CHAPTER 1

General Provisions

**SECTION 4‑1‑10.** Division of State into counties; each county is a body politic and corporate.

The State of South Carolina is divided into forty‑six counties. Each county is a body politic and corporate for the following purposes:

(1) To sue and be sued;

(2) To purchase and hold, for the use of the county, lands and personalty within the limits thereof;

(3) To make all contracts; and

(4) To do all acts in relation to the property and concerns of the county necessary thereto.

HISTORY: 1962 Code Section 14‑1; 1952 Code Section 14‑1; 1942 Code Section 2975; 1932 Code Section 2975; Civ. C. ‘22 Section 667; Civ. C. ‘12 Section 587; Civ. C. ‘02 Section 529; G. S. 403; R. S. 461; 1868 (14) 134; 1822 (17) 682; 1912 (27) 807; 1916 (29) 717; 1919 (31) 5.

CROSS REFERENCES

Administration of government generally, see Title 1.

Authorization for governing bodies of counties to enter into cooperative agreements with the United States Government, see Section 3‑7‑10.

Constitutional provision regarding organization, powers, and duties of counties, see SC Const, Art 8, Section 7.

Each county being an election district and a body politic and corporate, see SC Const, Art 7, Section 9.

Necessity of presenting claims against county to the governing body, see Section 4‑13‑70.

Power of counties and incorporated municipalities to enter into agreements to construct and operate pollution control facilities and to make loan agreements, issue bonds and accept grants for such facilities, see Sections 48‑3‑10 et seq.

Power of municipal corporations to hold property, see Section 5‑7‑40.

LIBRARY REFERENCES

20 C.J.S., Counties Sections 49 et seq.

RESEARCH REFERENCES

ALR Library

17 ALR 5th 195 , Right of One Governmental Subdivision to Challenge Annexation Proceedings by Another Such Subdivision.

Encyclopedias

S.C. Jur. Eminent Domain Section 15, Counties.

Attorney General’s Opinions

County governing bodies may lease property. The power to lease property may be implied in county governing bodies where the exercise of such power is necessary to properly carry out county governmental functions. 1965‑66 Op Atty Gen, No 1991, p 49.

And such lease may extend beyond the terms of members. If the lease of property is necessary for the proper functioning of county government such leases may be entered into by the governing body to extend beyond the terms of the present members thereof. 1965‑66 Op Atty Gen, No 1991, p 49.

NOTES OF DECISIONS

In general 1

1. In general

County may institute suits on official bonds. Greenville County v Runion (1877) 9 SC 1. Chester Co. v Hemphill (1888) 29 SC 584, 8 SE 195. Aiken County v Murray (1892) 35 SC 508, 14 SE 954.

Tort action is maintainable against county. An ex delicto action may be instituted against a county in the court of common pleas. Acker v County of Anderson (1884) 20 SC 495. Jennings v Abbeville County (1884) 24 SC 543 (ovrld on other grounds McCall v Batson (SC) 329 SE2d 741).

Contract under this section [Code 1962 Section 14‑1] must be made by the county commissioners alone. Ostendorff v County Comrs of Charleston (1881) 14 SC 403. Edmonston v County of Aiken (1880) 14 SC 622. Jennings v Abbeville Co. (1884) 24 SC 543 (ovrld on other grounds McCall v Batson (SC) 329 SE2d 741).

Applied in State ex rel. Brown v C. & L. R. R. Co. (1880) 13 SC 290. Duke v County of Williamsburg (1884) 21 SC 414.

This section [Code 1962 Section 14‑1] expressly authorizes every county to issue county bonds. Board of County Com’rs of Pickens County v. Bank of Commerce (U.S.S.C. 1878) 97 U.S. 374, 7 Otto 374, 24 L.Ed. 1060.

Judgment against individuals as “commissioners” is good against county. Under this section [Code 1962 Section 14‑1] judgment against certain individuals as “commissioners of the county of Pickens” is good against the named county where the cause of action was against the county and the misdescription comes within the provisions of the Code directing that errors in pleadings not affecting the substantial rights of the adverse party shall not be grounds for reversal. Board of County Com’rs of Pickens County v. Bank of Commerce (U.S.S.C. 1878) 97 U.S. 374, 7 Otto 374, 24 L.Ed. 1060.

