 The State Fiscal Accountability Authority and any other officers of the State authorized by law to issue or sell obligations of the State may, when in need of credit by loans of cash, offer to the investing public by and through such advertisement as may be deemed proper, in small denominations, bonds, notes, certificates of indebtedness or other obligations of the State, upon such terms and at such rates of interest as such board or officers may determine, not to exceed the legal rate, and payable at such intervals as such board or officers may deem proper. But no such obligations shall be sold for less than par and accrued interest to date of delivery.

HISTORY: 1962 Code Section 1‑773; 1952 Code Section 1‑773; 1942 Code Section 2207; 1932 (37) 1545; 1950 (46) 3605.

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.

CROSS REFERENCES

Payment of state general obligation bonds pursuant to Article 10 of Constitution, see Section 11‑29‑10 et seq.

Library References

States 144, 148.

Westlaw Topic No. 360.

C.J.S. States Sections 434 to 435, 437, 443 to 445.

**SECTION 11‑9‑320.** Certain payment obligations may be sold to the best advantage of the State.

 The maturities, form, place, medium and mode of payment of obligations issued pursuant to Section 11‑9‑310 shall be determined by the State Fiscal Accountability Authority or the officers authorized to issue them to the end that such obligations may be sold to the best advantage of the State.

HISTORY: 1962 Code Section 1‑774; 1952 Code Section 1‑774; 1942 Code Section 2207; 1932 (37) 1545.

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 154.

Westlaw Topic No. 360.

C.J.S. States Sections 438, 441, 446 to 447.

**SECTION 11‑9‑330.** Expenses of issuance of small denomination notes or other obligations.

 All proper expenses incurred in the negotiation or sale of any such obligations may be paid by the State Fiscal Accountability Authority or other officers of the State from the proceeds of such sale; provided, however, that the total amount of such expense shall never exceed one half of one per cent of the principal of such notes or other obligations.

HISTORY: 1962 Code Section 1‑775; 1952 Code Section 1‑775; 1942 Code Section 2207; 1932 (37) 1545.

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 11‑9‑340.** Statement of bonded indebtedness in Comptroller General’s report.

 The Comptroller General shall, as a part of his annual report, give the amount of the bonded indebtedness of the State.

HISTORY: 1962 Code Section 1‑776; 1952 Code Section 1‑776; 1942 Code Section 7340; 1932 Code Section 7340; 1927 (35) 260.

Library References

States 121.

Westlaw Topic No. 360.

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

**SECTION 11‑9‑360.** Governing body issuing bonds to determine interest rate on bonds.

 Notwithstanding any limitation or restriction now existing by statute heretofore enacted, bonds or other obligations of the State, its agencies, or political subdivisions of the State shall bear interest at a rate or rates determined by the governing body of the entity issuing the bonds.

HISTORY: 1989 Act No. 199, Section 1.

Library References

States 154.

Westlaw Topic No. 360.

C.J.S. States Sections 438, 441, 446 to 447.

**SECTION 11‑9‑370.** State agency to remit revenue for payments on general obligation bonds to State Treasurer.

 A state agency responsible by law for the collection of revenues from any source annually to be applied to payments of interest and principal on general obligation bonds of the State shall remit the revenue collected to the State Treasurer for credit to the state’s General Fund, and the revenue submitted constitutes a reimbursement.

HISTORY: 1995 Act No. 145, Part II, Section 28.

Library References

States 122.

Westlaw Topic No. 360.

C.J.S. States Section 373.

ARTICLE 7

Sinking Fund

**SECTION 11‑9‑610.** State Fiscal Accountability Authority to manage Sinking Fund; annual report.

 The State Fiscal Accountability Authority shall receive and manage the incomes and revenues set apart and applied to the Sinking Fund of the State. The authority shall report annually on the financial status of the Sinking Fund to the General Assembly.

HISTORY: 1962 Code Section 1‑791; 1952 Code Section 1‑791; 1942 Code Section 2138; 1932 Code Section 2138; Civ. C. ‘22 Section 99; Civ. C. ‘12 Section 94; Civ. C. ‘02 Section 90; G. S. 62; R. S. 84; 1870 (14) 388; 1883 (18) 380; 1950 (46) 3605; 2014 Act No. 121 (S.22), Pt V, Section 7.T.1, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.T.1, substituted “Fiscal Accountability Authority” for “Budget and Control Board”, and added the second sentence.

Library References

States 122.

Westlaw Topic No. 360.

C.J.S. States Section 373.

**SECTION 11‑9‑620.** Handling of funds.

 All monies arising from the redemption of lands, leases, and sales of property or otherwise coming to the authority for the Sinking Fund, must be paid into the State Treasury and kept on a separate account by the Treasurer as a fund to be drawn upon the warrants of the department for the exclusive uses and purposes which have been or shall be declared in relation to the Sinking Fund.

