CHAPTER 25

Regional Transportation Authority Law

**SECTION 58‑25‑10.** Short title.

 This chapter is known and may be cited as the “Regional Transportation Authority Law”.

HISTORY: 1962 Code Section 59‑121; 1973 (58) 726; 1985 Act No. 169, Section 2, eff July 1, 1985.

CROSS REFERENCES

Constitutional provisions for regulation of common carriers, see SC Const. Art. IX, Section 1.

Employees and retirees of regional transportation authorities established pursuant to this chapter eligible for coverage under state health and dental insurance plans, see Section 1‑11‑720.

Provision that a regional transportation authority established pursuant to this chapter is a “political subdivision” for purposes of the South Carolina Tort Claims Act, see Section 15‑78‑30.

**SECTION 58‑25‑20.** Definitions.

 As used in this chapter:

 (1) “Authority” means a regional transportation authority created pursuant to this chapter and the authorities so created are exempt from the provisions of Article 11 of Chapter 11 of Title 6.

 (2) “City” means any municipality with a population of five thousand or more according to the latest United States Census of population located within the service area of the authority.

 (3) “Consolidated government” means the governmental body formed by corporate consolidation of municipal and county governments under the laws of this State into a single local government entity.

 (4) “County” means any county of this State, all or any part of which may be included in an “urbanized area” as defined by the United States Bureau of the Census and as further defined in this chapter.

 (5) “Metropolitan government” means any county or combination of contiguous counties, municipality, or combination of contiguous municipalities, or combination of contiguous county or counties and municipality or municipalities, or a consolidated government with a combined population of over fifty thousand persons.

 (6) “Metropolitan planning organization” means the entity which has been designated to carry on the continuing, comprehensive, cooperative transportation planning process for the urbanized area.

 (7) “Municipality” means any incorporated city or town within the regional transportation area.

 (8) “Operator” means any person engaged in, or intending to engage in, the business of providing public transportation, but does not include a person engaged primarily in the transportation of children to or from school or a person or agency furnishing transportation solely for his or its employees or customers.

 (9) “Person” means any individual, public or private corporation, political subdivision, government agency, municipality, industry, copartnership, association, firm, trust, estate, or any other legal entity whatsoever.

 (10) “Public transportation” means every conveyance of human passengers by bus, van, or any other surface vehicle as required for intrastate service which is provided to the general public or selected groups on a regular and continuing basis including charter service. Freight delivery is allowed as a concomitant service.

 (11) “Public transportation system” means, without limitation, a combination of real and personal property, structures, improvements, buildings, equipment, plants, rolling stock, vehicle parking, or other facilities and rights‑of‑way, or any combination, used or useful for the purposes of public transportation.

 (12) “Regional planning council” means that public agency created pursuant to Article 3 of Chapter 7 of Title 6.

 (13) “Regional transportation area” means that area pursuant to the groupings of counties as set forth in Article 3 of Chapter 7 of Title 6.

 (14) “Service area” means the area served by the regional transportation authority and may be all or part of the area of jurisdiction of an authority and in no event shall the service area contain less than fifty thousand population.

 (15) “Transportation facility” means the property or property rights, both real and personal, of a type used for the establishment of public transportation systems within the service area which have heretofore or may hereafter be established by public bodies for the transportation of people and property from place to place.

 (16) “Urbanized area” means an area so designated by the most recent United States Census of Population.

 (17) “Financial contribution” means the sum of actual cash plus the actual value of any materials or in‑kind services supplied.

HISTORY: 1962 Code Section 59‑122; 1973 (58) 726; 1985 Act No. 169, Section 2, eff July 1, 1985; 1986 Act No. 509, Section 1, eff June 13, 1986; 1988 Act No. 625, Section 1, eff June 7, 1988.

CROSS REFERENCES

Applicability, to Public Transportation Passenger Rights Act, of definition of “public transportation” contained in this section, see Section 58‑23‑1820.

Operator as defined in this section and which provides public transportation on behalf of a regional transportation authority, as “political subdivision” for purposes of the South Carolina Tort Claims Act, see Section 15‑78‑30.

Attorney General’s Opinions

The term “financial contribution” would include the sum of taxes and vehicle registration fees plus whatever contributions may be considered as “materials or in‑kind services supplied” to the RTA by a particular political subdivision. 1989 Op.Atty.Gen., No. 89‑108, p 289 (1989 WL 406198).

**SECTION 58‑25‑30.** Activation of a regional transportation authority; dissolution; modification of agreement or plan of service.

 In order to activate a regional transportation authority the following steps must be taken:

 (1) A plan of service must be prepared. The plan of service must be consistent with any locally adopted transportation plan for the area to be served and must include but not be limited to:

 (a) The area to be served.

 (b) The procedures to be used to serve the area.

 (c) The estimated capital and operating costs by year for the first five years of operation, and the mechanism to be used to raise the local funds necessary to support the operation.

 (d) The source and amount of funds expected to be available to finance the first year’s capital and operating costs.

 (2) Upon adoption of the plan of service, set forth in (1) above, by a majority of the governing bodies of general purpose local governments within the service area, an agreement to create an authority in conformity with the terms of this chapter may be executed within the proposed service area of the authority. The area to be served by the proposed authority must contain at least fifty thousand population.