Neither this section [Code 1962 Section 14‑1] nor the provisions of the State Constitution direct the name by which a county shall be sued. Board of County Com’rs of Pickens County v. Bank of Commerce (U.S.S.C. 1878) 97 U.S. 374, 7 Otto 374, 24 L.Ed. 1060. Counties 218

While a county generally has the power to sue and be sued as a political body pursuant to Section 4‑1‑10, as a political subdivision of the State it lacks the sovereignty to maintain a suit under the doctrine of parens patriae. Absent an issue of overriding public concern, a political subdivision must establish that it is a real party in interest in order to maintain a suit; it must allege an infringement of its own proprietary interest or statutory rights to establish standing. County of Lexington, S.C. v. City of Columbia (S.C. 1991) 303 S.C. 300, 400 S.E.2d 146.

Also action to enforce payment of expenses in creation of county. An action may be maintained against a newly formed county to recover the amount borrowed and used in the formation of such county. Bank of McCormick v. McCormick County (S.C. 1920) 114 S.C. 469, 103 S.E. 787.

Suit for recovery of proceeds arising under bond executed by the county. Lancaster County v. Cheraw & C.R. Co. (S.C. 1888) 28 S.C. 134, 5 S.E. 338.

The manner in which the name of the county should be pleaded. Richland County v. Miller (S.C. 1881) 16 S.C. 236.

**SECTION 4‑1‑20.** Procedures to follow when citizens desire to relocate courthouse.

Whenever the citizens of any county desire to move the courthouse they shall file a petition to that effect stating the point to which the courthouse is proposed to be removed and signed by one third of the qualified electors of such county with the Governor, who shall within twenty days after the filing order an election in such county to be held within sixty days, at which election the electors shall vote for or against the proposed removal. The commissioners of election for such county shall appoint managers of each precinct in the county and furnish them with the necessary boxes and registration books, which the officers of registration may furnish the commissioners. Such election shall be conducted as general elections in this State, and all electors qualified to vote at general elections shall be entitled to vote thereat. The commissioners of election of such county shall receive the returns of the managers, tabulate the vote and declare the result. If two thirds of the qualified voters voting in such election vote in favor of such removal the governing body of the county shall take the necessary steps to remove the courthouse and public records of such county to the place designated.

HISTORY: 1962 Code Section 14‑2; 1952 Code Section 14‑2; 1942 Code Section 3037; 1932 Code Section 3037; Civ. C. ‘22 Section 729; Civ. C. ‘12 Section 645; Civ. C. ‘02 Section 579; 1899 (23) 77; 1919 (31) 40.

CROSS REFERENCES

Removal of county seats, see Const. Art 7, Section 8; Art 8, Section 6.

LIBRARY REFERENCES

20 C.J.S., Counties Sections 53, 61‑71.

Attorney General’s Opinions

County governing body is required to furnish probate court with office space, furnishings, books and so forth within county seat but not necessarily within walls of county courthouse. 1993 Op Atty Gen No. 93‑1.

NOTES OF DECISIONS

In general 1

1. In general

This section [Code 1962 Section 14‑2] is apparently the statutory procedure for carrying out the constitutional requirements of SC Const, Art 7, Section 8, relating to the relocation of the county seat. Morris v. Scott (S.C. 1972) 258 S.C. 435, 189 S.E.2d 28.

This section [Code 1962 Section 1402] is in line with SC Const, Art 7, Section 8, prohibiting the removal of a county seat without a vote by two thirds of the qualified electors of the county. Morris v. Scott (S.C. 1972) 258 S.C. 435, 189 S.E.2d 28.

The term “courthouse” used in this section [Code 1962 Section 14‑2] is synonymous with “county seat.” Morris v. Scott (S.C. 1972) 258 S.C. 435, 189 S.E.2d 28.

And section does not deal with relocation of courthouse within same county seat. This section [Code 1962 Section 14‑2] does not deal with a relocation of a county courthouse within the same county seat, but only with the relocation of the county seat to another city or town. Morris v. Scott (S.C. 1972) 258 S.C. 435, 189 S.E.2d 28. Counties 107

**SECTION 4‑1‑30.** Courthouse shall not be relocated within eight miles of county line.

In the location of any courthouse by removal within this State it shall be unlawful to locate such courthouse within eight miles of any county line, all laws to the contrary notwithstanding.

HISTORY: 1962 Code Section 14‑3; 1952 Code Section 14‑3; 1942 Code Section 3037; 1932 Code Section 3037; Civ. C. ‘22 Section 729; Civ. C. ‘12 Section 645; Civ. C. ‘02 Section 579; 1899 (23) 77; 1919 (31) 40.

CROSS REFERENCES

Application of this statute to the formation of new counties, see SC Const, Art. 7, Section 5.

LIBRARY REFERENCES

20 C.J.S., Counties Section 25.

**SECTION 4‑1‑40.** Authority to change name of townships; notice of change.

The governing body of any county may change the name of any township in its county. It shall give notice of such change of name as it may make within fifteen days thereafter by publication in a public gazette published in the county or by notices posted in at least three public places in the county if no gazette is published therein.