HISTORY: 1962 Code Section 1‑792; 1952 Code Section 1‑792; 1942 Code Section 2138; 1932 Code Section 2138; Civ. C. ‘22 Section 99; Civ. C. ‘12 Section 94; Civ. C. ‘02 Section 90; G. S. 62; R. S. 84; 1870 (14) 388; 1883 (18) 380; 1950 (46) 3605; 2014 Act No. 121 (S.22), Pt V, Section 7.T.1, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.T.1 substituted “authority” for “State Budget and Control Board”, substituted “department” for “board”, and made other nonsubstantive changes.

Library References

States 122.

Westlaw Topic No. 360.

C.J.S. States Section 373.

**SECTION 11‑9‑630.** Sale of property not in actual public use.

 The authority shall sell and convey, for and on behalf of the State, all such real property, assets, and effects belonging to the State as are not in actual public use, such sales to be made from time to time in such manner and upon such terms as it may deem most advantageous to the State. This shall not be construed to authorize the sale of any property held in trust for a specific purpose by the State or the property of the State in the phosphate rocks or phosphatic deposits in the beds of the navigable streams and waters and marshes of the State.

HISTORY: 1962 Code Section 1‑793; 1952 Code Section 1‑793; 1942 Code Section 2139; 1932 Code Section 2139; Civ. C. ‘22 Section 100; Civ. C. ‘12 Section 95; Civ. C. ‘02 Section 91; G. S. 63; R. S. 85; 1878 (16) 558, 811; 1887 (19) 863; 1892 (21) 87; 1950 (46) 3605; 1981 Act No. 148, Section 6; 2014 Act No. 121 (S.22), Pt V, Section 7.T.1, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.T.1 substituted “authority” for “State Budget and Control Board”, substituted “sale of any property” for “sale by the board of any property”, and made other nonsubstantive changes.

CROSS REFERENCES

Department granting easements and rights of way over vacant lands or marshlands, see Sections 1‑11‑80, 1‑11‑90.

Library References

States 89.

Westlaw Topic No. 360.

C.J.S. States Sections 263 to 264.

Attorney General’s Opinions

Funds generated by vending machines kept and maintained by Sheriff’s office could be considered public funds and should not be expended for recreation for employees. Utilization of funds for scholarships for high school districts or those wanting to continue their education would appear to be authorized if program was of widespread applicability. 1993 S.C. Op.Atty.Gen. 64, 1993 S.C. Op.Atty.Gen. No. 93‑25, (April 14, 1993) 1993 WL 720101.

Office of Economic Opportunity, a Division of the Governor’s Office, may not sell copies of video tapes produced by the Division but they may be sold by the Budget and Control Board, with proceeds going to the Sinking Fund. 1981 S.C. Op.Atty.Gen. 92, 1981 S.C. Op.Atty.Gen. No. 81‑66, (July 9, 1981) 1981 WL 96592.

The Budget and Control Board does not have the authority to lease the tidelands and submerged lands in any way that will interfere with the public rights of navigation and fishing and other public purposes. 1966 S.C. Op.Atty.Gen. 9, 1966 S.C. Op.Atty.Gen. No. 1963, (Jan. 7, 1966) 1966 WL 8446.

And such lands may be dredged or mined. The State Budget and Control Board has the authority to permit the United States Government to dredge or mine material (other than phosphate) in the submerged lands, i.e., lands lying below the mean low watermark, when the dredging or mining in no way interferes with the public rights of navigation and fishing and other public rights. 1966 S.C. Op.Atty.Gen. 9, 1966 S.C. Op.Atty.Gen. No. 1963, (Jan. 7, 1966) 1966 WL 8446.

Sale of tidelands and submerged lands not authorized. The Budget and Control Board does not have the authority to sell tidelands and submerged lands. 1966 S.C. Op.Atty.Gen. 9, 1966 S.C. Op.Atty.Gen. No. 1963, (Jan. 7, 1966) 1966 WL 8446.

Disposition of revenues. In the event revenue from the sale of gravel on lands owned by the South Carolina State Penitentiary is not used for specified purposes, such revenue will become part of the State Sinking Fund. 1965 S.C. Op.Atty.Gen. 217, 1965 S.C. Op.Atty.Gen. No. 1923, (Oct. 12, 1965) 1965 WL 8079.

But such lands may be leased. The Budget and Control Board does have the authority to lease areas of tidelands and submerged lands to the Federal government when the lease in no way interferes with the public rights of navigation and fishing and other public purposes. 1965 S.C. Op.Atty.Gen. 115, 1965 S.C. Op.Atty.Gen. No. 1855, (May 13, 1965) 1965 WL 8013.