 (3) Upon the execution of the agreement by the governing bodies of the municipalities and the counties which include at least ninety percent of the population of the proposed service area within their jurisdictions, and only if the agreement provides for imposition of a new source of revenue such as a new tax, the question of creating such an authority under the terms of the executed agreement must be submitted for ratification to the qualified electors within the proposed service area at a general election or at a special election called for that purpose as set forth in the agreement. If an existing source or sources of revenue are utilized to fund the authority, an election is not required. If an election is required, the agreement shall become operational upon the approval of the majority of the voters within the service area voting on the question and the authority must be created not less than sixty days after the results of the election are certified. If an election is not required, the agreement becomes operational upon the execution of the agreement by the governing bodies of the municipalities and counties which include at least ninety percent of the population of the proposed service area, and the authority must be created not less than sixty days after the agreement is executed.

 (4) If an election is required, the question to be placed before the electorate must state the service area of the proposed authority (municipalities and counties involved) and the proposed method of financing, including the level of tax to be initially imposed, and membership on the board.

 (5) Dissolution of the authority created pursuant to this chapter must be in the same manner as that for creation of the authority as set forth in this chapter. All resources of the authority including, but not limited to, real and personal property, structures, improvements, buildings, equipment, plants, rolling stock, vehicle improvements, vehicle parking, or other facilities and rights‑of‑way must be disposed of and the proceeds distributed among the authority’s government members proportionate to their financial contribution.

 (6) The adopted agreement and referendum may be revised in whole or in part through repeating the process as stated in this section.

 (7) The Plan of Service may be updated as required to remain consistent with locally adopted transportation plans.

 (8) For fiscal years after creation of a regional transportation authority, the governing bodies of the municipalities and counties within the service area of the authority publicly must make available information regarding the portion of their budgets which is devoted to the financial support of the authority and the estimated portion of any revenue source which would be utilized to support the authority.

HISTORY: 1962 Code Section 59‑123; 1973 (58) 726; 1985 Act No. 169, Section 2, eff July 1, 1985; 1988 Act No. 625, Section 3, eff June 7, 1988; 1992 Act No. 449, Part V, Sections 9 and 10, eff July 1, 1992; 1997 Act No. 43, Sections 1 to 3, eff May 21, 1997.

CROSS REFERENCES

Applicability of voting procedures set forth in this section to appointment of certain board members and membership of contiguous counties or cities, see Section 58‑25‑40.

Funds generated locally by an authority must be used to implement the plan of service, see Section 58‑25‑100.

Sources of authority funds, see Section 58‑25‑60.

Use of property tax revenue to support authority, see Section 58‑25‑60.

Library References

Automobiles 63.

Carriers 10.

Westlaw Topic Nos. 48A, 70.

C.J.S. Carriers Section 330.

C.J.S. Motor Vehicles Sections 130 to 138.

Attorney General’s Opinions

Richand County may both appropriate property tax revenue and impose vehicle registration fees to fund the Central Midlands Regional Transit Authority. SC Op.Atty.Gen. (Oct. 16, 2006) 2006 WL 3199981.

The better reading of Section 58‑25‑35 of the Code, as amended by Act No. 169 of 1985, is that cities or counties within the respective RTAs service area which wish to do so may become members of a regional transportation authority created under the 1985 act. The electorate within the service area of the regional transportation authorities established through the procedures specified in Section 58‑25‑30 must, by referendum, approve the appointment of up to three members by legislative delegations of member counties. The RTAs established under the older law would follow the appointment procedure as found in Section 58‑25‑45 of the new law. It also appears from the language of the statute that the three delegation appointees are to be counted within the maximum. However, because the language is not clear and to insure that the intent of the legislature comports with this interpretation, legislative clarification is advisable.

The “authority governmental members” of RTAs established under the old law, but following new Section 58‑25‑40, would generally remain the same as under the old law. In addition, section 58‑25‑70, which provides for the review and approval of RTA’s annual budget by its member cities and counties, should take effect prospectively and those RTAs whose budgetary enactment process begins on or after July 1, 1985, would follow the new statute as the process begins. For those RTAs whose budget process was complete with an effective date of July 1, 1985, the process would be implemented as the next budget is prepared. The grandfathered RTAs, which are exempted from the provisions of new Section 58‑25‑30 by Act No. 169 of 1985, may be exempt from Section 58‑25‑100 and other parts of the law which refer to exempted Sections 58‑25‑30 and 58‑25‑60, depending upon whether the grandfathered RTAs have opted to have taxing power. The tax exemptions and other State programs would be effective July 1, 1985, as to grandfathered RTAs and upon coming to existence for newly‑formed RTAs. The effective date of Act No. 169 would be the effective date of Section 58‑25‑100, or July 1, 1985. Any appointments of RTA members made on or after July 1, 1985, must be in compliance with the new Section 58‑25‑40, since July 1, 1985, is the effective date of the act. 1986 Op.Atty.Gen., No. 86‑28, p 93 (1986 WL 191990).

Regional transportation authority already in existence on effective date of 1985 Act No. 169 (July 1, 1985) may choose to follow previous statutes under which it was formed or to follow terms of new act; procedure to be followed in adding new members to already‑existing RTA depends upon whether old or new law is followed and, if new law if followed, whether taxing power is to be exercised; already‑existing RTA desiring to change corporate name upon addition of new members or territories would not thereby cause new corporation to be created. 1985 Op.Atty.Gen., No. 85‑83, p 234 (1985 WL 166053).

