CHAPTER 23

School Buildings and Other School Property

ARTICLE 1

School Building Code [Repealed]

**SECTIONS 59‑23‑10 to 59‑23‑190.** Repealed by 2003 Act No. 87, Section 2, eff July 16, 2003.

Editor’s Note

Former Section 59‑23‑10 was entitled “Schools required to provide ample means of escape from fire or stampedes from other causes” and was derived from 1962 Code Section 21‑301; 1952 Code Section 21‑301; 1942 Code Section 5445; 1932 Code Section 5451; 1924 (33) 1091.

Former Section 59‑23‑20 was entitled “Requirements for safety for buildings existing prior to March 18, 1924” and was derived from 1962 Code Section 21‑302; 1952 Code Section 21‑302; 1942 Code Section 5446; 1932 Code Section 5452; 1924 (33) 1091.

Former Section 59‑23‑30 was entitled “Old buildings not subject to requirements for new buildings” and was derived from 1962 Code Section 21‑303; 1952 Code Section 21‑303; 1942 Code Section 5447; 1932 Code Section 5453; 1924 (33) 1091.

Former Section 59‑23‑40 was entitled “School buildings erected after March 18, 1924 shall conform to building code” and was derived from 1962 Code Section 21‑304; 1952 Code Section 21‑304; 1942 Code Section 5448; 1932 Code Section 5454; 1924 (33) 1091.

Former Section 59‑23‑50 was entitled “Combustible outer wall materials as restricting height” and was derived from 1962 Code Section 21‑305; 1952 Code Section 21‑305; 1942 Code Section 5451; 1932 Code Section 5457; 1924 (33) 1091.

Former Section 59‑23‑60 was entitled “Exterior wall materials of buildings of more than one story; thickness of walls and foundations; loads” and was derived from 1962 Code Section 21‑306; 1952 Code Section 21‑306; 1942 Code Section 5452; 1932 Code Section 5458; 1924 (33) 1091.

Former Section 59‑23‑70 was entitled “Floor and roof loads” and was derived from 1962 Code Section 21‑307; 1952 Code Section 21‑307; 1942 Code Section 5453; 1932 Code Section 5459; 1924 (33) 1091.

Former Section 59‑23‑80 was entitled “Timbers, flues and roofing material” and was derived from 1962 Code Section 21‑308; 1952 Code Section 21‑308; 1942 Code Section 5454; 1932 Code Section 5460; 1924 (33) 1091.

Former Section 59‑23‑90 was entitled “Exits” and was derived from 1962 Code Section 21‑309; 1952 Code Section 21‑309; 1942 Code Section 5455; 1932 Code Section 5461; 1924 (33) 1091.

Former Section 59‑23‑100 was entitled “Corridors” and was derived from 1962 Code Section 21‑310; 1952 Code Section 21‑310; 1942 Code Section 5455; 1932 Code Section 5461; 1924 (33) 1091.

Former Section 59‑23‑110 was entitled “Number of stairways” and was derived from 1962 Code Section 21‑311; 1952 Code Section 21‑311; 1942 Code Section 5455; 1932 Code Section 5461; 1924 (33) 1091.

Former Section 59‑23‑120 was entitled “Encasing of stairways in larger buildings” and was derived from 1962 Code Section 21‑312; 1952 Code Section 21‑312; 1942 Code Section 5456; 1932 Code Section 5462; 1924 (33) 1091.

Former Section 59‑23‑130 was entitled “Construction of stairways” and was derived from 1962 Code Section 21‑313; 1952 Code Section 21‑313; 1942 Code Section 5457; 1932 Code Section 5463; 1924 (33) 1091.

Former Section 59‑23‑140 was entitled “Doors” and was derived from 1962 Code Section 21‑314; 1952 Code Section 21‑314; 1942 Code Section 5458; 1932 Code Section 5464; 1924 (33) 1091.

Former Section 59‑23‑150 was entitled “Protection of woodwork or lath and plaster” and was derived from 1962 Code Section 21‑315; 1952 Code Section 21‑315; 1942 Code Section 5459; 1932 Code Section 5465; 1924 (33) 1091.

Former Section 59‑23‑160 was entitled “Light and ventilation” and was derived from 1962 Code Section 21‑318; 1952 Code Section 21‑318; 1942 Code Section 5462; 1932 Code Section 5468; 1924 (33) 1091; 1967 (55) 647.

Former Section 59‑23‑170 was entitled “Toilet facilities” and was derived from 1962 Code Section 21‑319; 1952 Code Section 21‑319; 1942 Code Section 5463; 1932 Code Section 5469; 1924 (33) 1091.