HISTORY: 1962 Code Section 14‑5; 1952 Code Section 14‑5; 1942 Code Section 3880; 1932 Code Section 3880; Civ. C. ‘22 Section 1121; Civ. C. ‘12 Section 1000; Civ. C. ‘02 Section 815; G. S. 641; R. S. 702; 1878 (16) 365.

**SECTION 4‑1‑50.** Chairmen of county boards of township commissioners may administer oaths in certain matters.

The chairmen of the county boards of township commissioners in the several counties of this State may administer oaths as notaries public, in all matters connected with the conduct of their offices.

HISTORY: 1962 Code Section 14‑6; 1952 Code Section 14‑6; 1942 Code Section 3830; 1932 Code Section 3830; Civ. C. ‘22 Section 1074; Civ. C. ‘12 Section 955; 1907 (25) 651.

CROSS REFERENCES

General powers and duties of notaries public, see Sections 26‑3‑10 et seq.

LIBRARY REFERENCES

20 C.J.S., Counties Sections 81, 82.

**SECTION 4‑1‑60.** Population added to certain cities by annexation shall be counted in applying statutes to counties.

Whenever authority or direction is given by statute to a county containing a city having a population of more than seventy thousand according to the official United States census or the latest United States census, or words of similar import, such legislation shall be fully applicable to a county containing a city having a population of more than seventy thousand as revealed by a determination of the population of areas annexed to such city after the date of a decennial census, where such determination of population is certified by the Bureau of the Census, by adding the certified population of such annexed areas to the officially certified population of such city.

HISTORY: 1962 Code Section 14‑7; 1961 (52) 427.

**SECTION 4‑1‑70.** Investment of sinking funds in defense securities.

The sinking fund commissions or other similar custodians of sinking funds of the various counties of the State may invest the sinking funds of their respective counties in United States Defense Bonds and Defense Securities.

HISTORY: 1962 Code Section 14‑10; 1952 Code Section 14‑10; 1942 (42) 1549.

LIBRARY REFERENCES

20 C.J.S., Counties Section 277.

**SECTION 4‑1‑80.** County officers shall be furnished office space, furniture and equipment by county.

The governing body of each county shall furnish the probate judge, auditor, superintendent of education, clerk of court, sheriff, treasurer and master in equity of their respective counties office room, together with necessary furniture and stationery for the same, which shall be kept at the courthouse of their respective counties, and it shall supply the offices of such officials with fuel, lights, postage and other incidentals necessary to the proper transaction of the legitimate business of such offices.

The provisions of this section, as they relate to office space in the courthouse, shall not apply to Richland County.

HISTORY: 1962 Code Section 14‑11; 1952 Code Section 14‑11; 1942 Code Section 3877; 1932 Code Section 3877; Civ. C. ‘22 Section 1118; Civ. C. ‘12 Section 997; Civ. C. ‘02 Section 812; R. S. 699; 1900 (23) 291; 1903 (23) 29; 1909 (26) 27; 1965 (54) 213.

LIBRARY REFERENCES

20 C.J.S., Counties Section 211.

Attorney General’s Opinions

County Council can designate space in Clerk of Court’s office for storage of Probate Court records, but cannot make Clerk accountable for such records. 1984 Op Atty Gen, No. 84‑90, p. 213.

County governing body is required to furnish probate court with office space, furnishings, books and so forth within county seat but not necessarily within walls of county courthouse. 1993 Op Atty Gen No. 93‑1.

NOTES OF DECISIONS

In general 1

1. In general

Section 4‑1‑80 does not prohibit a county from maintaining satellite offices of the clerk of the court, county treasurer and sheriff outside of the county seat. Baker v. Dorchester County Council (S.C. 1993) 315 S.C. 143, 432 S.E.2d 468. Counties 30

The governing body shall designate the room or office to be occupied by any particular officer. Werts v. Feagle (S.C. 1909) 83 S.C. 128, 65 S.E. 226.

Applied in Aiken County v. Murray (S.C. 1892) 35 S.C. 508, 14 S.E. 954.

**SECTION 4‑1‑90.** Furnishing rooms for courts and public officers when courthouse unusable.

If at any time the courthouse of any county in this State shall be in course of reconstruction or repair or from any other cause shall not be in condition to be occupied, the governing body of the county must furnish suitable rooms for the accommodation of the courts and public officers.

HISTORY: 1962 Code Section 14‑14; 1952 Code Section 14‑14; 1942 Code Section 3878; 1932 Code Section 3878; Civ. C. ‘22 Section 1119; Civ. C. ‘12 Section 998; Civ. C. ‘02 Section 813; G. S. 634; R. S. 700; 1875 (15) 996; 1893 (21) 181.