**SECTION 58‑25‑35.** Members of authority.

 The members of a regional transportation authority created under authority of this chapter must be the municipalities within the service area as defined by this chapter and the counties within the unincorporated areas of the service area of the authority.

HISTORY: 1985 Act No. 169, Section 2, eff July 1, 1985; 1997 Act No. 43, Section 4, eff May 21, 1997; 2000 Act No. 368, Section 3, eff June 14, 2000.

CROSS REFERENCES

Representation of authority members on governing board of authority, see Section 58‑25‑40.

Library References

Automobiles 63.

Carriers 10.

Westlaw Topic Nos. 48A, 70.

C.J.S. Carriers Section 330.

C.J.S. Motor Vehicles Sections 130 to 138.

Attorney General’s Opinions

A member of a Regional Transportation Authority must have a population of at least five thousand and be within the service area. S.C. Op.Atty.Gen. (Jan. 6, 2014) 2014 WL 1398586.

A municipality must have a population of at least 5000 to be a member of a Regional Transportation Authority and thus to have representation on the board. S.C. Op.Atty.Gen. (Jan. 6, 2014) 2014 WL 1398586.

Membership in the Pee Dee Regional Transportation Authority is limited to municipalities and the counties within the unincorporated areas of the authority’s service area, meaning that membership on the governing board of the authority is limited to appointees from the governing bodies of the municipalities and counties within the authority’s service area. S.C. Op.Atty.Gen. (July 1, 2013) 2013 WL 3762706.

The better reading of Section 58‑25‑35 of the Code, as amended by Act No. 169 of 1985, is that cities or counties within the respective RTAs service area which wish to do so may become members of a regional transportation authority created under the 1985 act. The electorate within the service area of the regional transportation authorities established through the procedures specified in Section 58‑25‑30 must, by referendum, approve the appointment of up to three members by legislative delegations of member counties. The RTAs established under the older law would follow the appointment procedure as found in Section 58‑25‑45 of the new law. It also appears from the language of the statute that the three delegation appointees are to be counted within the maximum. However, because the language is not clear and to insure that the intent of the legislature comports with this interpretation, legislative clarification is advisable.

The “authority governmental members” of RTAs established under the old law, but following new Section 58‑25‑40, would generally remain the same as under the old law. In addition, section 58‑25‑70, which provides for the review and approval of RTA’s annual budget by its member cities and counties, should take effect prospectively and those RTAs whose budgetary enactment process begins on or after July 1, 1985, would follow the new statute as the process begins. For those RTAs whose budget process was complete with an effective date of July 1, 1985, the process would be implemented as the next budget is prepared. The grandfathered RTAs, which are exempted from the provisions of new Section 58‑25‑30 by Act No. 169 of 1985, may be exempt from Section 58‑25‑100 and other parts of the law which refer to exempted Sections 58‑25‑30 and 58‑25‑60, depending upon whether the grandfathered RTAs have opted to have taxing power. The tax exemptions and other State programs would be effective July 1, 1985, as to grandfathered RTAs and upon coming to existence for newly‑formed RTAs. The effective date of Act No. 169 would be the effective date of Section 58‑25‑100, or July 1, 1985. Any appointments of RTA members made on or after July 1, 1985, must be in compliance with the new Section 58‑25‑40, since July 1, 1985, is the effective date of the act. 1986 Op.Atty.Gen., No. 86‑28, p 93 (1986 WL 191990).

**SECTION 58‑25‑40.** Appointment, terms, and removal of board members; membership of contiguous counties or cities; board employees.

 The authority’s board members, officers, and staff must be as follows:

 (1) The members of the authority must be represented on the governing board of the authority by appointees of the governing bodies of the municipalities and counties within the service area as set forth in Section 58‑25‑35. The appointees may be elected officials of these local governing bodies and if so would serve in an ex officio capacity. The governing board of the authority must be made up of not more than two times the number of authority governmental members and up to three additional members appointed by the legislative delegation as provided in this section.

 There must be at least five board members. The membership of the governing board must be apportioned among the member municipalities and counties proportionate to population within the authority’s service area.

 As many as three additional members of the governing board of a transportation authority may be appointed by the legislative delegations of the member counties if approved in accordance with the procedures set forth in Section 58‑25‑30. If the authority receives a grant of the state funds from the general fund or the highway fund, the delegation shall appoint three additional members. Unless the agreement provides otherwise, the members of the governing board appointed by the delegation must be apportioned as determined by a majority of the delegation members, including the resident senator, provided, however, if there is no resident senator, then by a majority of the Senate delegation representing the county. No member government, regardless of population, may have less than one member on the board. County population must be determined after subtracting the member municipality population in that county. The terms of the representatives serving on the governing board of the authority must be staggered so that the terms of approximately one‑third of the governing board expire each year. After the initial terms as set forth in the agreement to achieve staggered terms, subsequent terms must be for three years. Members of the governing board of the authority may be reimbursed for expenses incurred in connection with their service on the authority but they may not receive salaries, per diem, or other compensation. Members shall adopt and abide by rules governing meeting attendance.

 (2) No county or municipality may be a member in more than one authority except that a metropolitan government may be a member of more than one authority when the services provided by the authorities are different.