Former Section 59‑23‑180 was entitled “Higher requirements established by ordinance not affected” and was derived from 1962 Code Section 21‑320; 1952 Code Section 21‑320; 1942 Code Section 5450; 1932 Code Section 5456; 1924 (33) 1091.

Former Section 59‑23‑190 was entitled “Inspection and approval by State Superintendent of Education” and was derived from 1962 Code Section 21‑321; 1952 Code Section 21‑321; 1942 Code Section 5449; 1932 Code Section 5455; 1924 (33) 1091.

ARTICLE 2

School Building Codes, Specifications, and Inspections

**SECTION 59‑23‑210.** Construction, improvement, and renovation of public schools; compliance with the South Carolina School Facilities Planning and Construction Guide; committee members; submission of plans.

 (A) All construction, improvement, and renovation of public school buildings and property on or after the effective date of this section shall comply with the latest applicable standards and specifications set forth in the South Carolina School Facilities Planning and Construction Guide as published by the South Carolina Department of Education.

 This guide must be reviewed and updated on an annual basis by a committee appointed by the South Carolina Department of Education. The committee shall consist of a minimum of two architects and one engineer who are all registered in South Carolina and experienced in K‑12 design, one K‑12 school administrator, one representative of the K‑12 construction industry, the State Fire Marshal or his designee, a representative of the Traffic Engineering Division of the South Carolina Department of Transportation, and two representatives of the South Carolina Department of Education. In addition, the Chairman of the House of Representatives Education and Public Works Committee or his designee and the Chairman of the Senate Education Committee or his designee shall also serve as members of the committee, ex officio.

 (B) All construction, improvement, and renovation of public school buildings and property on or after the effective date of this section must have plans and specifications submitted to the State Superintendent of Education or the superintendent’s designee. Approval of the plans and specifications by the State Superintendent of Education or the superintendent’s designee must be received before public bidding before the construction can begin. Plans and specifications must be coordinated with county officials such as traffic engineers and zoning administrators.

HISTORY: 2003 Act No. 87, Section 1, eff July 16, 2003.

NOTES OF DECISIONS

In general 1

1. In general

In light of their lack of autonomy, school districts in South Carolina were arms of the state for purposes of the Eleventh Amendment, and were therefore immune from private suits under Fair Labor Standards Act (FLSA); school districts could not purchase or sell school property without prior approval from state‑level administrators, had to seek approval from the State Superintendent of Education for all construction plans and specifications before seeking bids for the construction, and Department of Education retained control over school transportation. Smith v. School Dist. of Greenville County, 2004, 324 F.Supp.2d 786. Federal Courts 2388(2)

**SECTION 59‑23‑220.** Inspections; certificate of approval.

 All construction, improvements, and renovation of public school buildings and property must be inspected by the State Superintendent of Education or the superintendent’s designee for compliance with the applicable codes and standards.

 A certificate of approval must be obtained from the State Superintendent of Education or the superintendent’s designee before a building may be occupied.

HISTORY: 2003 Act No. 87, Section 1, eff July 16, 2003.

**SECTION 59‑23‑230.** Waiver from applicable school building regulations; property owner permitted to lease building to school board for use as public school.

 (A) Notwithstanding any other provision of law, the State Superintendent of Education is authorized to grant a waiver from applicable school building regulations relating to building square foot requirements for construction of a new public school building or for the conversion of an existing commercial building into a public school facility. As part of the waiver request, districts must supply documentation of the suitability of the property and justification for the waiver request.

 (B) The authority granted the State Superintendent of Education under this section is superior to and supersedes provisions of applicable state school building regulations and the authority of a local building official or entity to disapprove the variances granted by the waiver. A provision of fire and life safety standards or specifications must not be waived.

 (C) The property owner of a building considered appropriate for conversion to a public school by the State Superintendent of Education may lease its building to a local school board of trustees to be used as a public school within the district.

HISTORY: 2003 Act No. 87, Section 1, eff July 16, 2003.

**SECTION 59‑23‑240.** Inspection of public schools required after waiver of school building regulations granted.

 All construction, improvements, and renovation of public school buildings and property for which waivers have been granted pursuant to Section 59‑23‑230 must be inspected by the State Superintendent of Education or the superintendent’s designee before occupancy for compliance with the applicable waivers and standards.

HISTORY: 2003 Act No. 87, Section 1, eff July 16, 2003.