**SECTION 11‑9‑640.** Vacant lands grantable only for value.

 No grant of vacant lands shall be issued except to actual purchasers thereof for value.

HISTORY: 1962 Code Section 1‑794; 1952 Code Section 1‑794; 1942 Code Section 2137; 1932 Code Section 2137; Civ. C. ‘22 Section 98; Civ. C. ‘12 Section 93; Civ. C. ‘02 Section 89; G. S. 61; R. S. 83; 1878 (16) 559.

Library References

Public Lands 169.

Westlaw Topic No. 317.

C.J.S. Public Lands Sections 249 to 295.

**SECTION 11‑9‑650.** Payment of purchase price; disposition.

 The money for the purchase of real property sold under the authority of Section 11‑9‑630 shall be paid only in gold, silver and United States currency. The proceeds of all such sales shall be deposited in the General Fund of the State.

HISTORY: 1962 Code Section 1‑795; 1952 Code Section 1‑795; 1942 Code Section 2139; 1932 Code Section 2139; Civ. C. ‘22 Section 100; Civ. C. ‘12 Section 95; Civ. C. ‘02 Section 91; G. S. 63; R. S. 85; 1878 (16) 558, 811; 1887 (19) 863; 1892 (21) 87; 1981 Act No. 148, Section 7.

Library References

States 89.

Westlaw Topic No. 360.

C.J.S. States Sections 263 to 264.

Attorney General’s Opinions

Funds generated by vending machines kept and maintained by Sheriff’s office could be considered public funds and should not be expended for recreation for employees. Utilization of funds for scholarships for high school districts or those wanting to continue their education would appear to be authorized if program was of widespread applicability. 1993 S.C. Op.Atty.Gen. 64, 1993 S.C. Op.Atty.Gen. No. 93‑25, (April 14, 1993) 1993 WL 720101.

**SECTION 11‑9‑660.** Investment of funds.

 (A) The State Treasurer has full power to invest and reinvest all funds of the State in any of the following:

 (1) obligations of the United States, its agencies and instrumentalities;

 (2) obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, the African Development Bank, and the Asian Development Bank;

 (3) obligations of a corporation, state, or political subdivision denominated in United States dollars, if the obligations bear an investment grade rating of at least two nationally recognized rating services;

 (4) certificates of deposit, if the certificates are secured collaterally by securities of the types described in items (1) and (3) of this section and held by a third party as escrow agent or custodian and are of a market value not less than the amount of the certificates of deposit so secured, including interest; except that this collateral is not required to the extent the certificates of deposit are insured by an agency of the federal government;

 (5) repurchase agreements, if collateralized by securities of the types described in items (1) and (3) of this section and held by a third party as escrow agent or custodian and of a market value not less than the amount of the repurchase agreement so collateralized, including interest; and

 (6) guaranteed investment contracts issued by a domestic or foreign insurance company or other financial institution, whose long‑term unsecured debt rating bears the two highest ratings of at least two nationally recognized rating services.

 (B) The State Treasurer may contract to lend securities invested pursuant to this section.

 (C) The State Treasurer shall not invest in obligations issued by any country or corporation principally located in any country which the United States Department of State determines commits major human rights violations based on the Country Reports on Human Rights Practices by the Bureau of Democracy, Human Rights and Labor of the U. S. Department of State.

HISTORY: 1962 Code Section 1‑797; 1952 Code Sections 1‑796, 1‑797; 1942 Code Sections 2140, 2141; 1932 Code Sections 2132, 2140, 2141; Civ. C. ‘22 Sections 93, 101, 102; Civ. C. ‘12 Sections 88, 96, 97; Civ. C. ‘02 Sections 84, 92, 93; G. S. 57, 64; R. S. 78, 86; 1870 (14) 388; 1884 (18) 864; 1896 (22) 184; 1950 (46) 3605; 1959 (51) 126; 1972 (57) 2584; 1973 (58) 335; 1990 Act No. 314, Section 2; 1993 Act No. 164, Part II, Section 66A; 2001 Act No. 28, Section 1.

CROSS REFERENCES

Allowable investments of revenues payable pursuant to Tobacco Master Settlement Agreement, see Section 11‑11‑170.

Authority of State Treasurer to invest monies held for improvements to the Dawson Football Stadium, S.C. State University, in obligations enumerated in the section, see Section 59‑127‑450.

Authority of State Treasurer to make temporary investments of funds derived from bonds issued for the improvement of Dawson Football Stadium, S.C. State University, in obligations enumerated in this section, see Section 59‑127‑410.