 (3) Subsequent to the activation of the authority, contiguous counties or municipalities not participating initially may become members of the authority with the same benefits as the initial members pursuant to the procedure set forth in Section 58‑25‑30 and with the approval by a majority vote of the board of the authority. If an election is required, it must be held only in the contiguous counties or municipalities that are seeking to become members of the authority.

 (4) The board of the authority shall elect one of its members as chairman, one as vice‑chairman, and other officers as may be necessary, to serve for one year in that capacity or until their successors are elected and qualify. A majority of the board constitutes a quorum. A vacancy on the board does not impair the right of the authority to exercise all of its rights and perform all of its duties. Upon the effective date of his appointment, or as soon after appointment as practicable, each board member shall enter upon his duties.

 (5) A board member of the authority may be removed from office by the governing body which appointed him for misconduct, malfeasance, or neglect of duty in office. Any vacancy so created must be filled as provided above.

 (6) The authority may employ an executive director, who may serve as secretary or treasurer, to serve at the pleasure of the authority. The executive director may employ any employees as may be necessary for the proper administration of the duties and functions of the authority and may determine the qualifications of the persons. The authority shall adopt compensation plans for employees.

HISTORY: 1962 Code Section 59‑124; 1973 (58) 726; 1985 Act No. 169, Section 2, eff July 1, 1985; 1986 Act No. 509, Section 2, eff June 13, 1986; 1988 Act No. 625, Section 2, eff June 7, 1988; 1989 Act No. 202, Section 2, eff August 28, 1989; 1992 Act No. 449, Part V, Sections 11 and 12, eff July 1, 1992; 1997 Act No. 43, Section 5, eff May 21, 1997; 2000 Act No. 368, Section 4, eff June 14, 2000.

Editor’s Note

Section 4 of 1985 Act No. 169, as amended by 1986 Act No. 508, Section 3, eff June 13, 1986, provides as follows:

“Any transportation authority formed under Chapter 25 of Title 58 of the 1976 Code prior to July 1, 1985, may continue to operate in accordance with the terms and conditions of that law. However, as the terms of appointees to the governing board expire, appointments and composition must be in accordance with the provisions of Section 58‑25‑40. If the authority desires to operate under the full terms and conditions of Chapter 25 of Title 58 with the exception of the exercise of taxing power, it shall comply with all procedures set forth in that chapter, except those in Sections 58‑25‑30, 58‑25‑60, 58‑25‑70, and 58‑25‑100. The authority shall keep books of account, which must be independently audited at least once in each calendar year. A copy of the audit report must be provided to the member municipalities and counties. The authority shall make an annual report of its activities to the member municipalities and counties. If the authority desires to operate under the full terms and conditions of that chapter, including the exercise of taxing power, it shall comply with all procedures set forth in that chapter.”

Library References

Automobiles 63.

Carriers 10.

Westlaw Topic Nos. 48A, 70.

C.J.S. Carriers Section 330.

C.J.S. Motor Vehicles Sections 130 to 138.

Attorney General’s Opinions

Ex‑officio board members would vote the same as any other members of the board of a Regional Transportation Authority. S.C. Op.Atty.Gen. (Jan. 6, 2014) 2014 WL 1398586.

It appears that the board’s make‑up should be revisited each decade upon the publication of the latest census. S.C. Op.Atty.Gen. (Jan. 6, 2014) 2014 WL 1398586.

It is not clear whether by‑laws can be amended to add advisory members of a board. S.C. Op.Atty.Gen. (Jan. 6, 2014) 2014 WL 1398586.

Membership on the governing board of a Regional Transportation Authority is not apportioned pursuant to financial contribution. S.C. Op.Atty.Gen. (Jan. 6, 2014) 2014 WL 1398586.

North Carolina municipalities and counties cannot be members of the Coast Regional Transportation Authority and thus it appears that they cannot have representation on the board. S.C. Op.Atty.Gen. (Jan. 6, 2014) 2014 WL 1398586.

The process to be used to re‑configure the board is not clear from the statutes and the fact that this section provides terms for board members would be a consideration. S.C. Op.Atty.Gen. (Jan. 6, 2014) 2014 WL 1398586.

Membership in the Pee Dee Regional Transportation Authority is limited to municipalities and the counties within the unincorporated areas of the authority’s service area, meaning that membership on the governing board of the authority is limited to appointees from the governing bodies of the municipalities and counties within the authority’s service area. S.C. Op.Atty.Gen. (July 1, 2013) 2013 WL 3762706.

One individual’s service on both the Charleston Area Regional Transportation Authority Board as well as the Joint Transportation Review Committee would not constitutes a violation of article VI, section 3 or article XVII, section 1A of the South Carolina Constitution. SC Op.Atty.Gen. (July 21, 2009) 2009 WL 2406414.

One serving as a board member of the Central Midlands Regional Transportation Authority and as a member of the Richland‑Lexington Airport Commission would be dual office holding. SC Op.Atty.Gen. (July 11, 2005) 2005 WL 1983353.

The Pee Dee Regional Transportation Authority must follow the provisions of this section. SC Op.Atty.Gen. (August 15, 2000) 2000 WL 1347160.

The ability of the Pee Dee Regional Transportation Authority to add member counties and/or municipalities which are outside the regional transportation area. SC Op.Atty.Gen. (August 5, 1996) 1996 WL 549523.

