CHAPTER 3

State Superintendent of Education

**SECTION 59‑3‑10.** Appointment, compensation, and qualifications of State Superintendent of Education.

Section effective until approval and ratification of an amendment to Section 7, Article VI of the South Carolina Constitution. The referendum to amend Section 7, Article VI failed on November 6, 2018. See Editor's Note.

 The State Superintendent of Education shall be elected at each general election in the same manner as other State officers and shall enter upon the duties of his office at the time prescribed by law. Before entering upon the duties of his office he shall give bond for the use of the State in the penal sum of five thousand dollars, with good and sufficient sureties, to be approved by the Governor, conditioned for the faithful and impartial performance of the duties of his office, and he shall also, at the time of giving bond, take and subscribe the oath prescribed in Section 26 of Article III of the Constitution of the State, which shall be endorsed upon the back of the bond. The bond shall be filed with the Secretary of State, and by him recorded and, when so recorded, shall be filed with the State Treasurer. The Superintendent of Education shall receive as compensation for his services such sum as the General Assembly shall by law provide, payable monthly out of the State Treasury, and his traveling expenses, not exceeding three hundred dollars, shall be paid out of the State Treasury upon duly itemized accounts rendered by him.

Text of Section through (A) effective upon approval and ratification of an amendment to Section 7, Article VI of the South Carolina Constitution. The referendum to amend Section 7, Article VI failed on November 6, 2018. See Editor's Note.

 (A) The State Superintendent of Education must be appointed by the Governor, with the advice and consent of the Senate. The superintendent shall serve at the pleasure of the Governor and must receive such compensation as may be established under the provision of Section 8‑11‑160. A vacancy in the office of superintendent must be filled as provided in Section 1‑30‑10(B)(1)(iv) and in Section 1‑3‑210, as applicable.

 (B) The Superintendent of Education must possess:

 (1) the minimum of a master's degree and substantive and broad‑based experience in the field of public education including, but not limited to, service as a classroom teacher, principal, other school or school district administrator, school district superintendent, or other education policy making body at either the state or local level or any combination of them; or

 (2) the minimum of a master's degree and substantive and broad‑based experience in operational and financial management in any field of expertise including, but not limited to, finance, economics, accounting, law, or business.

Text of (C) effective upon approval and ratification of an amendment to Section 7, Article VI of the South Carolina Constitution. The referendum to amend Section 7, Article VI failed on November 6, 2018. See Editor's Note.

 (C) Any judicial action challenging the qualifications of a candidate or appointee, as appropriate, must be brought in circuit court within thirty days of the close of candidate filing or appointment for Superintendent of Education.

HISTORY: 1962 Code Section 21‑21; 1952 Code Section 21‑21; 1942 Code Section 5272; 1932 Code Section 5272; Civ. C. '22 Section 2532; Civ. C. '12 Section 1698; Civ. C. '02 Section 1174; 1896 (22) 150; 1901 (23) 750; 1919 (31) 4; 1924 (33) 1182; 1948 (45) 1716; 1969 (56) 444; 1973 (58) 623; 2018 Act No. 178 (S.27), Section 1, eff May 15, 2018 and eff upon contingency.

Editor's Note

2018 Act No. 178, Sections 4 and 6, provide as follows:

"SECTION 4. The person elected State Superintendent of Education in the 2018 General Election shall serve out his term; however, if the person vacates that office before the term expires in January 2023, any successors must: (1) be appointed as provided in Section 1‑30‑10(B)(1)(iv); and (2) must satisfy the experience requirements of Section 59‑3‑10(B)."

"SECTION 6. The provisions of Section 59‑3‑10(B), as contained in SECTION 1, take effect upon approval by the Governor. The remaining provisions of this act take effect upon approval and ratification of an amendment to Section 7, Article VI of the South Carolina Constitution, 1895, providing for the appointment of the State Superintendent of Education by the Governor, with the advice and consent of the Senate, and are applicable beginning with the 2018 General Election."

The referendum to amend Article VI, Section 7 failed on November 6, 2018.