Attorney General’s Opinions

County governments are under a duty to provide facilities and support personnel for the Circuit Courts. 1974‑75 Op Atty Gen, No 4194, p 243.

**SECTION 4‑1‑110.** County funds not subject to levy.

No funds raised by taxation for any county purposes whatsoever shall be subject to levy under the process of any court of this State.

HISTORY: 1962 Code Section 14‑18; 1952 Code Section 14‑18; 1942 Code Section 3868; 1932 Code Section 3868; Civ. C. ‘22 Section 1109; Civ. C. ‘12 Section 988; Civ. C. ‘02 Section 803; G. S. 617; R. S. 688; 1875 (15) 997.

**SECTION 4‑1‑120.** Operation of county government in county without county appropriation act.

If no county appropriation act is enacted at any session of the General Assembly to provide for the county government of any county of the State then the appropriation, terms and conditions contained in the last enacted county appropriation act of such county shall be continued for an additional year; provided, that only usual appropriations and no special appropriations for unusual purposes, if contained in such act, shall be held as appropriated by the continuance of such act.

HISTORY: 1962 Code Section 14‑19; 1952 Code Section 14‑19; 1947 (45) 102; 1951 (47) 710.

Attorney General’s Opinions

Provision for payment of preceding year’s deficit continued in effect. Condition in a preceding year’s county appropriations act covering the payment of the previous year’s deficit will, upon failure to enact a current act, continue and allow payment of the preceding year’s deficit. 1962‑63 Op Atty Gen, No 1561, p 131.

NOTES OF DECISIONS

In general 1

1. In general

Payment of tax execution fees not within exception of “special appropriations for unusual purposes.” ‑ Provisions for the payment of tax execution fees to a treasurer which were contained in preceding county supply acts were not within the exception contained in this section [Code 1962 Section 14‑19], because the exception is of “special appropriations for unusual purposes.” Bynum v. Barron (S.C. 1955) 227 S.C. 339, 88 S.E.2d 67. Counties 69.1; Public Employment 356

Applied in McKown v. Daniel (S.C. 1950) 217 S.C. 510, 61 S.E.2d 163.

**SECTION 4‑1‑130.** Fees to be paid by county.

Each county shall pay:

(1) The fees of the grand and petit jurors while in attendance upon the circuit court;

(2) Witnesses’ fees in the State cases for actual attendance upon the circuit courts as provided by law;

(3) Fees of physicians and surgeons testifying as experts before a coroner’s jury or the circuit court;

(4) Fees of sheriffs and clerk of court as provided by law;

(5) Fees of county coroners as allowed by law;

(6) Fees or salaries of magistrates and constables;

(7) The compensation of auditors, treasurers and county supervisors as provided by law; and

(8) Accounts accrued for dieting prisoners confined in the State Penitentiary pending their trial or committed thereto for safekeeping and not for service of any sentence imposed by law.

HISTORY: 1962 Code Section 14‑20; 1952 Code Section 14‑20; 1942 Code Section 3859; 1932 Code Section 3859; Civ. C. ‘22 Section 1100; Civ. C. ‘12 Section 979; Civ. C. ‘02 Section 794; R. S. 676; 1893 (21) 489.

CROSS REFERENCES

Right of counties to sue and be sued, see Section 4‑1‑10.

LIBRARY REFERENCES

20 C.J.S., Counties Sections 210, 213.

Attorney General’s Opinions

County governments are under a duty to provide facilities and support personnel for the Circuit Courts. 1974‑75 Op Atty Gen, No 4194, p 243.

NOTES OF DECISIONS

In general 1

1. In general

Only in the case of felonies are the defendant’s witnesses to be paid by the county. Henderson v Evans (1898) 51 SC 331, 29 SE 5. Eustace v Greenville County (1894) 42 SC 190, 20 SE 88.

The sheriff cannot be paid for serving subpoena writs on witnesses for defendant in cases of misdemeanor. Whittle v. Saluda County (S.C. 1901) 59 S.C. 554, 38 S.E. 168.

Stated in State v. Bullock (S.C. 1899) 54 S.C. 300, 32 S.E. 424.

**SECTION 4‑1‑140.** Method of payment of court fees.

The fees allowed jurors, constables and witnesses shall be paid by the treasurers of the respective counties on the presentation to them of certificates signed by the clerk of court or may be received by such treasurers in the payment of all county taxes on presentation of such certificates duly signed by the clerk of court.