Investment of monies of the South Carolina Infrastructure Facilities Authority in obligations declared to be legal obligations by this section, see Section 11‑40‑230.

Midland Technical College Enterprise Campus Authority, powers of governing board, see Section 59‑53‑1783.

Provisions relating to the authority of the treasurer to make investments under Chapter 6, see Section 6‑6‑20.

Rural Infrastructure Fund, see Section 11‑50‑150.

State Treasurer’s investing the monies of the South Carolina Resources Authority, see Section 11‑37‑230.

Transportation Infrastructure Bank, investment of funds not immediately needed, see Section 11‑43‑240.

Library References

States 124.

Westlaw Topic No. 360.

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

RESEARCH REFERENCES

Treatises and Practice Aids

Bogert ‑ the Law of Trusts and Trustees Section 686, Statutes Affecting the Duty to Sell Nonlegals.

Attorney General’s Opinions

The State Treasurer as Trustee of the funds of the S. C. Retirement System should dispose of securities within a reasonable time if the securities’ ratings drop below the standards set in Code 1962 Section 1‑797 [Code 1976 Section 11‑9‑660]. 1975 S.C. Op.Atty.Gen. 267, 1975 S.C. Op.Atty.Gen. No. 4226, (Dec. 30, 1975) 1975 WL 22523.

The Budget and Control Board is of limited powers and is bound by the terms of this section [Code 1962Section 1‑797] as to how it may lend the Sinking Fund. 1963 S.C. Op.Atty.Gen. 163, 1963 S.C. Op.Atty.Gen. No. 1590, (Oct. 30, 1963) 1963 WL 8889.

General obligations of the State or a political subdivision are those for which the general and full faith, credit and taxing power of the issuing unit are pledged and liable. 1963 S.C. Op.Atty.Gen. 163, 1963 S.C. Op.Atty.Gen. No. 1590, (Oct. 30, 1963) 1963 WL 8889.

Loans to counties on promissory notes. The Budget and Control Board does not have the authority to make loans to the counties on promissory notes in the absence of legislation authorizing this type of loan. 1963 S.C. Op.Atty.Gen. 163, 1963 S.C. Op.Atty.Gen. No. 1590, (Oct. 30, 1963) 1963 WL 8889.

**SECTION 11‑9‑665.** Purchase of real property as investments of certain reserve or sinking funds.

 (A) The authority on behalf of the State may acquire for use by the State real property as investments of any reserve or sinking fund of the State which is not pledged for payment of bonded indebtedness. Provided, however, such expenditures from the reserve or sinking fund shall not exceed two million dollars. Upon any such acquisition the authority shall execute a note evidencing such investment upon such terms and conditions as may be appropriate in each instance. The note shall include a pledge of the board to apply on its payment all net income derived from the property so acquired; provided, that funding for any permanent project on the property shall provide for repayment of any outstanding balance to the appropriate reserve or sinking fund. Provided, further, that the purchase price of any property so acquired, including improvements existing or proposed, shall not be in excess of the actual value thereof as established by at least two appraisals satisfactory to the said board. Any property not put to permanent use by the State or one of its agencies or departments within six years shall be sold at public auction and the proceeds repaid to the appropriate reserve or sinking fund. Provided, further, that no property shall be acquired pursuant to the provisions of this section when the grantor has entered into a contract with any county, city or other political subdivision which created a tax obligation with respect to the property and such obligation has not been resolved to the satisfaction of the county, city or other political subdivision involved.

 (B) Provided, that prior to purchasing, or contracting to purchase any real property the authority shall engage an independent engineer to make borings so as to insure that the property is adaptable to the contemplated use.

HISTORY: 1976 Act No. 625 Section 1; 2014 Act No. 121 (S.22), Pt V, Section 7.T.2, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.T.2, added the paragraph designators; in subsection (A), substituted “the authority” for “the Budget and Control Board” in the first instance, and “the State Budget and Control Board” in the second instance; substituted “the authority” for “the Budget and Control Board” in subsection (B); and made other nonsubstantive changes.

CROSS REFERENCES

Investment of funds, see Section 11‑9‑660.

State Fiscal Accountability Authority to manage Sinking Fund, annual report, see Section 11‑9‑610.

Library References

States 85.

Westlaw Topic No. 360.

C.J.S. States Section 259.

**SECTION 11‑9‑670.** Control of securities in which Sinking Fund is invested.

 Subject to the limitations set forth in Section 11‑9‑660, the authority shall have full power to hold, purchase, sell, assign, transfer and dispose of any of the securities and investments in which the Sinking Fund shall have been invested.