Effect of Amendment

2018 Act No. 178, Section 1, rewrote the section.

**SECTION 59‑3‑20.** Vacancy in office.

Section repealed upon the approval and ratification of an amendment to Section 7, Article VI of the South Carolina Constitution. The referendum to amend Section 7, Article VI failed on November 6, 2018. See Editor's Note.

 In case a vacancy occurs in the office of State Superintendent of Education, from any cause, such vacancy shall be filled by the Governor, by and with the advice and consent of the Senate, and the person so appointed shall qualify within fifteen days from the date of such appointment or else the office shall be deemed vacant. If the vacancy occur during the recess of the Senate, the Governor shall fill the same by appointment until the Senate can act thereon.

HISTORY: 1962 Code Section 21‑22; 1952 Code Section 21‑22; 1942 Code Section 5277; 1932 Code Section 5281; Civ. C. '22 Section 2541; Civ. C. '12 Section 1704; Civ. C. '02 Section 1180; 1896 (22) 150.

Editor's Note

2018 Act No. 178, Sections 4 and 6, provide as follows:

"SECTION 4. The person elected State Superintendent of Education in the 2018 General Election shall serve out his term; however, if the person vacates that office before the term expires in January 2023, any successors must: (1) be appointed as provided in Section 1‑30‑10(B)(1)(iv); and (2) must satisfy the experience requirements of Section 59‑3‑10(B)."

"SECTION 6. The provisions of Section 59‑3‑10(B), as contained in SECTION 1, take effect upon approval by the Governor. The remaining provisions of this act take effect upon approval and ratification of an amendment to Section 7, Article VI of the South Carolina Constitution, 1895, providing for the appointment of the State Superintendent of Education by the Governor, with the advice and consent of the Senate, and are applicable beginning with the 2018 General Election."

The referendum to amend Article VI, Section 7 failed on November 6, 2018.

**SECTION 59‑3‑30.** General duties.

 The State Superintendent of Education shall:

 (1) Serve as secretary and administrative officer to the State Board of Education.

 (2) Have general supervision over and management of all public school funds provided by the State and Federal Governments.

 (3) Organize, staff and administer a State Department of Education which shall include such division and departments as are necessary to render the maximum service to public education in the State.

 (4) Keep the public informed as to the problems and needs of the public schools by constant contact with all school administrators and teachers, by his personal appearances at public gatherings and by information furnished to the various news media of the State.

 (5) Have printed and distributed such bulletins, manuals, and circulars as he may deem necessary for the professional improvement of teachers and for the cultivation of public sentiment for public education, and have printed all forms necessary and proper for the administration of the State Department of Education.

 (6) Administer, through the State Department of Education, all policies and procedures adopted by the State Board of Education.

 (7) Assume such other responsibilities and perform such other duties as may be prescribed by law or as may be assigned by the State Board of Education.

HISTORY: 1962 Code Section 21‑23; 1952 Code Section 21‑23; 1942 Code Section 5273; 1932 Code Section 5273; Civ. C. '22 Section 2533; Civ. C. '12 Section 1699; Civ. C. '02 Section 1175; 1896 (22) 150; 1963 (53) 512.

**SECTION 59‑3‑35.** Provision of fingerprint and DNA identification kits.

 (A) The Department of Education shall provide to all school districts and open‑enrollment charter schools inkless, in‑home fingerprint and DNA identification kits to be distributed throughout the district or school on request to the parent or legal custodian of any kindergarten, elementary, middle, or high school student.

 (B) A parent or legal custodian who receives a fingerprint and DNA identification kit may submit the kit to federal, state, tribal, or local law enforcement to help locate and return a missing or trafficked child.

 (C) Unless expressly appropriated by the General Assembly in order to meet the provisions of this act, the department shall not expend funds to procure kits.

HISTORY: 2022 Act No. 180 (S.1103), Section 1, eff May 16, 2022.

**SECTION 59‑3‑40.** Delivery of property to successor.

 The State Superintendent of Education shall deliver to his successor, within ten days after the expiration of his term of office, all books, papers, documents and other property belonging to his office.

HISTORY: 1962 Code Section 21‑24; 1952 Code Section 21‑24; 1942 Code Section 5276; 1932 Code Section 5280; Civ. C. '22 Section 2540; Civ. C. '12 Section 1703; Civ. C. '02 Section 1179; 1896 (22) 150; 1963 (53) 512.