In absence of agreement, there is no specified procedure for selection of 3 additional members of governing board of regional transportation authority as mandated by Section 58‑25‑40(1). 1990 Op.Atty.Gen. No. 90‑9 (1990 WL 482397).

It is not clear whether the legislature intended for municipalities with a population of less than five thousand people to be included in a Regional Transportation Authority. 1989 Op.Atty.Gen., No. 89‑14, p 40 (1989 WL 406104).

One who serves as a member of a county forestry commission, regional transportation authority, or county athletic commission would most probably hold an office for dual office holding purposes. One who would serve as a member of a local children’s foster care review board would most probably be deemed to be not holding an office for dual office holding purposes. 1987, Op.Atty.Gen., No. 87‑101, p 266 (1987 WL 245509).

The better reading of Section 58‑25‑35 of the Code, as amended by Act No. 169 of 1985, is that cities or counties within the respective RTAs service area which wish to do so may become members of a regional transportation authority created under the 1985 act. The electorate within the service area of the regional transportation authorities established through the procedures specified in Section 58‑25‑30 must, by referendum, approve the appointment of up to three members by legislative delegations of member counties. The RTAs established under the older law would follow the appointment procedure as found in Section 58‑25‑45 of the new law. It also appears from the language of the statute that the three delegation appointees are to be counted within the maximum. However, because the language is not clear and to insure that the intent of the legislature comports with this interpretation, legislative clarification is advisable.

The “authority governmental members” of RTAs established under the old law, but following new Section 58‑25‑40, would generally remain the same as under the old law. In addition, section 58‑25‑70, which provides for the review and approval of RTA’s annual budget by its member cities and counties, should take effect prospectively and those RTAs whose budgetary enactment process begins on or after July 1, 1985, would follow the new statute as the process begins. For those RTAs whose budget process was complete with an effective date of July 1, 1985, the process would be implemented as the next budget is prepared. The grandfathered RTAs, which are exempted from the provisions of new Section 58‑25‑30 by Act No. 169 of 1985, may be exempt from Section 58‑25‑100 and other parts of the law which refer to exempted Sections 58‑25‑30 and 58‑25‑60, depending upon whether the grandfathered RTAs have opted to have taxing power. The tax exemptions and other State programs would be effective July 1, 1985, as to grandfathered RTAs and upon coming to existence for newly‑formed RTAs. The effective date of Act No. 169 would be the effective date of Section 58‑25‑100, or July 1, 1985. Any appointments of RTA members made on or after July 1, 1985, must be in compliance with the new Section 58‑25‑40, since July 1, 1985, is the effective date of the act. 1986 Op.Atty.Gen., No. 86‑28, p 93 (1986 WL 191990).

**SECTION 58‑25‑45.** Appointment of board members of pre‑existing authorities.

 If a majority of the member governments of any transportation authority formed under Chapter 25 of Title 58 of the 1976 Code prior to July 1, 1985, agree, three members of the governing boards may be appointed by a majority of the members of the legislative delegations of the member counties.

HISTORY: 1985 Act No. 169, Section 5, eff July 1, 1985.

Library References

Automobiles 63.

Carriers 10.

Westlaw Topic Nos. 48A, 70.

C.J.S. Carriers Section 330.

C.J.S. Motor Vehicles Sections 130 to 138.

**SECTION 58‑25‑50.** Powers and duties of authority.

 The authority may:

 (a) Purchase, lease, own, or operate or provide for the operation of transportation facilities;

 (b) Contract for public transportation services;

 (c) Plan in concert with any appropriate local planning operation for public transportation services;

 (d) Exercise the power of eminent domain limited to right‑of‑way and contiguous facility acquisition;

 (e) Contract with other governmental agencies, private companies, and individuals;

 (f) Sue and be sued, implead and be impleaded, complain, and defend in all courts;

 (g) Adopt, use, and alter at will a corporate seal;

 (h) Acquire, purchase, hold, lease as a lessee, and use any franchise or property, real, personal or mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the purposes of the authority, and sell, lease as lessor, transfer, and dispose of any property or interest therein acquired by it;

 (i) Fix, alter, change, and establish rates, fees, fares, and other charges for services or facilities of the authority. The rates, fees, and fares set forth in the agreement approved by the electorate may not be increased more frequently than annually. No single increase may exceed fifty percent;

 (j) Establish public transportation routes and approve the alteration or addition of routes based primarily on a detailed analysis or proposed use and comprehensive cost analysis;

 (k) Acquire and operate, or provide for the operation of, transportation systems, public or private, within the area, the acquisition of a system to be by negotiation and agreement between the authority and the operator of the system to be acquired;

 (l) Make contracts of every name and nature and execute all instruments necessary or convenient for the carrying on of its business;

 (m) Enter into management contracts with any person for the management of a public transportation system owned or controlled by the authority for a period of time, and under compensation and other terms and conditions, as may be considered advisable by the authority;

 (n) Contract for the services of attorneys, engineers, consultants, and agents for any purpose of the authority;

 (o) Borrow money and make and issue negotiable bonds, notes, or other evidences of indebtedness;

 (p) Accept gifts, grants, or loans of money or other property from and enter into contracts, leases, or other transactions with and accept funds from federal, state, or local governments, public or semipublic agencies or private individuals or corporations and expend the funds and carry out cooperative undertakings and contracts;

 (q) Do all acts necessary for the provision of public transportation services;

 (r) To provide transportation services for residents of the service area to destinations outside the service area;

 (s) Promulgate regulations to carry out the provisions of this chapter.