HISTORY: 1962 Code Section 1‑798; 1952 Code Section 1‑798; 1942 Code Sections 2142, 2143; 1932 Code Section 2142; Civ. C. ‘22 Section 103; Civ. C. ‘12 Section 98; Civ. C. ‘02 Section 94; 1897 (22) 440; 1911 (27) 223; 1939 (41) 215; 1941 (42) 150; 1950 (46) 3605; 1959 (51) 126; 2014 Act No. 121 (S.22), Pt V, Section 7.T.2, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.T.2, substituted “the authority” for “the Budget and Control Board”, and made other nonsubstantive changes.

Library References

States 122.

Westlaw Topic No. 360.

C.J.S. States Section 373.

**SECTION 11‑9‑680.** Annual report.

 The authority shall annually report to the General Assembly the condition of the Sinking Fund and all sales or other transactions connected therewith.

HISTORY: 1962 Code Section 1‑803; 1952 Code Section 1‑803; 1942 Code Section 2140; 1932 Code Sections 2132, 2140; Civ. C. ‘22 Sections 93, 101; Civ. C. ‘12 Sections 88, 96; Civ. C. ‘02 Sections 84, 92; G. S. 57, 64; R. S. 78, 86; 1870 (14) 388; 1884 (18) 864; 2014 Act No. 121 (S.22), Pt V, Section 7.T.2, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.T.2, substituted “The authority” for “The State Budget and Control Board”.

ARTICLE 9

Projecting and Forecasting State Revenues and Expenditures

**SECTION 11‑9‑810.** Findings and purpose.

 The General Assembly finds and declares that the present system of advising the Governor and the State Fiscal Accountability Authority and General Assembly on economic trends has, at times, developed in a fragmented manner, and that a unified system of dealing with the collection, analysis, interpretation, and presentation of matters relative to the economy is urgently needed for the orderly development of projections and forecasts as relates to revenues and expenditures for a specified period of time. It is the purpose of this provision to establish an organizational and procedural framework governing formulation, evaluation and continuing review of all state revenues and expenditures for all state programs; and to establish general policy governing the administration of the Office of The Board of Economic Advisors.

HISTORY: 1982 Act No. 466, Part II, Section 44.

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 11‑9‑820.** Board of Economic Advisors; membership and appointment; reporting; staffing.

 (A)(1) There is created the Board of Economic Advisors, a division of the Revenue and Fiscal Affairs Office, as follows:

 (a) one member, appointed by, and serving at the pleasure of the Governor, who shall serve as chairman and shall receive annual compensation of ten thousand dollars;

 (b) one member appointed by, and serving at the pleasure of the Chairman of the Senate Finance Committee, who shall receive annual compensation of eight thousand dollars;

 (c) one member appointed by, and serving at the pleasure of the Chairman of the Ways and Means Committee of the House of Representatives, who shall receive annual compensation of eight thousand dollars;

 (d) the Director of the Department of Revenue, who shall serve ex officio, with no voting rights.

 (2) The board shall unanimously select an Executive Director of the Revenue and Fiscal Affairs Office who shall serve a four‑year term. The executive director only may be removed for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity as found by the board. The executive director shall have the authority and perform the duties prescribed by law and as may be directed by the board.

 (B) The Chairman of the Board of Economic Advisors shall report directly to the Governor, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee to establish policy governing economic trend analysis. The Board of Economic Advisors shall provide for its staffing and administrative support from funds appropriated by the General Assembly.

 (C) The Executive Director of the Revenue and Fiscal Affairs Office shall assist the Governor, Chairman of the Board of Economic Advisors, Chairman of the Senate Finance Committee, and Chairman of the Ways and Means Committee of the House of Representatives in providing an effective system for compiling and maintaining current and reliable economic data. The Board of Economic Advisors may establish an advisory board to assist in carrying out its duties and responsibilities. All state agencies, departments, institutions, and divisions shall provide the information and data the advisory board requires. The Board of Economic Advisors is considered a public body for purposes of the Freedom of Information Act, pursuant to Section 30‑4‑20(a).

 (D) The Department of Commerce shall provide to the Board of Economic Advisors by November tenth the public document prepared pursuant to Section 12‑10‑100(C) itemizing each revitalization agreement concluded during the previous calendar year. The Department of Revenue shall provide to the Board of Economic Advisors by November tenth a report of the amount of each tax credit claimed in the previous tax year pursuant to Title 12. The report must list individually the amount claimed and the number of filings for each tax credit. The Department of Revenue also must provide to the Board of Economic Advisors by November tenth magnetic tapes containing data from all state individual and corporate income tax filings from the previous tax year, excluding confidential identifying information.