HISTORY: 1962 Code Section 14‑21; 1952 Code Section 14‑21; 1942 Code Section 3860; 1932 Code Section 3860; Civ. C. ‘22 Section 1101; Civ. C. ‘12 Section 980; Civ. C. ‘02 Section 795; R. S. 677; 1893 (21) 489; 1954 (48) 1770.

CROSS REFERENCES

Fees allowed constables, see Sections 8‑21‑1040, 8‑21‑1050, 8‑21‑1070, and 8‑21‑1080.

Fees allowed jurors in circuit courts, see Section 14‑7‑1370.

Right of counties to sue and be sued, see Section 4‑1‑10.

LIBRARY REFERENCES

20 C.J.S., Counties Sections 210, 213.

NOTES OF DECISIONS

In general 1

1. In general

Witness fees need not be proved by affidavit before payment of certificate. State v. Bullock (S.C. 1899) 54 S.C. 300, 32 S.E. 424.

Nor need they be approved by the county supervisor unless presented in payment of taxes. State v. Bullock (S.C. 1899) 54 S.C. 300, 32 S.E. 424.

**SECTION 4‑1‑150.** Fees charged by clerks of court and registers of deeds.

Fees charged by clerks of court and registers of deeds of each county for recording, indexing and other services, except those fees and fines generated by circuit and family courts, may be established by ordinance of the governing body of the county.

HISTORY: 1977 Act No. 214 Section 15.

Code Commissioner’s Note

1997 Act No. 34, Section 1, directed the Code Commissioner to change all references to “Register of Mesne Conveyances” to “Register of Deeds” wherever appearing in the 1976 Code of Laws.

LIBRARY REFERENCES

14 C.J.S., Clerks of Court Sections 9, 10.

**SECTION 4‑1‑170.** Joint development of industrial or business park; consent of municipality.

(A) By written agreement, counties may develop jointly an industrial or business park with other counties within the geographical boundaries of one or more of the member counties as provided in Section 13 of Article VIII of the Constitution of this State. The written agreement entered into by the participating counties must include provisions which:

(1) address sharing expenses of the park;

(2) specify by percentage the revenue to be allocated to each county;

(3) specify the manner in which revenue must be distributed to each of the taxing entities within each of the participating counties.

(B) For the purpose of bonded indebtedness limitation and for the purpose of computing the index of taxpaying ability pursuant to Section 59‑20‑20(3), allocation of the assessed value of property within the park to the participating counties and to each of the taxing entities within the participating counties must be identical to the allocation of revenue received and retained by each of the counties and by each of the taxing entities within the participating counties. Misallocations may be corrected by adjusting later distributions, but these adjustments must be made in the same fiscal year as the misallocations. Provided, however, that the computation of bonded indebtedness limitation is subject to the requirements of Section 4‑29‑68(E).

(C) If the industrial or business park encompasses all or a portion of a municipality, the counties must obtain the consent of the municipality prior to the creation of the multi‑county industrial park.

HISTORY: 1989 Act No. 139, Section 1, eff June 6, 1989; 1992 Act No. 361, Section 36, eff May 4, 1992; 1993 Act No. 123, Section 2, eff June 14, 1993; 1997 Act No. 54, Section 1, eff June 5, 1997; 2001 Act No. 89, Section 47, eff July 20, 2001.

Editor’s Note

1993 Act No. 123, Section 7, effective June 14, 1993, provides as follows:

“SECTION 7. This act takes effect upon approval by the Governor and applies prospectively to any project for which an inducement agreement was not entered into before the effective date of this act; provided, however, that projects with respect to which an inducement agreement, millage rate agreement, or both, have been entered into before the effective date of this act are entitled but not required to use the provisions of Section 4‑29‑67 of the 1976 Code, as amended by this act, and also one or more of the provisions of the following subsections of Section 4‑29‑67 of the 1976 Code as in existence before the amendments contained in this act: (B); (F)(1)(c); (F)(2); (G); and (I); and provided further that investors having a lease agreement which was entered into before the effective date of this act meeting the eighty‑five million dollar minimum level of investment required under Section 4‑29‑67(C) within five years from the date the lease agreement was signed shall have seven years from the date the lease agreement was signed to complete the investment, unless a longer period is otherwise stipulated in the lease agreement. The last sentence of Section 4‑29‑67(I) of the 1976 Code, as amended by this act, is not applicable to any project with respect to which an inducement agreement was entered into or an inducement or similar resolution was adopted by the governing body of the county before the effective date of this act; provided, however, that if an inducement agreement has not been entered into before the effective date of this act, such an agreement must be entered into with respect to any such project within one year of the effective date of this act in order for pre‑inducement agreement project expenditures to qualify for the fee provided in subsection (D)(2). Any lease which was entered into with a county prior to the effective date of this act, in order to preserve the eligibility of certain property for subsequent inclusion in a fee in lieu of taxes arrangement, and which lease provides for lease payments within two dollars of what the property taxes on the leased property would otherwise have been, shall not be considered a lease agreement of any kind for purposes of beginning the running of any time period provided under Section 4‑29‑67 of the 1976 Code, including, but not limited to, the five, seven, and twenty‑year periods provided therein. For purposes of this SECTION 7, references to inducement or millage rate agreements shall be considered to exclude any amendments or replacements of such agreements.”