**SECTION 59‑3‑80.** Cooperation with Federal Government in program for children of working mothers.

 The State Department of Education shall have the power to cooperate with the Federal Government, its agencies or instrumentalities, in the administration of an educational program for the care of pre‑school children, ages two to six, and children of school age who are without home care during the day before and after school hours due to employment of their mothers. The State Department of Education shall receive and expend all funds made available to the Department by the Federal Government for administration, supervision and coordination of state and local programs to meet such needs.

HISTORY: 1962 Code Section 21‑28; 1952 Code Section 21‑47; 1943 (43) 226.

**SECTION 59‑3‑90.** In‑service training programs for teachers.

 The State Department of Education shall provide recommendations and assist districts in conducting in‑service training programs for teachers based on the findings and research it derives from the study of effective schools and classrooms and from district plans developed in accordance with Section 59‑139‑10. All of the school districts of this State must have implemented an on‑going, long‑range professional development training program in support of effective schools and classrooms and as indicated by district plans no later than the 1994‑95 school year.

HISTORY: 1984 Act No. 512, Part II, Section 9, Division II, Subdivision C, SubPart 3, Section 4; 1993 Act No. 135, Section 5.

**SECTION 59‑3‑100.** Allocation of Qualified School Construction Bonds authorized by American Recovery Act of 2009 among school districts.

 (A)(1) Issuance authority for Qualified School Construction Bonds (QSCB) obligations allotted to the State pursuant to the provisions of 26 U.S.C. Section 54F(d)(1) and any issuance authority allocated pursuant to 26 U.S.C. Section 54F(d)(2) to school districts of the State and not used by them shall be allocated by the State Superintendent of Education to one or more of the school districts, or county boards of education on behalf of one or more school districts of the State. In that regard, the State Superintendent of Education shall allocate sixty percent of the state's QSCB issuance authority to or on behalf of school districts having the lowest capital financing resources, measured in terms of assessed value per pupil, not to exceed twenty million dollars per school district and forty percent of the state's QSCB issuance authority to or on behalf of school districts having an ability to expeditiously issue bonds demonstrated through a high credit rating and timely start and completion of a project, not to exceed ten million dollars per school district. Any remaining QSCB allocations shall be awarded on a pro rata basis to school districts that originally requested more than the maximum amount in a QSCB allocation. School districts allocated issuance authority under 26 U.S.C. Section 54F(d)(2)(E)(i) are not eligible for allocation of issuance authority under this paragraph (A). When two or more school districts are proposing a joint construction rehabilitation of a qualified project, the priority level for the project must be based on the priority level of the joint partner having the lowest assessed value per pupil.

 (2) The State may not issue a QSCB obligation. For purposes of Article X, Section 15, of the South Carolina Constitution, a QSCB obligation shall be considered general obligation debt. A school district may not use the proceeds of a QSCB obligation for the purposes stated in Section 14003(b) of the American Recovery and Reinvestment Act of 2009.

 (B) The State Superintendent of Education is authorized to establish for each allocation of issuance authority a schedule for issuance of QSCB obligations, giving due regard for the time required to initiate and hold bond referendums, and may reallocate issuance authority or any portion of issuance authority to another school district or county board of education if the schedule is not kept.

 (C) Issuance authority allocated pursuant to this section but not utilized may be reallocated by the State Superintendent of Education in accordance with this section.

 (D) Assessed value for purposes of this section means the assessed value of all taxable property, excluding property subject to a fee in lieu of tax. Each per pupil measurement is based upon the one hundred thirty‑five day count for the most recently completed fiscal year.

HISTORY: 2009 Act No. 68, Section 3, eff upon approval (became law without the Governor's signature on June 3, 2009).

Editor's Note

2009 Act No. 68 Section 6 provides as follows:

"The powers and authorizations conferred by this act shall be in addition to all other powers and authorizations previously conferred upon the State Superintendent of Education, the State Department of Education, and the school districts of the State. The provisions of this act are remedial in nature and shall be liberally construed in order to give full force and effect to its provisions."