HISTORY: 1982 Act No. 466, Part II, Section 44; 1992 Act No. 501, Part II, Section 13A; 1993 Act No. 181, Section 89; 2002 Act No. 356, Section 1, Part IX.B; 2014 Act No. 121 (S.22), Pt VI, Section 8.B, eff July 1, 2014.

Effect of Amendment

2014 Act No. 121, Section 8.B, rewrote subsection (A); in subsection (B), substituted “Governor, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee” for “Budget and Control Board”; and in subsection (C), substituted “Revenue and Fiscal Affairs Office” for “Budget and Control Board”.

CROSS REFERENCES

Revenue and Fiscal Affairs Office established, see Section 11‑9‑1110.

Library References

States 45, 46.

Westlaw Topic No. 360.

C.J.S. States Sections 88, 145 to 146, 157 to 161, 163 to 165, 195, 249.

**SECTION 11‑9‑825.** Supplemental staff to assist board; meetings.

 The staff of the Board of Economic Advisors must be supplemented by the following officials who each shall designate one professional from their individual staffs to assist the BEA staff on a regular basis: the Governor, the Chairman of the House Ways and Means Committee, the Chairman of the Senate Finance Committee, and the State Department of Revenue director. The BEA staff shall meet monthly with these designees in order to solicit their input.

HISTORY: 1992 Act No. 501, Part II, Section 13B; 1993 Act No. 181, Section 90; 2014 Act No. 121 (S.22), Pt VI, Section 8.C, eff July 1, 2014.

Effect of Amendment

2014 Act No. 121, Section 8.C, substituted “and the State Department of Revenue director” for “the State Department of Revenue Chairman, and the Director of the Budget Division of the Budget and Control Board”.

**SECTION 11‑9‑830.** Duties of Board of Economic Advisors.

 In order to provide a more effective system of providing advice to the Governor and the General Assembly on economic trends, the Board of Economic Advisors shall:

 (1) compile and maintain in a unified, concise, and orderly form information about total revenues and expenditures which involve the funding of state government operations, revenues received by the State which comprise general revenue sources of all receipts to include amounts borrowed, federal grants, earnings, and the various activities accounted for in other funds;

 (2) continuously review and evaluate total revenues and expenditures to determine the extent to which they meet fiscal plan forecasts/projections;

 (3) evaluate federal revenues in terms of impact on state programs;

 (4) compile economic, social, and demographic data for use in the publishing of economic scenarios for incorporation into the development of the state budget;

 (5) bring to the attention of the Governor and the General Assembly the effectiveness, or lack thereof, of the economic trends and the impact on statewide policies and priorities;

 (6) establish liaison with the Congressional Budget Office and the Office of Management and Budget at the national level.

HISTORY: 1982 Act No. 466, Part II, Section 44; 2014 Act No. 121 (S.22), Pt VI, Section 8.C, eff July 1, 2014.

Effect of Amendment

2014 Act No. 121, Section 8.C, in the first undesignated paragraph, substituted “Governor” for “Budget and Control Board”; in subsection (5), inserted “and the General Assembly”; and made other nonsubstantive changes.

Library References

States 72.

Westlaw Topic No. 360.

C.J.S. States Section 229.

**SECTION 11‑9‑840.** Procedures relative to changes in revenue or expenditure forecast or projection; adjustments in appropriations or requests; meetings of board; board as official state voice on economic matters.

 In the organizational and procedural framework governing the formulation, evaluation, and continuing review of revenues and expenditures, any appropriate governmental entity identifying or requesting a change in the official revenue and expenditure forecast or projection, for a specified period of time, shall first notify the office of the Chairman of the Board of Economic Advisors who must bring it to the attention of the Governor before any independent adjustment in the appropriations or requests of the revenue or expenditures for a particular year. The Ways and Means Committee in the House of Representatives and the Senate Finance Committee must be the first to be notified subsequent to notifying the Governor and must be informed simultaneously.

 The Board of Economic Advisors shall meet on a quarterly basis and at the call of the Governor, the General Assembly, the Chairman of the Board, or at the request of any member of the board who believes a meeting is necessary due to existing financial circumstances.

 The Board of Economic Advisors is the official voice of the State in economic matters and shall speak as one voice through the guidance and direction of the chairman. Individual members shall not speak or report individually on findings and status of economic developments.

HISTORY: 1982 Act No. 466, Part II, Section 44; 1992 Act No. 501, Part II, Section 13C.

Library References

States 121.

Westlaw Topic No. 360.

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

**SECTION 11‑9‑850.** Verification by State Treasurer of information relating to that office.

 Information contained in any economic report, scenario, forecast, or projection relating to the State Treasurer’s office must be verified by the State Treasurer prior to announcement.

HISTORY: 1982 Act No. 466, Part II, Section 44.