Effect of Amendment

The 1992 amendment revised the second paragraph of this section.

The 1993 amendment, in the second paragraph, added the second sentence, containing a proviso as to computing bonded indebtedness.

The 1997 amendment added the third paragraph.

The 2001 amendment divided the section into subsections (A), (B), and (C); and in subsection (B) inserted the sentence relating to misallocations.

CROSS REFERENCES

Annexation of property by municipality by means of petition of all or seventy‑five percent of landowners, see Section 5‑3‑150.

Inducement agreement between county and investor in qualified project for payment of fee in lieu of taxes, see Section 4‑29‑67.

Issuance of special source revenue bonds, pledging of revenues, and determination of debt limitation, see Section 4‑1‑175.

Projects located in industrial development projects are considered taxable property as provided in this section for purposes of bonded indebtedness, see Section 12‑44‑150.

Attorney General’s Opinions

County should institute a declaratory judgment action so a court could decide with finality whether or not residential property may be included in a multicounty park. S.C. Op.Atty.Gen. (March 1, 2010) 2010 WL 1370089; S.C. Op.Atty.Gen. (March 17, 2010) 2010 WL 1370094.

Municipality may agree to sell utility services to industrial park in adjacent county provided such agreement is in accordance with applicable provisions of Sections 5‑31‑1510, et seq., 5‑31‑17, et seq. and 5‑31‑1910, et seq. Park serviced by agreement would not qualify as jointly developed industrial park under Article VIII, Section 13(D) of State Constitution. 1990 Op Atty Gen No. 90‑29.

Five year property tax exemption for new or expanded manufacturing establishments applies to manufacturing establishments in jointly developed industrial parks unless such developments are specifically excluded from exemption by other statutory authority. 1990 Op Atty Gen No. 90‑29.

Neither Article VIII, Section 13(D) of State Constitution nor Section 4‑1‑170 requires that school districts receive fees from jointly developed industrial parks at same percentage as general taxes are to school taxes. Such, however, may be required by other statutory provisions. 1990 Op Atty Gen No. 90‑29.

Lawful contract by county officials will normally be sustained by court regardless of fact such officials may have made bad bargain. 1990 Op Atty Gen No. 90‑29.

Union County has discretion to determine which taxing entities will benefit from multi‑county industrial park agreement. 1993 Op Atty Gen No. 93‑46.

To be classified as taxing entity for purposes of Section 4‑1‑170(3), taxing entity would be determined by right to tax as opposed to existing millage. 1993 Op Atty Gen No. 93‑46.

Allocation of multi‑county park expenses is matter to be agreed upon by participating counties. 1993 Op Atty Gen No. 93‑46.

Section 4‑1‑170 does not require that regional industrial park boundaries be specifically defined in written agreement, however, agreement could provide that park be expanded or reduced in size based on agreement of all participating counties. 1993 Op Atty Gen No. 93‑55.

Counties which are not sharing in revenues and expenses of park are not participating in park’s development and, therefore, could not be parties to agreement in name only. 1993 Op Atty Gen No. 93‑55.

Existing facilities could become part of industrial park under Section 4‑1‑170; however, agreement should address how revenue is to be distributed between counties and various taxing entities. 1993 Op Atty Gen No. 93‑55.

Neither constitution nor statutes dealing with industrial parks appears to prohibit counties from forming park which qualifies under Section 4‑1‑170 at site of an existing industrial/business park. 1993 Op Atty Gen No. 93‑55.

Once park has been created following signing of park agreement by all participating counties, new property would become subject to fee‑in‑lieu rather than property taxes once it is placed in service in industrial park. 1993 Op Atty Gen No. 93‑55.

Single agreement could be executed among member counties to have multi‑county park with noncontiguous property located “within the geographical boundaries of one or more of the member counties.” 1993 Op Atty Gen No. 93‑81.

There is nothing in Section 4‑1‑170 which prohibits counties from entering into multiple park agreements which would include several different noncontiguous parcels of land identified as “the industrial park.” 1993 Op Atty Gen No. 93‑55.