 The authority or other authorized regional transportation organization, in conjunction with all other organizations providing public transportation in the service area, shall prepare and produce a plan to coordinate public transportation services provided by each entity utilizing state funds or funds administered by the State to ensure that resources are being used in the most efficient and cost‑effective manner. The coordinated transportation plan must maintain the provision, type, and level of assistance to individuals at least equal in quality to that provided by the human service transportation providers in the service area. The failure of an entity providing these services to comply with the coordinated plan must be reported by the authority or the service provider to the appropriate state agencies or funding authorities which administer, contract, grant, approve, or appropriate funds for services. Transportation resources presently owned by or under contractual agreement of the service provider must remain under the authority of the service provider.

HISTORY: 1962 Code Section 59‑125; 1973 (58) 726; 1983 Act No. 151 Part II Section 49, eff June 20, 1983; 1985 Act No. 169, Section 2, eff July 1, 1985; 1992 Act No. 449, Part V, Section 13, eff July 1, 1992.

Editor’s Note

Section 4 of 1985 Act No. 169, as amended by 1986 Act No. 508, Section 3, eff June 13, 1986, provides as follows:

“Any transportation authority formed under Chapter 25 of Title 58 of the 1976 Code prior to July 1, 1985, may continue to operate in accordance with the terms and conditions of that law. However, as the terms of appointees to the governing board expire, appointments and composition must be in accordance with the provisions of Section 58‑25‑40. If the authority desires to operate under the full terms and conditions of Chapter 25 of Title 58 with the exception of the exercise of taxing power, it shall comply with all procedures set forth in that chapter, except those in Sections 58‑25‑30, 58‑25‑60, 58‑25‑70, and 58‑25‑100. The authority shall keep books of account, which must be independently audited at least once in each calendar year. A copy of the audit report must be provided to the member municipalities and counties. The authority shall make an annual report of its activities to the member municipalities and counties. If the authority desires to operate under the full terms and conditions of that chapter, including the exercise of taxing power, it shall comply with all procedures set forth in that chapter.”

Library References

Automobiles 63, 121.

Carriers 10, 12(0.5).

Westlaw Topic Nos. 48A, 70.

C.J.S. Carriers Section 330.

C.J.S. Motor Vehicles Sections 130 to 138, 178.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Eminent Domain Section 17, Special Purpose Districts and Agencies.

Attorney General’s Opinions

Regional transportation authorities cannot enter into indemnification agreements. S.C. Op.Atty.Gen. (November 7, 2016) 2016 WL 6781913.

The limitation on the Charleston Area Regional Transportation Authority’s eminent domain power to right‑of‑way and contiguous facility acquisition. SC Op.Atty.Gen. (Oct. 17, 2000) 2000 WL 1803618.

Pee Dee Regional Transportation Authority is authorized under state law to provide limousine service and baggage service for airport passengers and airlines. 1985 Op.Atty.Gen., No. 85‑67, p 189 (1985 WL 166037).

**SECTION 58‑25‑55.** Prohibition against use of funds by pre‑existing authorities for promotion of provisions of this chapter.

 No presently existing transportation authority, agency, etc., may use any transportation authority funds to promote the provisions of this Chapter in an election or referendum.

HISTORY: 1985 Act No. 169, Section 6, eff July 1, 1985.

Library References

Automobiles 63.

Carriers 10.

Westlaw Topic Nos. 48A, 70.

C.J.S. Carriers Section 330.

C.J.S. Motor Vehicles Sections 130 to 138.

**SECTION 58‑25‑60.** Sources of funds; vehicle registration fee.

 The intended mechanism for raising the necessary local funds to support the operation of the authority must be set forth in the agreement provided for in Section 58‑25‑30. The declaration of intended sources of local funds does not preclude the use of other local, state, or federal sources which shall subsequently become available except for state highway construction funds which may not be used. The agreement may be amended specifically to recognize new sources. Local funds may be generated from the following source of revenue, notwithstanding other provisions of law. This source is not intended to be exclusive.

 A vehicle registration fee may be levied by the governing bodies of the member cities and counties on the motor vehicles registered within the service area of the authority. If this mechanism is used, the amount of the vehicle registration fee must be set forth in the agreement. The authority shall request the members of the General Assembly representing its service area to approve increases in the registration fee. Unless these members of the General Assembly by majority vote approve the increase, no increases may be imposed. This registration fee must be added to the personal property tax notice collected as a part of the personal property tax and the fee rebated to the authority.

 Property tax revenue must not be used to support operation of the authority unless the authority has been approved by referendum pursuant to Section 58‑25‑30. In areas with Regional Transportation Authorities in existence on the effective date of this act, a vehicle registration fee increase for the purpose of financing a Regional Transportation Authority must be approved in referendum by a majority of the electorate in the area to which the vehicle registration fee increase would apply.

HISTORY: 1962 Code Section 59‑126; 1973 (58) 726; 1985 Act No. 169, Section 2, eff July 1, 1985; 1992 Act No. 449, Part V, Section 14, eff July 1, 1992.