**SECTION 11‑9‑860.** Verification by Comptroller General of expenditure schedules used with economic announcements.

 Expenditure schedules used in conjunction with any economic announcements must be verified by the Comptroller General prior to publication.

HISTORY: 1982 Act No. 466, Part II, Section 44.

**SECTION 11‑9‑870.** State Fiscal Accountability Authority to insure orderly transfer of funds between offices.

 The State Fiscal Accountability Authority shall insure an orderly transfer of funds between offices to provide for the execution of this section.

HISTORY: 1982 Act No. 466, Part II, Section 44.

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 11‑9‑880.** Board of Economic Advisors to make forecasts of economic conditions; adjustments to forecasts; review of revenues; synopsis of revenue shortfalls; publication of reports.

 (A) The Board of Economic Advisors shall make an initial forecast of economic conditions in the State and state revenues for the next fiscal year no later than November tenth of each year. Adjustments to the forecast must be considered on December tenth and February fifteenth. A final forecast for the next fiscal year must be made on April tenth. However, prior to June thirtieth, the board may reduce forecasts for the next fiscal year as it considers necessary. Before making or adjusting any forecast, the board must consult with outside economic experts with respect to national and South Carolina economic business conditions. All forecasts and adjusted forecasts must contain:

 (1) a brief description of the economic model and all assumptions and basic decisions underlying the forecasts;

 (2) a projection of state revenues on a quarterly basis;

 (3) separate discussions of any industry which employs more than twenty percent of the state’s total nonagricultural employment and separate projections for these industries.

 (B) In addition to fulfilling its economic and revenue forecasting responsibilities for future fiscal years, the board at each session shall monitor and review the flow of revenue for the current fiscal year in comparison to current year revenue estimates. If actual revenue collections represent an overall shortfall for any quarter of over one and one‑half percent of projected revenue collections for that quarter, a synopsis must be prepared which shall include a detailed analysis of the factors contributing to the shortfall, the impact of the shortfall for the present fiscal year, a projection of whether the shortfall will be compensated for in the remaining quarters of the present fiscal year, and the impact of the shortfall on revenue estimates for the ensuing fiscal year. In addition, a similar detailed synopsis must be provided if a shortfall of one and one‑half percent or more is experienced in any of the following individual revenue categories: sales and use taxes, individual income taxes, corporate income taxes, taxes on insurance premiums including workers’ compensation insurance, and earnings on investments.

 (C) All forecasts, adjusted forecasts, and reports of the Board of Economic Advisors, including the synopsis of the current year’s review as required by subsection (B), must be published and reported to the Governor, the members of the General Assembly, and made available to the news media.

HISTORY: 1983 Act No. 151, Part II, Section 57; 1992 Act No. 501, Part II, Section 13D; 2014 Act No. 121 (S.22), Pt VI, Section 8.D, eff July 1, 2014; 2016 Act No. 199 (S.267), Section 2, eff June 3, 2016.

Editor’s Note

2016 Act No. 199, Section 3, provides as follows:

“SECTION 3. This act takes effect upon the approval by the Governor and first applies for the next annual regular session of the General Assembly.”

Effect of Amendment

2014 Act No. 121, Section 8.D, in subsection (C), deleted “the members of the Budget and Control Board,” following the reference to the Governor.

2016 Act No. 199, Section 2, rewrote (A), revising the dates of the forecasts; and in (A)(1) substituted “economic” for “econometric”.

CROSS REFERENCES

Adjournment of General Assembly, conditions for extended session, see Section 2‑1‑180.

Provision that revenue estimates made pursuant to this section shall incorporate quarterly revenue estimates, see Section 11‑9‑890.

Library References

States 121.

Westlaw Topic No. 360.

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

**SECTION 11‑9‑890.** Delineation of fiscal year revenue estimates by quarters; reduction of general fund appropriations; action to avoid year‑end deficit.

 A. Beginning August 15, 1986, the Board of Economic Advisors shall delineate the official fiscal year 1986‑87 revenue estimates by quarters. In all subsequent revenue estimates made under the provisions of Section 11‑9‑880, the Board of Economic Advisors shall incorporate quarterly revenue estimates within the annual revenue estimate.

 B. (1) If at the end of the first, second, or third quarter of any fiscal year the Board of Economic Advisors reduces the revenue forecast for the fiscal year by three percent or less below the amount projected for the fiscal year in the forecast in effect at the time the general appropriations bill for the fiscal year is ratified, within three days of that determination, the Director of the Executive Budget Office must reduce general fund appropriations by the requisite amount in the manner prescribed by law. Upon making the reduction, the Director of the Executive Budget Office immediately must notify the State Treasurer and the Comptroller General of the reduction, and upon notification, the appropriations are considered reduced. No agencies, departments, institutions, activity, program, item, special appropriation, or allocation for which the General Assembly has provided funding in any part of this section may be discontinued, deleted, or deferred by the Director of the Executive Budget Office. A reduction of rate of expenditure by the Director of the Executive Budget Office, under authority of this section, must be applied as uniformly as shall be practicable, except that no reduction must be applied to funds encumbered by a written contract with the agency, department, or institution not connected with state government.