NOTES OF DECISIONS

In general 2

Allocation of funds 3

Validity 1

1. Validity

Statutes governing county’s allocation of fees that landowners pay to county in lieu of taxes on exempt property in multi‑county business park (MCBP) do not violate the constitutional prohibition against laws that set aside general law provisions applicable to bonded indebtedness of governmental units and the structure and the administration of any governmental service or function, responsibility for which rests with the state government or which requires statewide uniformity. Horry County School Dist. v. Horry County (S.C. 2001) 346 S.C. 621, 552 S.E.2d 737. Counties 195

Statutes governing county’s allocation of fees that landowners pay to county in lieu of taxes on exempt property in multi‑county business park (MCBP) do not violate school district’s rights under constitutional prohibition against laws that set aside general law provisions applicable to bonded indebtedness of governmental units and the structure and the administration of any governmental service or function, responsibility for which rests with the state government or which requires statewide uniformity; the statutes are consistent with the Education Finance Act which specifically contemplates that schools might receive less money from fees in lieu of taxes than from taxable property. Horry County School Dist. v. Horry County (S.C. 2001) 346 S.C. 621, 552 S.E.2d 737. Education 214

2. In general

Fees that landowners pay to county in lieu of taxes on exempt property in multi‑county business park (MCBP) need not be distributed in the same proportion that they would be if the property were taxable, and, thus, a county has discretion to allocate to a school district a smaller proportion of the fees than it would receive in property taxes. Horry County School Dist. v. Horry County (S.C. 2001) 346 S.C. 621, 552 S.E.2d 737. Counties 195; Education 219

The constitutional requirements that taxes must state the public purpose to which the proceeds of the tax shall be applied and that property tax levies shall be uniform in respect to persons and property within the jurisdiction of the body imposing such taxes do not apply to fees that landowners pay to county in lieu of taxes on exempt property in multi‑county business park (MCBP); the property is exempt from ad valorem taxation. Horry County School Dist. v. Horry County (S.C. 2001) 346 S.C. 621, 552 S.E.2d 737. Taxation 2119; Taxation 2121; Taxation 2289

3. Allocation of funds

Statute which states that an agreement for a multi‑county business park (MCBP) must specify the manner in which revenue must be distributed to each of the taxing entities within each of the participating counties requires some allocation to each of the taxing entities within the county. Horry County School Dist. v. Horry County (S.C. 2001) 346 S.C. 621, 552 S.E.2d 737. Counties 195

Even if a fee is a tax equivalent for purposes of the bonded indebtedness that a school district can incur, the revenue from the fee need not be distributed in the same proportion as if it were a tax when the statute does not otherwise support such a conclusion. Horry County School Dist. v. Horry County (S.C. 2001) 346 S.C. 621, 552 S.E.2d 737. Education 219

**SECTION 4‑1‑172.** Multicounty parks to consist of contiguous counties.

All multicounty parks must consist of contiguous counties.

HISTORY: 1995 Act No. 4, Section 3, eff January 10, 1995.

CROSS REFERENCES

Annexation of property within a multicounty park, see Section 5‑3‑115.

**SECTION 4‑1‑175.** Special source revenue bonds authorized; pledging of revenues; determination of debt limitation.

A county or municipality receiving revenues from a payment in lieu of taxes pursuant to Section 13 of Article VIII of the Constitution of this State may issue special source revenue bonds secured by and payable from all or a part of that portion of the revenues which the county is entitled to retain pursuant to the agreement required by Section 4‑1‑170 in the manner and for the purposes set forth in Section 4‑29‑68. The county or municipality may pledge the revenues for the additional securing of other indebtedness in the manner and for the purposes set forth in Section 4‑29‑68.

A county or municipality or special purpose district that receives and retains revenues from a payment in lieu of taxes pursuant to Section 13 of Article VIII of the Constitution of this State may use a portion of this revenue for the purposes outlined in Section 4‑29‑68 without the requirement of issuing the special source revenue bonds or meeting the requirements of Section 4‑29‑68(A)(4) by providing a credit against or payment derived from the revenues received and retained under Section 13 of Article VIII of the Constitution of this State.

A political subdivision of this State subject to the limitation of either Section 14(7)(a) or Section 15(6) of Article X of the Constitution of this State pledging pursuant to this section all or a portion of the revenues received and retained by that subdivision from a payment in lieu of taxes to the repayment of any bonds shall not include in the assessed value of taxable property located in the political subdivision for the purposes of calculating the limit imposed by those sections of the Constitution any amount representing the value of the property that is the basis of the pledged portion of revenues. If the political subdivision, before pledging revenues pursuant to this section, has included an amount representing the value of a parcel or item of property that is the subject of a payment in lieu of taxes in the assessed value of taxable property located in the political subdivision and has issued general obligation debt within the debt limit calculated on the basis of such assessed value, then it may not pledge pursuant to this section revenues based on the item or parcel of property, to the extent that the amount representing its value is necessary to permit the outstanding general obligation debt within the debt limit of the political subdivision.