Editor’s Note

Section 4 of 1985 Act No. 169, as amended by 1986 Act No. 508, Section 3, eff June 13, 1986, provides as follows:

“Any transportation authority formed under Chapter 25 of Title 58 of the 1976 Code prior to July 1, 1985, may continue to operate in accordance with the terms and conditions of that law. However, as the terms of appointees to the governing board expire, appointments and composition must be in accordance with the provisions of Section 58‑25‑40. If the authority desires to operate under the full terms and conditions of Chapter 25 of Title 58 with the exception of the exercise of taxing power, it shall comply with all procedures set forth in that chapter, except those in Sections 58‑25‑30, 58‑25‑60, 58‑25‑70, and 58‑25‑100. The authority shall keep books of account, which must be independently audited at least once in each calendar year. A copy of the audit report must be provided to the member municipalities and counties. The authority shall make an annual report of its activities to the member municipalities and counties. If the authority desires to operate under the full terms and conditions of that chapter, including the exercise of taxing power, it shall comply with all procedures set forth in that chapter.”

Library References

Automobiles 101.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 307, 317.

Attorney General’s Opinions

The Pee Dee Regional Transportation Authority is subject to audit by the Legislative Audit Council. SC Op.Atty.Gen. (March 23, 2000) 2000 WL 773742.

The vehicle registration fee permitted to be levied by the terms of Section 58‑25‑60 of the Code would most probably actually be a tax, in spite of being called a fee, and for that reason the vehicles belonging to active military personnel subject to the terms of the Soldiers’ and Sailors’ Civil Relief Act of 1940 would not be subject to the levy. 1989 Op.Atty.Gen., No. 89‑108, p 289 (1989 WL 406198).

Regional transportation authority already in existence on effective date of 1985 Act No. 169 (July 1, 1985) may choose to follow previous statutes under which it was formed or to follow terms of new act; procedure to be followed in adding new members to already‑existing RTA depends upon whether old or new law is followed and, if new law is followed, whether taxing power is to be exercised; already‑existing RTA desiring to change corporate name upon addition of new members or territories would not thereby cause new corporation to be created. 1985 Op.Atty.Gen., No. 85‑83, p 234 (1985 WL 166053).

**SECTION 58‑25‑70.** Recordkeeping and reporting; proposal and approval of budgets.

 The authority must keep books of account, which must be independently audited at least once in each calendar year. A copy of the audit report must be provided to the member municipalities and counties. The authority must make an annual report of its activities to the member municipalities and counties. The authority must submit to the member municipalities and counties the annual operating and capital budget proposed for each fiscal year, at least sixty days prior to the beginning of the fiscal year. In the event a member municipality or county disagrees with the proposed budget, it may set forth points of disagreement and transmit its statement to the authority and other governing bodies of the member municipalities and counties within thirty days of the receipt of the proposed budget. Budgets must be adopted by a majority of the member governments. In the event a majority of the governing bodies of the member municipalities and counties do not agree with the proposed budget, the authority must convene a meeting of chief elected and administrative officials of member governments to develop a budget which may be acceptable to a majority of the member governments; a majority, for the purposes of this section, includes the governing bodies of the member municipalities and counties representing more than one‑half of the service area population. In the event a budget acceptable to a majority of the member governments is not developed prior to the beginning of its fiscal year, the authority shall continue to operate at the budget levels of the previously approved budget. Any budget changes requiring an increase in local funds in excess of ten percent during the budget year must be approved as provided above for annual budgets.

HISTORY: 1962 Code Section 59‑127; 1973 (58) 726; 1985 Act No. 169, Section 2, eff July 1, 1985; 1997 Act No. 43, Section 6, eff May 21, 1997.

Library References

Automobiles 63.

Carriers 10.

Westlaw Topic Nos. 48A, 70.

C.J.S. Carriers Section 330.

C.J.S. Motor Vehicles Sections 130 to 138.

Attorney General’s Opinions

The better reading of Section 58‑25‑35 of the Code, as amended by Act No. 169 of 1985, is that cities or counties within the respective RTAs service area which wish to do so may become members of a regional transportation authority created under the 1985 act. The electorate within the service area of the regional transportation authorities established through the procedures specified in Section 58‑25‑30 must, by referendum, approve the appointment of up to three members by legislative delegations of member counties. The RTAs established under the older law would follow the appointment procedure as found in Section 58‑25‑45 of the new law. It also appears from the language of the statute that the three delegation appointees are to be counted within the maximum. However, because the language is not clear and to insure that the intent of the legislature comports with this interpretation, legislative clarification is advisable.

The “authority governmental members” of RTAs established under the old law, but following new Section 58‑25‑40, would generally remain the same as under the old law. In addition, section 58‑25‑70, which provides for the review and approval of RTA’s annual budget by its member cities and counties, should take effect prospectively and those RTAs whose budgetary enactment process begins on or after July 1, 1985, would follow the new statute as the process begins. For those RTAs whose budget process was complete with an effective date of July 1, 1985, the process would be implemented as the next budget is prepared. The grandfathered RTAs, which are exempted from the provisions of new Section 58‑25‑30 by Act No. 169 of 1985, may be exempt from Section 58‑25‑100 and other parts of the law which refer to exempted Sections 58‑25‑30 and 58‑25‑60, depending upon whether the grandfathered RTAs have opted to have taxing power. The tax exemptions and other State programs would be effective July 1, 1985, as to grandfathered RTAs and upon coming to existence for newly‑formed RTAs. The effective date of Act No. 169 would be the effective date of Section 58‑25‑100, or July 1, 1985. Any appointments of RTA members made on or after July 1, 1985, must be in compliance with the new Section 58‑25‑40, since July 1, 1985, is the effective date of the act. 1986 Op.Atty.Gen., No. 86‑28, p 93 (1986 WL 191990).