**SECTION 59‑23‑245.** Fixture ratios for middle school and high school stadiums.

 (A) Notwithstanding applicable national, state, or local building codes, plumbing codes, school building regulations, or other provisions of law relating to the minimum numbers of required plumbing fixtures for stadiums in middle schools and high schools based on occupancy and use, the minimum number of:

 (1) toilets for male restrooms required for a stadium are:

 (a) one per two hundred for the first fifteen hundred occupancy;

 (b) one per two hundred fifty for the next fifteen hundred occupancy; and

 (c) one per five hundred for the remainder occupancy;

 (2) toilets for female restrooms required for a stadium are:

 (a) one per one hundred for the first one thousand five hundred twenty occupancy;

 (b) one per one hundred fifty for the next one thousand five hundred twenty occupancy; and

 (c) one per three hundred for the remainder occupancy;

 (3) lavatories for male restrooms required for a stadium are one per three hundred; and

 (4) lavatories for female restrooms required for a stadium are one per three hundred.

 (B) The provisions of this section apply to all middle school stadiums and high school stadiums built or renovated after the effective date of this act and all middle school stadiums and high school stadiums in existence or in the process of being planned, constructed, or renovated on the effective date of this act. However, a stadium that is being renovated but is not replacing existing seating or adding new seating may not be required to add water closets or lavatories to conform to the provisions of this section or any other applicable building code, plumbing code, school building regulations, or another provision of law. For a stadium that is being renovated to replace existing or add new seating, the plumbing fixtures requirements apply only to the number of new seats being added or replaced.

 (C) To determine the occupant load of each sex, the total occupant load must be divided in half. To determine the required number of fixtures, the fixture ratio or ratios for each fixture type must be applied to the occupant load of each sex in accordance with subsection (A). Fractional numbers resulting from applying the fixture ratios must be rounded up to the next whole number. For calculations involving multiple occupancies, such fractional numbers for each occupancy first must be summed and then rounded up to the next whole number. However, the total occupant load must not be required to be divided in half where approved statistical data indicates a distribution of the sexes of other than fifty percent of each sex.

HISTORY: 2017 Act No. 25 (H.3792), Section 1, eff May 9, 2017.

Editor’s Note

2017 Act No. 25, Section 2, provides as follows:

“SECTION 2. This act takes effect upon approval by the Governor and is applicable to any existing facilities and future facilities.”

**SECTION 59‑23‑250.** Minimum lot requirements prohibited; acquisitions or additions on existing properties.

 (A) Notwithstanding another provision of law, a requirement that public schools be constructed on a lot or parcel of certain minimum size is prohibited.

 (B) School districts must receive approval from the South Carolina Department of Education prior to property acquisition or additions on existing properties.

HISTORY: 2003 Act No. 87, Section 1, eff July 16, 2003.

ARTICLE 3

Conveyance of Buildings No Longer Needed for School Purposes

**SECTION 59‑23‑310.** Conveyance of title to school building not necessary for school purposes authorized.

 The trustees of any school district may convey, in fee simple, title to any school building within the district which is no longer needed for school purposes upon compliance with the provisions of Section 59‑19‑250.

HISTORY: 1962 Code Section 21‑331; 1954 (48) 1468; 1956 (49) 2091; 1965 (54) 678; 1967 (55) 213; 1971 (57) 28; 1972 (57) 2126.

CROSS REFERENCES

Sale of school property, see Section 59‑19‑250.

LIBRARY REFERENCES

Schools 74.

Westlaw Key Number Search: 345k74.

C.J.S. Schools and School Districts Sections 376 to 377, 391, 396 to 398.

Attorney General’s Opinions

A school district may accept a gift of land under a quit‑claim deed; however, State funds cannot be approved for building purposes on the land unless the district has a fee simple title. 1976‑77 Op Atty Gen, No 77‑26, p 32.

Reversion of building used for private school. Possession of property conveyed by trustees of a consolidated school district, under this section [Code 1962 Section 21‑331], for use and benefit of the community as a community building, will revert to the trustees in the event the property is used for the operation of a private school. 1964‑65 Op Atty Gen, No 1876, p 142.

NOTES OF DECISIONS

In general 1

1. In general

The purpose of this article is to render abandoned schoolhouses available as community centers for the areas affected. Abell v. Bell (S.C. 1956) 229 S.C. 1, 91 S.E.2d 548. Education 130

The duty imposed upon the trustees of a consolidated school district, in the circumstances set forth in this article, to convey an abandoned school building to the community trustees upon their request and without consideration, is mandatory. Abell v. Bell (S.C. 1956) 229 S.C. 1, 91 S.E.2d 548.

**SECTION 59‑23‑320.** Certain conveyances or transfers prior to February 25, 1954 validated.

 All conveyances or transfers made prior to February 25, 1954 to trustees even though not elected as formerly provided in this article are hereby validated, ratified and confirmed according to the terms and conditions of such deeds of conveyance.

HISTORY: 1962 Code Section 21‑336; 1954 (48) 1468; 1972 (57) 2126.