 (2) If at the end of the first, second, or third quarter of any fiscal year the Board of Economic Advisors reduces the revenue forecast for the fiscal year by more than three percent below the amount projected for the fiscal year in the forecast in effect at the time the general appropriations bill for the fiscal year is ratified, the President Pro Tempore of the Senate and the Speaker of the House of Representatives may call each respective house into session to take action to avoid a year‑end deficit. If the General Assembly has not taken action within twenty days of the determination of the Board of Economic Advisors, the Director of the Executive Budget Office must reduce general fund appropriations by the requisite amount in the manner prescribed by law and in accordance with item (1).

HISTORY: 1986 Act No. 540, Part II, Section 46; 2010 Act No. 152, Section 3, eff May 6, 2010; 2014 Act No. 121 (S.22), Pt VI, Section 9, eff July 1, 2015.

Effect of Amendment

The 2010 amendment rewrote B.

2014 Act No. 121, Section 9, rewrote subsection B.

Library References

States 121.

Westlaw Topic No. 360.

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

ARTICLE 11

Revenue and Fiscal Affairs Office

**SECTION 11‑9‑1110.** Revenue and Fiscal Affairs Office established.

 (A) There is established the Revenue and Fiscal Affairs Office to be governed by the three appointed members of the Board of Economic Advisors pursuant to Section 11‑9‑820. The office is comprised of the Board of Economic Advisors, Office of Research and Statistics, and the Office of State Budget. The functions of the office must be performed, exercised, and discharged under the supervision and direction of the board. The board may organize its staff as it considers appropriate to carry out the various duties, responsibilities, and authorities assigned to it and to its various divisions. The board may delegate to one or more officers, agents, or employees the powers and duties it determines are necessary for the effective and efficient operation of the office.

 (B) The Department of Administration shall provide such administrative support to the Revenue and Fiscal Affairs Office or any of its divisions or components as they may request and require in the performance of their duties including, but not limited to, financial management, human resources management, information technology, procurement services, and logistical support.

HISTORY: 2014 Act No. 121 (S.22), Pt VI, Section 8.A, eff July 1, 2014.

**SECTION 11‑9‑1120.** Board of Economic Advisors division.

 The Board of Economic Advisors division of the office shall maintain the organizational and procedural framework under which it is operating, and exercise its powers, duties, and responsibilities, as of the effective date of this section.

HISTORY: 2014 Act No. 121 (S.22), Pt VI, Section 8.A, eff July 1, 2014.

**SECTION 11‑9‑1130.** Office of Research and Statistics; Economic Research division; Office of Precinct Demographics.

 (A) The Office of Research and Statistics must be comprised of an Economic Research division and an Office of Precinct Demographics division.

 (B) The Economic Research division shall maintain the organizational and procedural framework under which it is operating, and exercise its powers, duties, and responsibilities, as of the effective date of this section.

 (C) The Office of Precinct Demographics shall:

 (1) review existing precinct boundaries and maps for accuracy and develop and rewrite descriptions of precincts for submission to the legislative process;

 (2) consult with members of the General Assembly or their designees on matters related to precinct construction or discrepancies that may exist or occur in precinct boundary development in the counties they represent;

 (3) develop a system for originating and maintaining precinct maps and related data for the State;

 (4) represent the General Assembly at public meetings, meetings with members of the General Assembly, and meetings with other state, county, or local governmental entities on matters related to precincts;

 (5) assist the appropriate county officials in the drawing of maps and writing of descriptions or precincts preliminary to these maps and descriptions being filed in this office for submission to the United States Department of Justice;

 (6) coordinate with the Census Bureau in the use of precinct boundaries in constructing census boundaries and the identification of effective uses of precinct and census information for planning purposes; and

 (7) serve as a focal point for verifying official precinct information for the counties of South Carolina.

HISTORY: 2014 Act No. 121 (S.22), Pt VI, Section 8.A, eff July 1, 2014.

**SECTION 11‑9‑1140.** Office of State Budget division.

 The Office of State Budget division of the office shall maintain the organizational and procedural framework under which it is operating, and exercise its powers, duties, and responsibilities, as of the effective date of this section.

HISTORY: 2014 Act No. 121 (S.22), Pt VI, Section 8.A, eff July 1, 2014.