**SECTION 58‑25‑80.** Nature and purposes of authority; exemption from state and local taxes; participation in state programs.

 Each authority established, including any formed under Chapter 25 of Title 58 of the 1976 Code prior to the effective date of this chapter, exists for nonprofit and public purposes and is a public agency, and it is found and declared that the carrying out of the purpose of each authority is exclusively for public benefit and its property is public property. No authority shall pay any state or local ad valorem, income, sales, fuel, excise, or other use taxes or other taxes from which municipalities and counties are exempt. The South Carolina Department of Revenue is responsible for promulgating regulations necessary to effect fully this provision for tax exemption. The authority or operator providing public transportation on behalf of an authority may participate in the State Retirement System and utilize the services of the State Purchasing Department of the Division of General Services and any other joint activity of the State carried on for the benefit of state agencies and political subdivisions of the State. Operators providing public transportation on behalf of an authority shall not pay state and local fuel taxes from which municipalities and counties are exempt.

HISTORY: 1962 Code Section 59‑128; 1973 (58) 726; 1985 Act No. 169, Section 2, eff July 1, 1985; 1992 Act No. 364, Section 3, eff July 1, 1992; 1993 Act No. 181, Section 1566, eff July 1, 1993.

Library References

Automobiles 63.

Carriers 10.

Westlaw Topic Nos. 48A, 70.

C.J.S. Carriers Section 330.

C.J.S. Motor Vehicles Sections 130 to 138.

Attorney General’s Opinions

Under current law, the employees of ATC Vancom and Connex TCT are ineligible for participation in the South Carolina Retirement Systems. SC Op.Atty.Gen. (Nov. 12, 2002) 2002 WL 31728840.

Tax exemption provided regional transportation authorities is not limited to those taxes from which counties and municipalities are exempt; exemption extends to all of taxes set forth in 1985 Act No. 169. 1985 Op.Atty.Gen., No. 85‑120, p 329 (1985 WL 166088).

**SECTION 58‑25‑90.** Authority to have sole responsibility for operations of transportation services.

 The Regional Transportation Authority, through its board, officers, and staff, shall have sole responsibility for the operations of the transportation services.

HISTORY: 1985 Act No. 169, Section 3, eff July 1, 1985.

Library References

Automobiles 63, 109.

Carriers 10.

Westlaw Topic Nos. 48A, 70.

C.J.S. Carriers Section 330.

C.J.S. Motor Vehicles Sections 114, 130 to 138, 175.

**SECTION 58‑25‑100.** Local funds to be used to implement plan of service.

 All funds that the authority has generated locally must be used to implement the current Plan of Service as provided for in Section 58‑25‑30, as amended by this chapter.

HISTORY: 1985 Act No. 169, Section 3, eff July 1, 1985.

Library References

Automobiles 63.

Carriers 10.

Westlaw Topic Nos. 48A, 70.

C.J.S. Carriers Section 330.

C.J.S. Motor Vehicles Sections 130 to 138.

Attorney General’s Opinions

The better reading of Section 58‑25‑35 of the Code, as amended by Act No. 169 of 1985, is that cities or counties within the respective RTAs service area which wish to do so may become members of a regional transportation authority created under the 1985 act. The electorate within the service area of the regional transportation authorities established through the procedures specified in Section 58‑25‑30 must, by referendum, approve the appointment of up to three members by legislative delegations of member counties. The RTAs established under the older law would follow the appointment procedure as found in Section 58‑25‑45 of the new law. It also appears from the language of the statute that the three delegation appointees are to be counted within the maximum. However, because the language is not clear and to insure that the intent of the legislature comports with this interpretation, legislative clarification is advisable.

The “authority governmental members” of RTAs established under the old law, but following new Section 58‑25‑40, would generally remain the same as under the old law. In addition, section 58‑25‑70, which provides for the review and approval of RTA’s annual budget by its member cities and counties, should take effect prospectively and those RTAs whose budgetary enactment process begins on or after July 1, 1985, would follow the new statute as the process begins. For those RTAs whose budget process was complete with an effective date of July 1, 1985, the process would be implemented as the next budget is prepared. The grandfathered RTAs, which are exempted from the provisions of new Section 58‑25‑30 by Act No. 169 of 1985, may be exempt from Section 58‑25‑100 and other parts of the law which refer to exempted Sections 58‑25‑30 and 58‑25‑60, depending upon whether the grandfathered RTAs have opted to have taxing power. The tax exemptions and other State programs would be effective July 1, 1985, as to grandfathered RTAs and upon coming to existence for newly‑formed RTAs. The effective date of Act No. 169 would be the effective date of Section 58‑25‑100, or July 1, 1985. Any appointments of RTA members made on or after July 1, 1985, must be in compliance with the new Section 58‑25‑40, since July 1, 1985, is the effective date of the act. 1986 Op.Atty.Gen., No. 86‑28, p 93 (1986 WL 191990).