HISTORY: 1992 Act No. 361, Section 34, eff May 4, 1992; 1997 Act No. 149, Section 4, eff June 24, 1997; 2007 Act No. 116, Section 7.A, eff June 28, 2007.

Effect of Amendment

The 1997 amendment inserted the second paragraph.

The 2007 amendment, in the second undesignated paragraph added the final clause starting with “by providing a credit”.

Attorney General’s Opinions

Union County has discretion to determine which taxing entities will benefit from multi‑county industrial park agreement. 1993 Op Atty Gen No. 93‑46.

Union County has discretion in determining how to distribute proceeds of revenues it will receive under multi‑county industrial park agreement, including issuing special source revenue bonds secured by and payable from all or part of revenues. 1993 Op Atty Gen No. 93‑46.

Single county or municipality or special purpose district, though participating in multi‑county park, may issue special source revenue bonds if such will “enhance the economic development of the issuer.” 1993 Op Atty Gen No. 93‑81.

NOTES OF DECISIONS

In general 2

Validity 1

1. Validity

Statutes governing county’s allocation of fees that landowners pay to county in lieu of taxes on exempt property in multi‑county business park (MCBP) do not violate the constitutional prohibition against laws that set aside general law provisions applicable to bonded indebtedness of governmental units and the structure and the administration of any governmental service or function, responsibility for which rests with the state government or which requires statewide uniformity. Horry County School Dist. v. Horry County (S.C. 2001) 346 S.C. 621, 552 S.E.2d 737. Counties 195

Statutes governing county’s allocation of fees that landowners pay to county in lieu of taxes on exempt property in multi‑county business park (MCBP) do not violate school district’s rights under constitutional prohibition against laws that set aside general law provisions applicable to bonded indebtedness of governmental units and the structure and the administration of any governmental service or function, responsibility for which rests with the state government or which requires statewide uniformity; the statutes are consistent with the Education Finance Act which specifically contemplates that schools might receive less money from fees in lieu of taxes than from taxable property. Horry County School Dist. v. Horry County (S.C. 2001) 346 S.C. 621, 552 S.E.2d 737. Education 214

2. In general

The constitutional requirements that taxes must state the public purpose to which the proceeds of the tax shall be applied and that property tax levies shall be uniform in respect to persons and property within the jurisdiction of the body imposing such taxes do not apply to fees that landowners pay to county in lieu of taxes on exempt property in multi‑county business park (MCBP); the property is exempt from ad valorem taxation. Horry County School Dist. v. Horry County (S.C. 2001) 346 S.C. 621, 552 S.E.2d 737. Taxation 2119; Taxation 2121; Taxation 2289

**SECTION 4‑1‑180.** County employee furlough program; exemptions.

(A) In a fiscal year in which the governing body of a county determines that an employee furlough is necessary, the governing body may institute employee furlough programs of not more than ten working days in the fiscal year pursuant to this section. The furlough must be inclusive of all employees of the county or within a designated department, agency or program of the county regardless of source of funds or place of work, including all employees in the designated area. If the county will incur costs for overtime under the federal Fair Labor Standards Act, law enforcement employees and correctional employees may be exempted from a mandatory furlough. Employees who provide direct patient or client care and front‑line employees who deliver direct customer services also may be exempted from the mandatory furlough. During this furlough, affected employees shall be entitled to participate in the same benefits as otherwise available to them except for receiving their salaries. As to those benefits that require employer and employee contributions, including, but not limited to, contributions to the South Carolina retirement systems or the optional retirement program, the county is responsible for making both employer and employee contributions if coverage would otherwise be interrupted; and as to those benefits which require only employee contributions, the employee remains solely responsible for making those contributions.

(B) A governing body of a county may implement an employee furlough in any other manner authorized by law without participating in the mandatory furlough program authorized by this section and without being subject to the provisions set forth in this section including the provisions related to the South Carolina retirement systems.

(C) A county governing body which implemented a furlough program on or after January 1, 2009, the terms of which were consistent with the requirements of the mandatory furlough program established pursuant to this section, may, during the fiscal year in which the provisions of this section take effect, make any employee and employer contributions necessary to ensure that a furloughed employee’s benefits were not interrupted as a result of the furlough.

HISTORY: 2010 Act No. 283, Section 1, eff June 16, 2010.

Federal Aspects

Fair Labor Standards Act, see 29 U.S.C.A. Section 201 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 31, Modification or Expiration of the Term.